

1

What Is Special Education?



iofoto/iStock/Getty Images Plus

Learning Objectives

After reading this chapter, you should be able to

- Describe the differences between a disability, a disorder, and an impairment.
- Discuss the contributions of the most important early pioneers in the area of special education.
- Describe IDEA and explain how it changed education for students with disabilities.
- Explain the components of an IEP.
- Discuss how the courts have interpreted IDEA since 1975.
- Describe Section 504 and explain how it is used for the education of students with disabilities.

Introduction

What does the term *special education* mean to you? Do you think about people in wheelchairs and the blue parking spaces at the grocery store? Or do you think about the room down the hall for the “special class”? Do you know someone with a disability? If so, how does the disability affect that person? How does it affect you?

Most often when people think about special education, they think about a subset of the educational system characterized by wheelchairs or special classes. But special education is much more complicated and involved. In fact, **special education** is a branch of education that provides specialized, or individualized, instruction to students with disabilities. *Disabilities* refers to conditions or functions that impair a person’s ability to do something, and the term will be discussed throughout this book.

Your career path may be in the area of special education or general education (or something entirely different). If you plan to teach, though, you are almost guaranteed to have students with disabilities in your classroom, regardless of your teaching assignment. It is therefore important for you to learn how to teach students with disabilities, to understand disability characteristics, and to be well versed in special education legislation.

This chapter will give you a historical perspective on the education of people with disabilities and an idea of what special education is today. Along the way, you will learn about legislation and court cases that affect students with disabilities and their teachers. You will get an idea of how far society has come with respect to the education of all students, and also what advances the educational community must work toward in the future.

From My Perspective: Why I Chose Special Education

My name is Melissa, and I am one of the authors of this book. My interest in students with disabilities began to develop when I was in college. At the time, I was a sociology major and had been helping run a nonacademic afterschool program for middle school students for three years. In my senior year, I began part-time substitute teaching, and I would sporadically run into students from my afterschool program.

I gradually began to realize that several of my afterschool students were enrolled in “academic” or “collaborative” classes, where they received special education services. I had never considered that these particular students might have a disability. Over the course of the year, I learned that many of them did. I also learned that many of them were struggling both academically and behaviorally in school as they faced the transition to high school. This surprised me, as they all excelled in our afterschool program.

(continued)

From My Perspective: Why I Chose Special Education

(continued)

My first experience with students who have disabilities helped to broaden my understanding of what life with a disability might entail. I realized that my previous understanding was limited to perceptions of more severe cognitive or physical disabilities. I also learned that a disability does not define a person; it is just one piece of the person's overall identity. My afterschool students reaffirmed my belief that each individual has unique strengths and needs and that I shouldn't make assumptions based on a limited understanding of others. These experiences proved to be the first of many that eventually led me to become a special education teacher.

From My Perspective: Why I Chose Special Education

Hello. My name is Sarah, and I am one of the authors of this book. My first experience with kids with disabilities occurred when I was 17 years old. A group of people from the Muscular Dystrophy Association (MDA) came to my high school to recruit volunteers for their summer camp. I had never even heard of muscular dystrophy, but I thought working at a summer camp sounded fun.

When I got to camp, I didn't know what to expect. Before the campers arrived, we received training on proper care for kids with walkers and wheelchairs. All this information was helpful, but it also frightened me. I had never talked with someone in a wheelchair, and now I was expected to lift kids in the shower or pool!

When the campers arrived, I was matched with a 7-year-old named Kyle. He had difficulty walking, but he wasn't using a wheelchair. I quickly learned that Kyle and all the other campers were just fun, interesting kids. I met campers with muscular dystrophy who were my age. They used wheelchairs and had limited mobility. I learned to be very thankful for my health, and I also learned to have empathy for others.

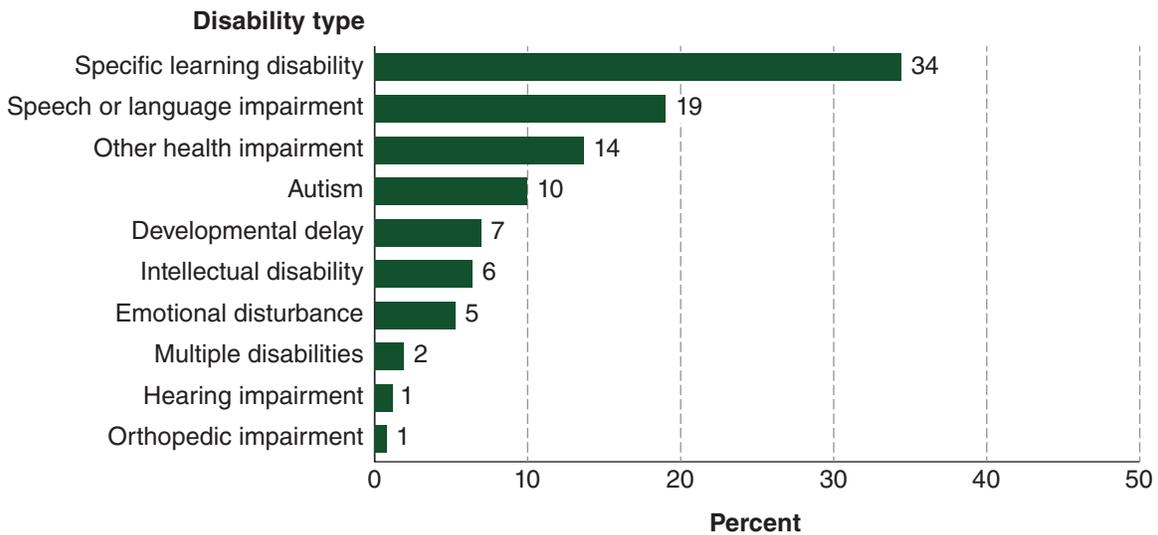
Camp only lasted six days, but it made a huge impact on my life. I returned to camp for eight more years, and I made many wonderful friendships with campers and counselors. My experiences from MDA camp helped me decide to become a teacher and to work with students with disabilities.

1.1 Key Concepts in Special Education

Today approximately 50 million students are enrolled in public schools in the United States, from kindergarten through grade 12 (McFarland et al., 2019). Of those students, over 6.6 million (13%) receive special education services (Figure 1.1).

Figure 1.1: Percentage of students in the United States by disability type

Specific learning disabilities is the most prevalent disability in the United States, followed by *speech or language impairments*. Those two categories represent over 50% of students in special education in this country (McFarland et al., 2019).

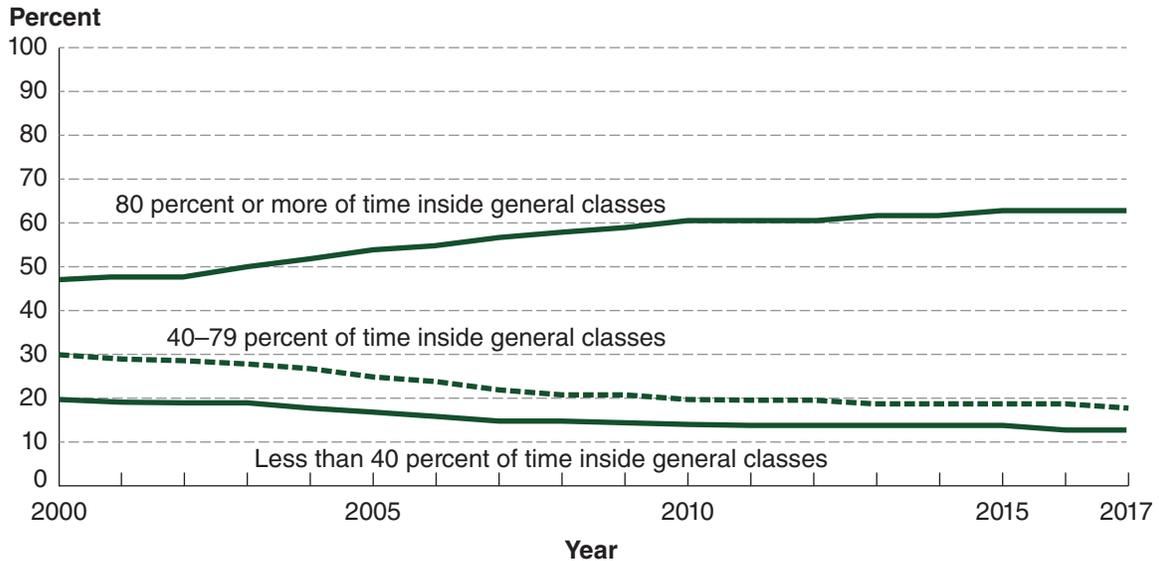


Source: McFarland et al. (2019), p. 60.

