

IEPs and 504 plans: Which is the best fit for your special needs child?

By Stacey Steinberg September 21

August, a gifted 5-year-old in Harford County, Md., was excited to start kindergarten. His mother, Sara, was excited as well, but she was also concerned. The previous year, August was diagnosed with both autism and an anxiety disorder. As Sara helped August prepare for the transition, she wanted to be sure the school was also prepared.

August thrived in preschool academically, but behaviorally, he was easily distracted, and he often distracted other children. The teachers told him to “close his lips.” When August didn’t follow their instructions, they told his parents that he was a defiant child who refused to stop making noises in class. Sara was confident that it wasn’t that her son *wouldn’t* stop making noises, but instead that August *couldn’t* stop.

This past summer, Sara set up a meeting with the local school board, hoping to make a plan to help August transition to public school. Sara had attended a special education conference the previous spring and had also hired an educational advocate. With these tools in place, she believed she was prepared to set August up for a successful year in kindergarten. Yet Sara quickly realized that even with her knowledge and resources, advocating for her son was a daunting task.

Rosemary N. Palmer, a special education attorney in Tallahassee, has helped families like August’s understand special education laws for many years. She encourages parents to work as partners with their children’s teachers to create a personalized plan that addresses the child’s unique needs. To do this, parents need to understand the most common federal laws governing special education.

The local school board believed that a 504 plan (the informal name of a section of the United States Rehabilitation Act of 1973) would be sufficient to meet August’s needs. While she knew that a 504 plan would ensure that her son

wouldn't be discriminated against because of his disability, Sara was not convinced it would meet his complex needs.

The law governing 504 plans is broad, and through it, students can receive services all the way through college. But individual states and school districts implement the plans in different ways. While most schools create formalized, written 504 plans, there is no federal requirement for them to do so. The law does not even require the special education plan to be in writing, nor does it mandate that parents be part of the group that writes it.

While it might not have been a good fit for August, many students benefit from a 504 plan. It offers school boards lots of flexibility, and it defines disabilities broadly. A 504 plan could offer a student with attention deficits extra time on tests, or preferential seating in the classroom. It could also allow a school to offer a student with sensory challenges the opportunity to leave class early, before hallways get crowded and loud. And it could ensure that an anxious child wouldn't have to worry about reading aloud, or participating in a schoolwide spelling bee.

While the school board pushed for a 504 plan, Sara felt strongly that August needed an Individualized Education Plan. IEPs, by law, must be very specific. Like August, all children who qualify for an IEP will qualify for a 504 plan, but not all children who qualify for a 504 plan also will qualify for an IEP. This is because the Individuals With Disabilities Educational Act, the law that governs IEPs only applies to students with one or more of 13 specific disabilities.

There are some benefits to having an IEP instead of a 504 plan. Under an IEP, schools are not only required to make special accommodations for students, but the law governing IEPs also provides funding to help schools meet the needs of students who qualify. While both plans could technically offer the same services, Sara believed that an IEP would be a better fit for August.

The school board eventually agreed with Sara. Through his individualized plan, the school board promised Sara that her son would have "adult support" in the classroom. She understood this to mean that August would have the one-on-one support she knew he needed. She later learned that this was not the case. Sara explained that in August's case, "adult support can be the regular teacher who also needs to work with the rest of the class. While there is often an extra teacher in the classroom to help August, the support isn't to the level he needs." Sara can (and probably will) challenge her son's IEP.

Parents can seek help from an attorney (or an educational advocate) if they need help resolving issues related to almost any aspect of their child's 504 or IEP. Under a 504 plan, the school or school board sets up the process to handle complaints. In contrast, under an IEP, the law guarantees parents the right to an impartial hearing process set up and supervised by the state. Therefore, many parents find that under an IEP, there is more of an incentive for

school districts to consider parent concerns.

For parents like Sara, ensuring that their child obtain a quality education can be challenging. But there is help available. Palmer suggests the [free federally funded resources available to parents of special needs children](#). Parents can also contact the [National Disability Rights Network](#). The [Council of Parent Attorneys and Advocates](#), a nonprofit group that works with the families of children with disabilities, can also help. Lastly, as Sara found last spring, parents can find a disability-specific advocacy group in many communities or at the national level that can provide educational suggestions.

Both 504 plans and IEPs anticipate and expect that students will graduate with a regular diploma and be prepared to transition to the next stage in their lives. Both plans work to do this by offering students the services required to get them there. “Each law has its strengths and each law has its weaknesses,” Palmer said. She tells parents that “knowledge of both laws prepares parents to navigate through special education services alongside their child.”

This piece is for informational purposes only. It should not be taken as legal advice. If you need legal help or have a legal question, please contact an attorney in your jurisdiction.

Stacey Steinberg is a legal skills professor at the University of Florida Levin College of Law, where she also serves as an associate director of the Center on Children and Families. She is also a writer and a photographer. To connect with Stacey, visit her [website](#) or find her on [Facebook](#) and [Twitter](#).

Follow [On Parenting on Facebook](#) for more essays, news and updates. You can [sign up here](#) for our weekly newsletter. You might also be interested in:

[What our children with autism have taught us: Love with abandon, and laugh at yourself](#)

[Take heart, autism parents. Things are much better now than 10 years ago.](#)

[Raising a tween who has autism](#)
