

## (16.2) What federal and state laws protect my child against disability-based discrimination?

These federal statutes provide protections:

Section 504 of the Rehabilitation Act, (Section 504) and Title II of the Americans with Disabilities Act (ADA) are federal laws that prohibit discrimination on the basis of disability. [42 U.S.C. Secs. 12101-12213;

29 U.S.C. Sec. 794.] Section 504 applies to any entity that receives federal financial assistance including all public school districts and most private schools. [29 U.S.C. Sec. 794(b).] Title II of the ADA applies to all state and local government agencies including public schools. [42 U.S.C. Secs. 12131-12165.] Title III of the ADA applies to all places of “public accommodations”, including private schools. [42 U.S.C. Secs.12181-12189.] Section 504 applies to religious schools; the ADA does not.

[28 C.F.R. Sec. 36.102(e).]

These California laws provide protections:

The Unruh Civil Rights Act (Unruh Act) protects students from discrimination by “business establishments” including public and private schools. [Cal. Civ. Code Sec. 51(b).] The Unruh Act does not apply to religious schools that are open only to students of a particular religion, or espouse religious doctrine. Any violation of the ADA is automatically a violation of the Unruh Act. [Cal. Gov. Code Sec. 51(f).] California Gov. Code Sec. 11135 (Section 11135) prohibits discrimination in any program or activity that is conducted or directly funded by the state. [Cal. Gov. Code Sec. 11135(a).] Programs and activities under

Section 11135 are also mandated to conform with the requirements of ADA as well. [Cal. Gov. Code Sec. 11135(b).] Section 11135 applies to all public schools and any private school, religious or non-religious, that receive financial assistance from the State of California.

California Education Code Section 220 similarly prohibits discrimination in any program or activity conducted by an educational institution that receives or benefits from state funding. [Cal. Ed. Code Sec. 220.] This includes schools which have students with state student financial aid. The courts have held that this provision of the Code is only violated by “behavior so severe and pervasive that it has a systemic effect of denying the victim equal access to an educational program or activity”. [*J.E.L. v. San Francisco Unified Sch. Dist.*, 185 F. Supp. 3d 1196 (N.D. Cal. 2016).]