The number of students with disabilities who receive their education in a general education classroom has significantly increased over the last 30 years because of federal legislation aimed at including students with disabilities in general classrooms to the greatest extent possible (Figure 1.2) (Aron & Loprest, 2012; McLeskey, Landers, Hoppey, & Williamson, 2011).

Figure 1.2: Percentage of students with disabilities in the general classroom

More than 60% of students with disabilities spend 80% or more of their school day in a general education classroom. This means that general education teachers, not special education teachers, provide most of the instruction for these students.



Source: McFarland et al. (2019), p. 62.

Definitions of Special Education Terms

As you learn the best practices and important legal issues involved in the instruction of special education students, you will encounter hundreds of terms and acronyms. Some of the most common terms are *disability*, *handicap*, *disorder*, *impairment*, and *exceptionality*.

A **disability** is a condition or function that *impairs* a person's ability to do something. A disability is described by the Americans with Disabilities Act as limiting one or more major life activity, such as walking, seeing, speaking, hearing, breathing, learning, performing manual tasks, caring for oneself, working, sitting, standing, lifting, or reading. A mental or physical condition that impairs a person's ability to do something used to be called a **handicap**, but the term *disability* shows respect for all people and is now the favored term (Baglieri, Valle, Connor, & Gallagher, 2011). Today, the term *handicap* is used to refer to something in the environment that makes it difficult for a person with a disability to navigate, learn, work, or do other activities. For example, if a ramp doesn't exist, stairs to a building are considered a handicap to a person in a wheelchair.

A **disorder** is a condition or illness that *affects* the function of a person's body or mind. Disorders are medical conditions that impair a person's ability to do something. Some examples of disorders include Autism Spectrum Disorder (ASD), Obsessive-Compulsive Disorder (OCD), and Attention-Deficit/Hyperactivity Disorder (ADHD). Down syndrome, along with many other developmental disabilities, is also considered a disorder.

An **impairment** is a condition in which the ability to do something is *diminished*. The term *impairment* is often used to describe people who have reduced vision (i.e., people with visual impairment), but who are not blind, or people who have low hearing (i.e., people with hearing impairment), but who are not deaf.

When something is described as exceptional, it is considered quite different from average. Students in special education may be described as having an **exceptionality**. We discuss different exceptionalities in the following chapters. You may hear “exceptional children” or “exceptional learners,” and these terms refer to students who require special education services.

Person-First Language

Teachers should be mindful of the terms they use to refer to and describe people with disabilities. Until recently, a person with a disability might commonly have been described as a “retarded person” or a “dyslexic kid.” However, these terms indicate that the disability owns the person, and they show a disrespect for human beings. We are all people first, regardless of our characteristics; we must respect one another and realize that we have more in common with other human beings than we have differences.

Person-first language was introduced in 1992 to put people first, *before* a description of their disabilities, and to describe what a person *has* rather than who the person *is*. Table 1.1 shows examples of correct (respectful, person-first) use and incorrect use.

Table 1.1: Examples of person-first language

Correct/respectful	Incorrect/judgmental
Celia has a speech impediment.	Celia is speech-impaired.
Martin has Down syndrome.	Martin’s Downs.
Courtney has a learning disability.	Courtney is learning disabled.
David has an intellectual disability.	David is retarded.
AnnaMarie receives special education services.	AnnaMarie’s in special education. AnnaMarie is a sped.
Mr. Smith uses a wheelchair.	Mr. Smith’s in a chair.
The student with dyslexia	The dyslexic kid
Students with disabilities	Disabled students Sped students

Person-first language can be a little tricky, and not everyone agrees on exactly how to use it. In the Deaf community (why *Deaf* is capitalized is discussed in Chapter 10), people prefer to say “Kayla is deaf” rather than “Kayla has deafness.” The same goes for those who are blind: “Tyler is blind” is preferred over “Tyler has blindness.” The autism community states that a “person with autism” means that autism can be separated from the person, which they do

not believe is accurate. When you are unclear about whether to use person-first language, go with what seems more respectful and ask the person with a disability what he or she prefers.

Students Who Receive Special Education Services in Schools

Just as the language used to describe people with disabilities has changed over the years, so have the key principles that guide the education of students with disabilities. In today's classroom, key ideas include a free appropriate public education (FAPE), an Individualized Education Program (IEP), and the least restrictive environment (LRE). These principles are introduced here, and you will learn about their evolution as you continue through Chapter 1.

Federal law requires schools to provide a **free appropriate public education (FAPE)** for all students with disabilities ages 3 through 21. The definition of FAPE means students receive special education services that (a) are provided at public expense, under public supervision and direction, and without charge; (b) meet standards of the state educational agency; (c) include an appropriate preschool, elementary, or secondary school education; and (d) are provided in conformity with the Individualized Education Program (IDEA, 2004). Each student's FAPE is unique and includes educational services that are in compliance with state instructional standards and the student's **Individualized Education Program (IEP)** (Conroy, Yell, Katsiyannis, & Collins, 2010).

An IEP describes the special education placement of a student and the services the student receives. An IEP team—comprised of the student's general education teacher, parents or guardians, a special education teacher, and other essential school staff—collaborates on the IEP. Involving parents or guardians is essential (Yell & Bateman, 2019). Students with disabilities are guaranteed public funding to complete their public school education. Determining what an "appropriate" education is for each child, though, has a controversial history and is subjective for each child.

Part of FAPE for students with disabilities involves determining where students will receive instruction in the school environment. To provide the most appropriate education, schools often seek to instruct students with disabilities in the general education setting whenever possible. However, not all students will benefit from full inclusion in the general education classroom because the nature of their disability may prevent them from being successful (Rozalski, Stewart, & Miller, 2010).

The setting in which students receive instruction is determined by the IEP team and is known as the **least restrictive environment (LRE)**. The LRE can range from the student's spending 100% of the school day in a special education class to receiving all of his or her instruction in the general education classroom (McLeskey et al., 2011). A student's LRE should be determined based on the services and supports a student requires to meet IEP goals (Lipkin & Okamoto, 2015). Depending on the setting, students with disabilities may be taught primarily by a special education teacher or by both a general and special educator in the general education classroom. Students who receive the majority of their instruction in a special education classroom may be integrated into the general population through nonacademic electives or school meals.

1.2 History of Education for Students with Disabilities

The practices and laws that have advanced the rights of students with disabilities and made special education what it is today have not been in place very long. Probably some of you (or your parents or grandparents) attended a school in which special education students were separated from the regular classroom or excluded entirely from going to school. It was only through the efforts of many people and organizations that students with disabilities are treated fairly in schools today. Many events throughout the 19th and 20th centuries led to the first special education law for students with disabilities, signed in 1975.

Early Special Education Efforts in Europe

In the Middle Ages, people with disabilities were often forced to be servants, fools, or jesters. The role of the “fool” might involve setting up an event for the entertainment of others. For example, in the 15th century, blind people were placed in a fenced area with a pig and armed with a stick (Wheatley, 2010). They were told they could eat the pig if they could kill it. Unfortunately, many of their blows fell on the other people in the pen, much to the amusement of the paying crowd. Other people with disabilities were put to death, left to die, or locked away in institutions. Some people were chained to beds and treated inhumanely.



wynnter/iStock/Getty Images Plus

In the Middle Ages, people with disabilities were social outcasts. Like this court jester, they were often put on display so people could laugh at their differences.

In the 1700s and 1800s, people with hearing and visual impairments began to receive better treatment, and sign language and Braille were developed to help them communicate. Charles-Michel de l'Épée founded the first school for the deaf in 1760; he helped create a system of sign language. One student from his school, Laurent Clerc, learned sign language in France. He then moved to the United States and helped with the development of American Sign Language. To assist people with visual difficulties, Louis Braille, who was blind himself, created his own form of written communication—a series of raised dots that people could “read.”

Also in the 1700s and 1800s, physicians began to turn their attention to treating people with mental difficulties more humanely. Philippe Pinel, a French physician, supported the idea that patients who were mentally ill should not be kept in chains (as they often were) and should receive individual attention or therapy.

Jean-Marc-Gaspard Itard was another French physician who devoted many years to the education of a child known as Victor, the wild boy of Aveyron. Itard's mentee, Édouard Séguin, wrote the first book on educating students with mental difficulties, *The Moral Treatment, Hygiene, and Education of Idiots and Other Backward Children*. In 1848, Séguin moved to the United States and established a number of schools for students with intellectual disabilities.

Special Education in the United States

During the 19th century, most attention paid to students with disabilities in the United States focused on students who were deaf or blind, although students with developmental or intellectual disabilities did receive some attention. Education for all these groups, however, was very limited geographically and economically. Most schools for students with disabilities were in large cities, and only wealthy people could afford to enroll their children.

The 20th century, in contrast, was a time of rapid change for students with disabilities (Spaulding & Pratt, 2015). Educators built on the foundations laid in the 19th century to develop many assessments that they could use to determine what difficulties students were having. Numerous court cases were fought to provide an appropriate education for *all* students, and these cases led to a number of special education laws that will be discussed in the next section.

Timeline of Significant Events in the United States

The following are some of the most significant events of the 19th and 20th centuries that led to improved conditions and advocacy for individuals with disabilities.

- 1817: Connecticut Asylum for the Education and Instruction of Deaf and Dumb Persons opened in West Hartford. Thomas Hopkins Gallaudet started the school with Laurent Clerc and Mason Cogswell (whose daughter was deaf). The school was eventually renamed the American School for the Deaf, and it still exists today.
- 1829: New England Asylum for the Blind opened in Boston, Massachusetts. John Dix Fisher, a Boston physician, worked with principal Samuel Gridley Howe to open the school with six students. The school was eventually renamed Perkins School for the Blind.
- 1840: Rhode Island was the first state to pass a law mandating compulsory education for students. Schools, however, continued to exclude students with disabilities for the next 135 years.
- 1848: Experimental School for Teaching and Training Idiotic Children opened in Waltham, Massachusetts. The idea of Samuel Gridley Howe, this was the first school for students with developmental disabilities in the United States. Later renamed the Walter E. Fernald State School, students participated (without consent) in controversial experiments involving radiation.
- 1864: Columbia Institution for the Instruction of the Deaf and Dumb and Blind opened in Washington, DC. The school's founder was Edward Miner Gallaudet (son of Thomas Gallaudet). The institution was renamed in 1954 as Gallaudet University to honor Thomas Gallaudet. It was the first institution of higher education in the United States for students with disabilities, and the focus of the university was the education of the deaf and hard of hearing.

- 1876: The first advocacy group for people with disabilities was formed as the Association of Medical Officers of American Institutions for Idiotic and Feeble-minded Persons. Now called the American Association on Developmental and Intellectual Disabilities, this organization aims to promote appropriate practices and policies and protect the human rights of people with intellectual and developmental disabilities.
- 1893: *Watson v. City of Cambridge*. The student in this case was barred from school because the school believed the student was too “weak minded” to benefit from instruction (Russo & Osborne, 2009). Initially, the jury ruled in favor of the student, but the Supreme Judicial Court of Massachusetts ruled in favor of the school.
- 1905: The Binet-Simon Intelligence Test was published by Alfred Binet and Theodore Simon in France. The test assessed student’s memory, attention, and verbal skill to give an idea of a student’s “intelligence.” The test was revised by a Stanford University psychologist in 1916 and renamed Stanford-Binet. The Wechsler-Bellevue Intelligence Scale (now named the Wechsler Adult Intelligence Scale) was introduced in 1939. These developments were important because the assessments provided teachers and school personnel with ways of classifying and identifying students.
- 1918: All states in America had mandated compulsory education for students by this year, but many students with disabilities continued to be excluded from public schools.
- 1919: *Beattie v. Board of Education of Antigo*. A 13-year-old boy named Merritt Beattie suffered from paralysis and was unable to control his voice or limbs (LaNear & Frattura, 2007). His facial muscles often contorted, which caused severe speech difficulties and uncontrollable drool. His school suggested that his appearance had a disturbing effect on teachers and other students and believed that he would be better taught at a school for the deaf (even though Merritt’s progress in the classroom was adequate). At first the court ruled in favor of letting Merritt continue his education at his local school, but the ruling was overturned later by the Wisconsin Supreme Court, which found that schools could exclude students who harmed the interests of the school (Yell, Rogers, & Rogers, 1998).
- 1922: The Council for Exceptional Children (CEC) was formed at the Teachers College of Columbia University to advocate for the education of students with disabilities (Weintraub, 2012). The goal of the CEC was to emphasize individualized education for exceptional children and to establish professional standards for educating exceptional children.
- 1933: A group of parents in Ohio formed the Cuyahoga County Council for the Retarded Child to help students who had been expelled or excluded from public schools. Similar organizations formed across the United States and eventually came together as the National Association of Retarded Children in 1950, now referred to as The ARC.
- 1954: *Brown v. Board of Education of Topeka*. This case ruled that “separate but equal” schools for African American and Caucasian students were unconstitutional. This ruling helped the civil rights movement gain momentum, and helped push for equal education for students with disabilities (Shealey, Lue, Brooks, & McCray, 2005).
- 1962: President John F. Kennedy’s Panel on Mental Retardation convened and suggested that people with mental retardation (now called intellectual disabilities) and

- other mental illnesses would be better served in residential communities. The panel encouraged current institutions to improve the quality of service.
- 1964: The Civil Rights Act outlawed discrimination in hiring, promoting, or firing based on sex or race. Similar to *Brown v. Board*, this act encouraged disability advocates to call for equal access to schools for students with disabilities. Neither the Civil Rights Act nor *Brown v. Board* had anything to do with civil rights for individuals with disabilities. Rather, advocates used the act and the case to argue that civil rights legislation was needed for individuals with disabilities.
 - 1965: As a result of the Civil Rights Act of 1964, which was guided through Congress by President Lyndon Johnson, the U.S. Congress passed the Elementary and Secondary Education Act of 1965 (ESEA). The first federal law to address the education of children with disabilities, it covered funding for primary and secondary public schools and promoted equal access to education for all students. The Bureau for Education of the Handicapped (BEH) was created as part of ESEA, but an education for students with disabilities was still not mandatory in the United States.
 - 1969: *Wolf v. State of Utah*. Two students with intellectual disabilities had been denied an education in the public schools. Their parents contested that a public school education should be available to all students, regardless of disability. The court ruled that all students from ages 6 to 21 had the right to a free and appropriate public education.
 - 1970: *Diana v. State Board of Education*. In this case, Diana was a Mexican American student in California who struggled in her classes. An intelligence test indicated that Diana had a mild intellectual disability. The case indicated that the school misidentified Spanish-speaking students because the intelligence test was administered in the student's non-native language: English. The court ruled schools cannot administer culturally biased tests or tests administered in English to students who are not proficient in English. A similar case, arguing discrimination against an African American student based on an intelligence test, was argued in 1979 with *Larry P. v. Riles*. The overrepresentation of Hispanic and African American students continues to be an issue in special education (Fletcher & Navarrete, 2003; Waitoller, Artiles, & Cheney, 2010).
 - 1971: *Pennsylvania Association for Retarded Children (PARC) v. Commonwealth of Pennsylvania*. In this case, PARC argued that a state law not allowing students to attend school "who have not attained the mental age of five years" was illegal. The outcome was that students with intellectual disabilities would be provided with a free public education until age 21 and that each student should be placed in the least restrictive environment for that student (LaNear & Frattura, 2007).
 - 1972: *Mills v. Board of Education*. Students in the Washington, DC, public schools had been refused enrollment because of mental or behavioral disabilities. The school district claimed that they could not admit these students because the district did not have the appropriate funds to educate students with disabilities. The court ruled a district could not keep students with disabilities from school because of a lack of funds, and parents and guardians had the right to *due process* when the school is making decisions about a student's education. **Due process** is the system that parents or guardians use if they disagree with a school district's special education plan for their child. It involves the parent or guardian and the school district presenting their cases to a third-party impartial administrator familiar with special education law (Zirkel & Gischlar, 2008).

- 1973: Section 504 of the Rehabilitation Act was the first law that granted civil rights to people with disabilities. Institutions receiving federal funding—such as libraries, public housing, and airports—needed to become accessible to people with disabilities. As public schools also receive federal funds, Section 504 stated that schools cannot discriminate based on disability. Today, Section 504 is important because it provides protection to students with disabilities who do not otherwise qualify (Aron & Loprest, 2012).

1.3 Special Education Legislation Affecting Public Schools Today

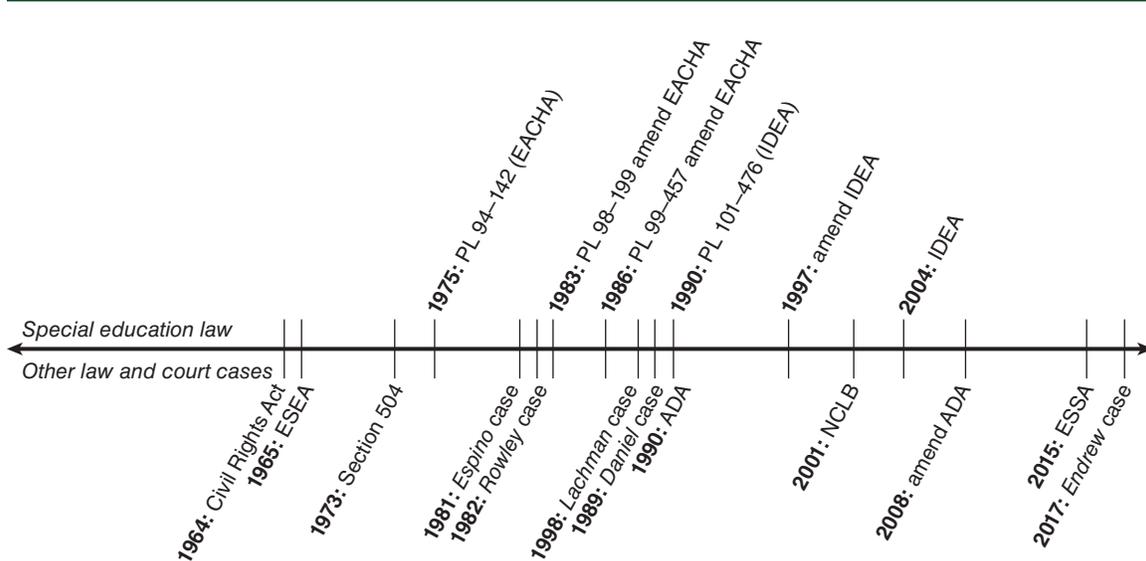
The protection of the civil rights of individuals was advanced by U.S. law and the interpretation of the courts over the course of the 20th century. Civil rights laws initially protected African Americans and women, but advocates for people with disabilities used these advancements to argue that the civil rights of people with disabilities (and especially students with disabilities) were equally important.

Throughout the 1960s and early 1970s, many schools began their own special education programs, but nothing was mandated by the federal government. However, court cases such as *PARC v. Commonwealth of Pennsylvania* and *Mills v. Board of Education* started to press for inclusion of students with disabilities in public schools. During this time, numerous court cases charged schools with discrimination of students with disabilities (LaNear & Frattura, 2007). These court cases, along with civil rights legislation, ushered in a seminal year for students with disabilities: 1975. See Figure 1.3 for a timeline of important events related to the education of students with disabilities in the United States.



Everett Collection/SuperStock

President Gerald Ford signed the EAHCA into law in 1975. Ford was optimistic about the law because it granted the same educational rights to all students, but he questioned how it would be funded because special education per pupil costs are often more than those for typical students (Verstegen, 2011).

Figure 1.3: U.S. education timeline from 1964 to 2017

Public Law 94-142

In 1975, the U.S. Congress passed the Education of All Handicapped Children Act (EAHCA or EHA). This federal law, often referred to as PL 94-142, was the first to mandate that schools provide education to students with disabilities. The law provided billions of dollars to schools to provide special education services.

Several important components of EAHCA were introduced earlier in this chapter. First, public schools, if they wanted to continue to receive federal funds, had to guarantee FAPE to all students between the ages of 3 and 21, regardless of the student's disability. The concept of *zero reject* was born, which means that no student with disabilities could be denied a FAPE unless the student (or the parent or guardian) opts for a non-public school placement.

Second, students with disabilities should receive their education in the LRE. The education of a student with a disability should be as similar to the education of a student without a disability as possible. The initial term used for providing an education for students with disabilities in the general classroom was *mainstreaming*. With mainstreaming, students with disabilities were placed in general classrooms with slight accommodations to help these students succeed. Many people now refer to this practice as *inclusion*, although some still use both terms (Odom, Buysse, & Soukakou, 2011).

Inclusion aims to educate students with disabilities along with students without disabilities in the LRE to the maximum extent appropriate (Rozalski et al., 2010). With inclusion, special education services are often provided to the student in the general classroom (Ross-Hill, 2009), and often a special education teacher co-teaches with a general education teacher (Scruggs & Mastropieri, 2017). The LRE is based on the individual student's needs and should benefit the student to the greatest extent possible (Obiakor, 2011). Students may spend all their time in the general classroom. Students may have no additional support, accommodations,

assistance from special education teachers or aides, assistance from general education teachers or aides, or assistance from an interpreter.

Alternatively, students may spend some of their school day or school week receiving specialized services in a special education classroom or program. They may go to offices or classrooms to receive specialized instruction from a therapist or specialist. A minority of students will spend all of their school day in a special education classroom, and a few students may exclusively attend special education schools or programs (e.g., day schools, residential schools, hospitals).



Wavebreakmedia/iStock/Getty Images Plus

The majority of students with disabilities spend most of their school day in the general classroom. The placement decision must adhere to the individual student's least restrictive environment. Schools must make proper accommodations and modifications to help students with disabilities succeed.

A third important component of the EAHCA is that students with disabilities must have a team of school personnel who work with the parent or guardian to conduct an extensive evaluation of the student and determine whether the student has a disability.

Written parent or guardian consent must be obtained before the evaluation can take place. During the evaluation, nondiscriminatory assessments must be used.

Fourth, once it is determined that a student has a disability, a team of school personnel and the parent or guardian develop an IEP that helps guide the student's education. Long-term (i.e., year-long) goals and a plan to assess and meet those goals are necessary parts of an IEP. With the original version of EACHA, short-term (i.e., monthly or semester) objectives to track progress toward meeting long-term goals were mandated. Short-term objectives, however, are not a necessary IEP component even though many school districts still include short-term goals on the IEP.

A fifth EAHCA component is procedural safeguards (i.e., due process) that must be instituted by schools to protect parents or guardians and students with disabilities. Under due process, parents must give consent for a special education evaluation and for placement into special education (Bateman, 2009). Parents also have the right to review their student's records at any time. If parents or the school disagree about a student's evaluation or placement, parents have the right to an independent evaluation paid for by the school district. Parents also have the right to a hearing and the right to appeal any decision from a hearing (Connolly, Zirkel, & Mayes, 2019).

Reauthorizations of PL 94-142

Since 1975, when the enactment of PL 94-142 laid the groundwork for the education of students with disabilities in the United States, the law has undergone five important revisions. Another reauthorization will take place in the next few years.

1983 Amendments: Funding Changes

In 1983, PL 98-199 amended the EAHCA by adding provisions that affected funding. First, parent information centers (PICs) received funding by the federal government so parents could learn about their rights and the rights of students with disabilities. Funding was also appropriated to include students with disabilities from birth to age 3 and to provide transition services for adults with disabilities from school to work or to living arrangements.

1986 Amendments: Extension of FAPE and Child Find

With PL 99-457, the EAHCA was amended again in 1986. Changes included extending FAPE to students with disabilities who were ages 3 to 5. Also, programs for infants and toddlers with disabilities received increased attention in a program called Child Find. Child Find requires states to find and evaluate all students with disabilities from birth to age 21 (Ennis, Blanton, & Katsiyannis, 2017). This program is based on the idea that identifying students with disabilities as early as possible allows intervention as early as possible (Jackson & Needelman, 2007). Any infant or toddler receiving special education services receives an early intervention IEP called the **Individualized Family Service Plan (IFSP)**.

The IFSP is written for the child and the family. Similar to an IEP, the IFSP states the child's strengths, the outcomes for the child, which special education services the child will receive, when the child will receive the services, and who will deliver the services. Most children with an IFSP will receive services in their home or in a setting that is as natural as possible (Wolery & Hemmeter, 2011).

A service coordinator helps with ensuring that IFSP provisions are met. Many students with an IFSP may receive physical therapy or occupational therapy services. Children might also learn to use assistive devices, such as a hearing aid or a communication board.

1990 Amendments: IDEA

A major reauthorization of the EAHCA occurred in 1990 with PL 101-476. First and foremost, the EAHCA was renamed the **Individuals with Disabilities Education Act (IDEA)**. This name change reflected an emphasis on person-first language and more respectful terminology in general. IDEA reaffirms FAPE and LRE, along with IEPs. It places special emphasis on the use of assistive technologies, including devices or services (evaluation, therapy, or training) to educate students with disabilities.

IDEA also included students from ages 3 to 21, made more funding available for programs for infants and toddlers with disabilities, and mandated formal transition plans in IEPs for students starting at age 16. IDEA also added two new disability categories—autism and traumatic brain injury—bringing the number of disability categories to 13.

1997 Amendments: Assessments and Discipline Procedures

In 1997, IDEA was reauthorized to mandate that students with disabilities participate in state and district assessments. A student could undergo such assessments with accommodations or modifications as outlined in the student's IEP. IDEA 1997 also required states to develop

and administer modified assessments for students with disabilities severe enough to exclude them from taking the regular assessments.

The 1997 amendments also added discipline procedures for students with disabilities; the regulations required schools to implement functional behavioral assessments and behavioral intervention plans for students with disabilities whose behaviors were disruptive (Aron & Loprest, 2012).

2004 Amendments: Individuals with Disabilities Education Improvement Act

In 2004, IDEA was reauthorized as the Individuals with Disabilities Education Improvement Act (IDEIA). Many people refer to the law as IDEA 2004—the term used in this book. IDEA 2004 included substantial changes from previous versions of the law and restated the mandates from No Child Left Behind (NCLB) specific to students with disabilities.

Key points of IDEA 2004 include hiring highly qualified teachers who use evidence-based teaching practices, providing an alternative method for identifying specific learning disabilities (SLD), changing mandatory components of the IEP, and outlining plans for students with behavioral challenges.

Thirteen Disability Categories of IDEA 2004

To qualify for special education services under IDEA 2004, students must meet criteria in at least one of 13 categories. We discuss each of these categories in subsequent chapters but are introducing them here using the terminology as stated in the regulations of IDEA 2004:

1. *Autism* means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age 3, that adversely affects a child's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. The term *autism* does not apply if a child's educational performance is adversely affected primarily because the child has an emotional disturbance (see the definition below).
2. *Deaf-blindness* means concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for children who are deaf or children who are blind.
3. *Deafness* means a hearing impairment that is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification, and that adversely affects a child's educational performance.
4. *Emotional disturbance* means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child's educational performance:
 - (a) An inability to learn that cannot be explained by intellectual, sensory, or health factors.

- (b) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers.
- (c) Inappropriate types of behavior or feelings under normal circumstances.
- (d) A general pervasive mood of unhappiness or depression.
- (e) A tendency to develop physical symptoms or fears associated with personal or school problems.
- (f) Schizophrenia.

This term does not apply to children who are socially maladjusted, unless it is determined that they have an emotional disturbance.

5. *Hearing impairment* means an impairment in hearing, whether permanent or fluctuating, that adversely affects a child's educational performance but that is not included under the definition of deafness.
6. *Mental retardation* (now called *intellectual disability*) means significantly sub-average general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period, that adversely affects a child's educational performance.
7. *Multiple disabilities* means concomitant impairments (such as mental retardation-blindness or mental retardation-orthopedic impairment), the combination of which causes such severe educational needs that the student cannot be accommodated in special education programs designed solely for one of the impairments. *Multiple disabilities* does not include deaf-blindness.
8. *Orthopedic impairment* means a severe orthopedic impairment that adversely affects a child's educational performance. The term includes impairments caused by a congenital anomaly, impairments caused by disease (e.g., poliomyelitis, bone tuberculosis), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractures).
9. *Other health impairment* means having limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that (a) is due to chronic or acute health problems, such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette syndrome; and (b) adversely affects a child's educational performance.
10. *Specific learning disability* means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. This term does not include learning problems that are primarily the result of visual, hearing, or motor disabilities; mental retardation; emotional disturbance; or environmental, cultural, or economic disadvantage.
11. *Speech or language impairment* means a communication disorder—such as stuttering, impaired articulation, language impairment, or voice impairment—that adversely affects a child's educational performance.
12. *Traumatic brain injury* means an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child's educational performance. This term applies to open or closed head injuries resulting in impairments in one or more

- areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. *Traumatic brain injury* does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma.
13. *Visual impairment* includes blindness and involves an impairment in vision that, even with correction, adversely affects a child's educational performance. The term includes both partial sight and blindness. (Individuals with Disabilities Education Act, 2004)

ADHD is not a separate IDEA 2004 category. Students with ADHD are often categorized under *other health impairment* if these students are to receive special education services. Giftedness is not a disability category, although many schools house gifted programs in their special education departments.

There is an additional category under IDEA 2004 called *developmental delay*. This category is used to identify students on a temporary basis. A developmental delay occurs when a child is not meeting developmental milestones at typical times. Delays can be seen in motor, social, language, or thinking skills.

The category of *developmental delay* can be used under Part C for children from birth to 3 years and Part B for children ages 3 to 9. This category cannot be used for students over 9 years of age. Developmental delay is a temporary category that allows students to receive appropriate services until an official diagnosis (e.g., learning disability, intellectual disability, emotional disturbance) is made.

From the No Child Left Behind Act to Every Student Succeeds Act

The 2001 reauthorization of the Elementary and Secondary Education Act (ESEA) was titled **No Child Left Behind (NCLB)**. NCLB forced major changes in educational practices for all students, including students with disabilities. One of the hallmarks of NCLB was the provision of mandatory testing for students in grades 3 through 8 and 10 through 12, with schools working toward 100% proficiency in reading and mathematics (Yell, Katsiyannis, & Shiner, 2006). The law stipulated that schools must demonstrate adequate yearly progress (AYP) toward meeting the 100% proficiency. Ninety-five percent of students in a school and within each subgroup in a school (e.g., special education) must participate in the AYP assessments.

Thus, NCLB stipulated that 95% of special education students must meet AYP benchmarks; it also mandated that only 1% of students in a school can participate in an alternate assessment, and students eligible for the alternate assessment must demonstrate significant cognitive disabilities (Elliott & Roach, 2007).

NCLB also expected students with disabilities to participate more in the general education curriculum, as most students with disabilities would be taking the same standardized assessments as their peers without disabilities. The NCLB explained that a student's IEP or 504 Plan should include information on whether the student will participate in an alternate assessment and how the student would participate in the general curriculum.

NCLB also demanded that all students be taught by highly qualified teachers and that teachers use evidence-based practices in the classroom (Collins & Salzberg, 2005). Evidence-based practices are teaching practices that have been tested and determined to be effective. It takes a lot of time and money to identify evidence-based practices, and the list of known evidence-based practices is sparse. Many of the NCLB aims laid out in 2001 were restated in IDEA 2004 so schools understand the specifics regarding students with disabilities.

In 2015, the **Every Student Succeeds Act (ESSA)** replaced NCLB. Even with this reauthorization and renaming of the legislation, most of the expectations and goals from NCLB remain in place. ESSA still requires mandatory testing for students. States must develop accountability plans for school districts with students who do not meet adequate yearly progress goals. Under ESSA, there is an alternate diploma option to allow states to award diplomas to students who may not meet regular diploma requirements. ESSA also changed special education certification requirements to allow states to set licensing requirements aligned with state standards.

Components of IDEA 2004

We have already discussed some of the major components of IDEA 2004. Another important IDEA 2004 mandate is that all students with disabilities be taught by a *highly qualified teacher (HQT)*. The law requires that all teachers of students with disabilities receive appropriate preparation and ongoing professional development to meet the academic and functional needs of the students. In addition, and similar to ESSA, all special education teachers should be certified to teach special education or have passed a special education teacher-licensing examination. The law also placed a major emphasis on using evidence-based practices for instruction.

Tips for the General Classroom: What Works Clearinghouse

As a classroom teacher, you are often given textbooks and teacher manuals to guide your instruction. Are these evidence-based practices? How would you know? The Institute of Education Sciences (IES) is the research organization within the U.S. Department of Education. IES compiles lists of evidence-based programs for teachers with the What Works Clearinghouse (WWC).

A panel of experts from IES examines published and unpublished research and systematically reviews the research to see if each study meets key WWC components. Most importantly, the panel of experts uses WWC standards to determine if students benefitted from the educational practice in a positive way. Studies can be rated as *meets WWC design standards without reservations*, *meets WWC design standards with reservations*, or *does not meet WWC standards*. Results from the evaluations are posted for anyone to access on the WWC website.

For example, if an elementary teacher is looking for an evidence-based practice to help students with alphabet skills, she can use the WWC search function to find all the evaluated programs. The teacher can see the names of each intervention (i.e., program or teaching practice) and the extent of evidence of the intervention. Based on this evidence, the teacher can make a wise decision about which evidence-based practice to use in her classroom. See sample search results here: <https://ies.ed.gov/ncee/wwc/FWW/Results?filters=,Literacy,Children-Youth-with-Disabilities>.

Another major change revolved around the identification of students with learning disabilities (LDs). Until 2004, most schools used a discrepancy model to identify students with LDs. A discrepancy model looks at a student's present academic performance in comparison with that student's possible performance (as generally measured with an intelligence test) to determine whether a discrepancy exists between where the student is expected to perform and where the student actually performs.

The use of the discrepancy model had been criticized because often schools would wait a few years—perhaps until third or fourth grade—to identify students, because a discrepancy was more obvious at that time; this practice delayed interventions or services. Thus, IDEA 2004 proposed Response to Intervention (RTI) as an alternative to the discrepancy model. ESSA 2015 expanded RTI with the description of Multi-Tiered Systems of Support (MTSS) for improving the pathways for students with disabilities. Each of these options are discussed in Chapter 3.

Additionally, IDEA 2004 introduced changes to due process. Parents now have two years to contest a violation of IDEA 2004. If parents or guardians want to file a due process claim, they must file a complaint with the school district. The district must respond to the complaint within 15 days and schedule a resolution session. If the complaint cannot be resolved within 30 days of receipt of the complaint, then a due process hearing can take place.

IDEA 2004 also included new guidelines on the discipline of students with disabilities. Prior versions of IDEA mandated that students with disabilities be moved from their current educational placement only when the behavior the student exhibited was dangerous or related to weapons or drugs. IDEA 2004 made it easier for schools to remove students for non-dangerous, non-drug, or non-weapon behaviors, with a maximum 45-school-day removal.

Students who have been removed from their placement may receive their education in an alternative setting; services must continue to be provided, and teachers should help the students make progress toward the IEP goals. If a student faces disciplinary action based on a behavior that is manifested by the student's disability, the IEP team, which includes parents, is required to determine if the student's misbehavior was a manifestation of the disability.

Special Education Referral, Evaluation, and Identification

If parents or guardians suspect that their baby or toddler may be experiencing delays due to a disability, they can request a free evaluation conducted by a team of professionals. For babies, toddlers, and children who have not started school, this evaluation usually takes place in the child's home environment so that the child is more comfortable, though some evaluations occur in a clinic or office setting.

Students may be identified with a specific disability, or the student may be identified as having a developmental delay. If it is determined that the child has a disability or delay, an IFSP (for children from birth to age 3) or IEP (for children ages 3 to 5) is developed by a team of professionals with the parent or guardian.

Many students, as noted, are not diagnosed and referred for special education before they are school age. When students in school show persistent difficulty or failure in the general

education classroom, they can be referred for special education. General education teachers, school administrators, and parents or guardians can all request for the identification process to begin. If personnel from the school suggest an evaluation, the school must contact the parents in writing to obtain consent and make all reasonable efforts to get in contact with the parent or guardian. (If a parent or guardian refuses consent, the school district can go through due process to try to override the parent or guardian's decision.)

Once a referral or request for evaluation occurs, the evaluation must take place within 60 days (unless a specific state has set a different timeline). For school-age students, the evaluation takes place in a school, clinic, or medical setting.

From My Perspective: Being the Parent of a Child with a Disability

Hi. I am Kris, and I'm a former special education teacher who has spent countless hours on IEP teams. But as a mom of a special needs child, I've had a different experience on the "other side of the table." While I recognized it was a process fraught with anxiety for families, I did not appreciate its complexities before living through it.

Just knowing the importance of the IEP can cause stress. It provides the legal and educational framework for all school-based decisions and guides my son's teachers, therapists, and administrators as they work with him each day. As his mom, I must be his advocate, explaining his rare disorder, describing his strengths and weaknesses, and informing others of strategies that are likely to work. He doesn't fit any mold, and no one knows him like I do. The responsibility of guiding him toward his hopes for the future lies principally with me. So the anxiety and emotions that this process triggers is great—even for someone very familiar with the process and terminology.

I worry about false assumptions other team members may make about my son, about my ability to accurately portray him so that others will take seriously both his abilities and his deficits, about who will be implementing the IEP and how it will be implemented, and about how I am perceived. I also want to make certain I remain open to the unique expertise and perspective each of the other team members brings. Achieving this balance—understanding the process, advocating for my son, and being open to input from helping professionals—is a challenge, and one I must face year after year.

A team of school officials and the parents or guardians analyze the student data to determine whether the student has a disability as outlined in IDEA 2004. The team must decide whether the student meets criteria of one or more of the IDEA disability categories and requires special education services and supports (Zirkel, 2015). An individual teacher never diagnoses a student with a disability. Depending upon the disability, a diagnosis is made by a team of school personnel or by a medical professional.

If the student is found to have a disability, an IEP team is formed. The IEP team includes school professionals who will be directly involved with the student's education and the parent or guardian, unless the parent or guardian declines participation. IDEA states the IEP

team includes: the parent(s) or guardian(s); not less than one general education teacher (if the student participates in general education); not less than one special education teacher or provider; a representative of the school; a person who can interpret evaluation results; and the student (when appropriate). At age 16, the student must be invited to be a part of the IEP team whenever transition issues will be discussed. Other experts—such as school psychologists, intervention specialists, speech pathologists, and so on—may be members of the IEP team as needed.

For most disability categories (i.e., deaf-blindness, deafness, hearing impairment, orthopedic impairment, traumatic brain injury, or visual impairment), the determination of disability is conducted by medical professionals. Many of these students enter school already having a disability diagnosis, and then an IEP team is formed and the IEP is written. For some of the other disability categories (emotional disturbance, intellectual disability, specific learning disabilities, or speech language impairment), the responsibility for evaluation lies more on the school because the student's difficulties are more school-based than medical in nature. Subsequent chapters will discuss the specific evaluation of each of these disabilities.

1.4 Details of the Individualized Education Program

The IEP is developed once a student is identified as qualifying under one of the 13 disability classifications of the IDEA 2004. The IEP is the legal document that ensures that students with disabilities are receiving a FAPE and making adequate progress each school year, and the school district is bound by law to follow it.

Components of the IEP

First, the IEP has a statement of the student's present level of academic achievement and functional performance (PLAAFP), usually a narrative of the student's academic and functional performance. The PLAAFP generally explains the effect of the student's difficulty or disability on academic and functional performance. The IEP team may ask the following questions to help write the student's PLAAFP.

- What are the student's present levels of achievement?
- Why is the student struggling?
- When will it be apparent whether the IEP plan is working?
- Who will monitor progress?
- Where will services take place?
- How will the school provide information to the parents?

The narrative is typically written with a positive tone, focusing on the student's strengths (Cheatham, Hart, Malian, & McDonald, 2012). For example, instead of saying, "Jorge cannot read full sentences, and he does not comprehend text," the PLAAFP may state, "Jorge is able to identify letter names and letter sounds. Jorge needs assistance with decoding of words."

Second, an IEP contains a list of annual goals. IEP goals serve as a bridge between grade-level expectations and the student's present level of performance. Goals should be specific,

measurable, achievable, relevant, and time-limited (SMART) (Hedin & DeSpain, 2018). To be SMART, a goal has to be written so the outcome is specific and measurable. A goal cannot be a broad, sweeping statement, such as “Jaden will read better.”

Depending upon the student’s disability, goals may be academic, functional, or behavioral. Here are a few examples of different IEP goals:

- Jaden will read orally first-grade reading passages at Level D at 110–130 words per minute with 95% accuracy in two of three trials.
- Jaden will state the correct time on an analog clock with accuracy (to the nearest 5 minutes) in 9 out of 10 problems.
- Jaden will remain in her seat for 10 minutes, with no more than three prompts as measured by the observation checklist.

The IEP must clearly specify when and how a student’s progress toward meeting annual goals will be measured (Hauser, 2018). Sometimes, short-term objectives accompany these goals to describe how the student’s progress toward meeting the annual goal will be quantified and measured. Short-term objectives used to be a necessary component of the IEP, but IDEA 2004 states that short-term objectives are necessary only for students who will take alternate assessments (Russo, Osborne, & Borreca, 2005).

Third, the IEP includes a list of the services provided to the student, identifies who will provide these services, specifies the duration of the services, explains how these services will enable the student to participate in the general education classroom to the greatest extent possible, and states where the services will take place. Many students with disabilities will spend most of their school day in the general classrooms with accommodations or modifications to the general curriculum.

Other students may receive some or all of their education in a resource or self-contained special education classroom. The IEP outlines the curriculum for the student in these settings. All instructional practices listed in the IEP for the student should be evidence-based, if possible. The IEP also details who (e.g., general classroom teacher, special education teacher, speech therapist) will provide services to the student.

Fourth, an IEP has an account of the monitoring of student progress to ensure that students are on track to meet their goals. Progress can be monitored in a number of ways:

- Progress monitoring assessments
- Academic assessments
- Observations
- Checklists
- Rubrics
- Interviews
- Portfolios
- Work samples
- Video or audio recordings

The progress must be quantifiable, and often information related to progress is graphed to easily see trends in student performance (Hessler & Konrad, 2008).

The IEP may include other disability considerations, such as a health plan and/or student behavior plan. If the student is eligible for taking an alternate assessment, information on the assessment must be included in the IEP. If the student is able to take assessments using accommodations, those accommodations must be written into the IEP.

Once a student reaches 16 years old, a transition plan is included to prepare students for post-high school education and career opportunities. Transition refers to the student's post-secondary plans. Some students may plan on attending college, while others may enter the workforce or go to vocational school. Other students may move into residential communities or continue to live at home. Transition plans help students develop the appropriate skills (e.g., note-taking, riding the bus, making appropriate change) for their postsecondary plans. The transition plan in the IEP is evaluated yearly and focuses on both the student's academic and functional needs (Brooke & McDonough, 2008).

The IEP Team

While the IEP is primarily written by the special education teacher, it contains input from general educators, administrators, other service providers, parents or guardians, and, when appropriate, the student. Federal law requires an annual meeting where the team reviews and agrees on the IEP and adjusts it if appropriate. Schools and districts may choose to hold more frequent IEP meetings to ensure students are being appropriately challenged and supported.

Any member of the IEP team can be excused from a meeting if his or her area of expertise is not part of the planned discussion. However, parents have to agree, in writing, that the IEP team member can be excused, and the team member must provide a written report with information relevant to the student's progress in his or her area of specialty before the IEP meeting occurs.

Special Education: Your Profession Court Cases Arising from IDEA Conflicts

With so many regulations and amendments concerning the education of people with disabilities, it's not surprising that there are often disagreements between schools and parents of students with disabilities over what exactly is an *appropriate* free and public education and just what is the least restrictive environment. While many cases about FAPE and LRE have been argued in court, several landmark cases have allowed courts to provide more explanation about what is appropriate for students with disabilities (Aldersley, 2002):

(continued)

Special Education: Your Profession

Court Cases Arising from IDEA Conflicts *(continued)*

- *Espino v. Besteiro* (1981). Raul Espino was a 7-year-old with multiple disabilities caused from a car accident when he was an infant. One of Raul's difficulties was that his body could not regulate its temperature. When his Texas school placed him in an air conditioned cubicle in a classroom without air conditioning, Raul's parents asserted that this was a failure to provide Raul with an education in his LRE. The court ruled that an air conditioned classroom, rather than just a cubicle, was a special education service that the school should provide.
- *Board of Education of Hendrick Hudson Central School District v. Rowley* (1982). Amy Rowley was a first grader who was deaf and required an interpreter. Amy's school in New York initially agreed to provide funding for an interpreter but later rescinded the offer. Amy's parents lost an initial claim in due process, and the case ended up going all the way to the U.S. Supreme Court; it was the first case about a part of the EAHCA to be heard by the Court. The Court ruled that a FAPE for Amy was being met without the school's having to hire an interpreter because Amy was demonstrating progress in the classroom and proceeding from one grade to the next like other students (Redfield & Kraft, 2012). Many people felt the Rowley decision was a defeat for people with disabilities (Seligmann, 2012). Despite Amy's tumultuous beginning in education, she now has a Ph.D. and is a college professor.
- *Lachman v. Illinois State Board of Education* (1988). Benjamin Lachman was a student who was deaf. His school district wanted to place him in a school that was not his neighborhood school to participate in a special class. Benjamin's parents wanted him placed in his neighborhood school with a speech interpreter. The courts ruled that the district's decision to educate Benjamin in a special class for deaf students was not in violation of LRE. The district had to ensure it would educate Benjamin, said the court, but the district was not required to provide an education to meet the student's maximum potential.
- *Daniel R.R. v. State Board of Education* (1989). Daniel, a 6-year-old pre-kindergarten student with a moderate intellectual disability, spent half of his day in a general classroom and half of his day in a special education classroom. Because Daniel was not succeeding in the general classroom and required constant monitoring, the school decided to place him in a special education class for the entire day. Daniel's parents argued that this placement violated FAPE and LRE. The court ruled for the school district, stating that students with disabilities should receive an education similar to students without disabilities to the maximum extent appropriate, but schools do not have to provide that education in the general education classroom if the general education classroom setting is inappropriate to provide a FAPE.

(continued)

Special Education: Your Profession

Court Cases Arising from IDEA Conflicts (*continued*)

- *Endrew F. v. Douglas County School District* (2017). Endrew was a student with autism who received special education services from his school from preschool through fourth grade. During fifth grade, Endrew's parents suspected that his IEP goals were repeating those of past years, not challenging Endrew to grow academically. The parents enrolled Endrew in a private school, and Endrew demonstrated significant academic growth in the new school. His parents asked for compensation from the district for private school expenses given the public school's IEP inadequacy. The court ruled in favor of Endrew, stating that the goals on an IEP must be "appropriately ambitious" and allow every student to "have the chance to meet challenging objectives" (*Endrew F. v. Douglas County School District*, 2017).

From *Daniel*, the courts developed a two-pronged test to determine whether a school was providing a student FAPE in the LRE: (1) Can the education in the general classroom with the use of supplemental aids and services be achieved satisfactorily? and (2) If it cannot, has the school included the child to the *maximum extent appropriate*? From both *Rowley* and *Endrew*, schools must ensure the district has followed procedures outlined in IDEA and that the IEP challenges the student to make adequate progress (Yell & Bateman, 2017).

1.5 Further Legislation Affecting Individuals with Disabilities and Their Education

In 1973, Section 504 of the Rehabilitation Act included provisions for people with disabilities, and its mandates extend to schools. In 1990, the Americans with Disabilities Act outlined access rights for people with disabilities, and many of these rules apply to schools as well.

Section 504

When students with disabilities do not qualify for special education services under IDEA 2004, Section 504 funding can be used for their education. **Section 504** is civil rights legislation that is part of the Rehabilitation Act of 1973, which prohibits discrimination against persons with disabilities (Holler & Zirkel, 2008). This legislation mandates that students with disabilities have an equal opportunity to participate in all programs receiving federal funds.

Schools have more flexibility with Section 504 than IDEA 2004, but funds for schools are not provided by Section 504 as they are for IDEA 2004 (Zirkel & Weathers, 2015).

One key difference between Section 504 and IDEA 2004 is the definition of *disability* (Schraven & Jolly, 2010). Under the IDEA 2004 definition, students must qualify in 1 of the 13 disability classifications to be eligible for special education. The educational outcomes of the students must be adversely affected. The broader Section 504 definition includes individuals who have (1) a mental or physical impairment that (2) substantially limits (3) a major life activity. This definition can extend services to those individuals who may not be currently meeting these criteria but have either a *record of* meeting them or are *regarded as* meeting them (Zirkel, 2011).

Students who have an identified disability under IDEA 2004 are inherently covered by Section 504 (Holler & Zirkel, 2008). For example, a student with attention-deficit/hyperactivity disorder (ADHD) may not qualify as one of the 13 disability classifications because there is not enough evidence to show a substantial limitation to his or her educational performance. However, that student may need support. A 504 Plan may be developed to ensure that the student with ADHD is still protected throughout his or her education. The plan specifies classroom accommodations and/or services for the individual student (Zirkel, 2011). Like an IEP, a 504 Plan is designed to ensure that a student receives the support needed to be successful in a public school setting.

Table 1.2: Comparison of IDEA 2004 and Section 504

	IDEA 2004	Section 504
Evaluation	Parent or guardian must consent to evaluation by a team of professionals. Student must be re-evaluated every 1–3 years.	Parent or guardian must receive notice (but not have to consent) to evaluation by team of professionals. Student must be reevaluated periodically.
Identification	Student must qualify under (at least) one disability category, and educational performance must be adversely affected.	Student must have difficulty with (at least) one major life activity.
Plan	Student must have an IEP that addresses specific services. The IEP also includes long-term goals, LRE placement, assessment accommodations, and transition plans.	Student must have a Section 504 Plan that addresses specific services.
Due process	Parents or guardians and the school make their case at an impartial hearing. Student remains in placement until decision is made.	Parent or guardian and the school make their case at an impartial hearing. Student does not have to remain in placement until a decision is made.

Sources: deBettencourt, 2002; Zirkel, 2011.

Americans with Disabilities Act (ADA)

Individuals with disabilities are protected by the **Americans with Disabilities Act (ADA)**. Passed in 1990, this law reinforced and extended the civil rights provided to people with disabilities under the Civil Rights Act of 1964. The ADA prohibits any discrimination against people with disabilities in government, public spaces and accommodations, employment, commercial facilities, public transportation, and telecommunication. For example, it restricts questions that employers can ask potential employees about disabilities, and it requires employers (with more than 15 employees) to make reasonable accommodations for people with disabilities.

The ADA is also important because it requires that people with disabilities have access to public education, transportation, recreation, voting, courts, and social services. It has guidelines for providing access (e.g., ramps, parking spaces, bathroom stalls) to people with disabilities and allocates federal funds to businesses and organizations that need to make accommodations or modifications for accessibility to people with disabilities. Since 1990, all new public buildings must adhere to ADA guidelines for access, and older buildings must be altered within reason. In response to several court cases (Anfang, 2003), the ADA was amended in 2008 to expand the definition of *disability* to be a physical or mental impairment that substantially limits one or more major life activities.



Jan-Schneckenhaus/iStock/Getty Images Plus

Not only do students with disabilities need special education services at school, but schools are also required to provide proper transportation to and from school. Here, a teacher helps a student get off a wheelchair-accessible school bus.

Summary & Resources

Wrap-Up

- *Disability, handicap, disorder, impairment, and exceptional* are all terms that can be used in specific situations to describe students in special education. People-first language should be used when referring to students with disabilities, except in the Deaf, blind, and autism communities.
- The early efforts to educate people with disabilities began in Europe and spread to the United States. The civil rights movement helped advocates for people with disabilities gain momentum to provide education for all students with disabilities.
- PL 94-142 established educational rights for students with disabilities. Reauthorizations of PL 94-142 led to the most recent version of special education legislation, IDEA 2004. Some of the most important concepts are free appropriate public education (FAPE), least restrictive environment (LRE), Individualized Education Program (IEP), Child Find, transition, and due process. The regulations of No Child

Left Behind extend to students with disabilities. The Every Student Succeeds Act replaced NCLB but retained many of its aims.

- IEPs outline all aspects of a student’s education and must include: the student’s present level of academic achievement and functional performance, long-term goals, the measurement of progress toward meeting long-term goals, services the student will receive, accommodations and modifications, and how the student will participate in standardized assessments. The IEP team consists of the student’s general education teacher, special education teachers, parents or guardians, and other essential school staff who may work with the student.
- Section 504 can be used for the education of students with disabilities if a student does not qualify under IDEA 2004.

Discussion Questions

1. Why did disability advocates push for person-first language, and why do some disability groups not embrace it?
2. What events occurred in the United States that led to the passing of PL 94-142?
3. How do IDEA 2004 and Section 504 differ?

Additional Resources

- The Disability History Museum has thousands of historical documents highlighting the experiences and stories of people with disabilities.
www.disabilitymuseum.org
- This site has an interactive timeline of individuals with disabilities, dating back to 400 BC.
www.disabilityhistoryweek.org/
- All the statutes and regulations of IDEA are available on this site from the U.S. government.
<http://idea.ed.gov>
- Many Supreme Court rulings can be read on this site.
<https://www.supremecourt.gov/>
- This site, from the state of Connecticut, is devoted to providing resources to parents or guardians and service providers of infants and toddlers with disabilities.
<http://www.birth23.org/>

Acronyms Used in Chapter 1

Please go to the Appendix for a full list of acronyms.

Key Terms

Americans with Disabilities Act (ADA)
The law mandating equal access to public spaces for people with disabilities.

disorder A function or condition that affects a person’s abilities.

disability A function or condition that impairs the ability to do something.

due process The system that parents or guardians use if they disagree with a school district's special education plan for their child.

Every Student Succeeds Act (ESSA) The law that replaced No Child Left Behind, although it retains many NCLB goals; the guide for U.S. elementary and secondary education.

exceptionality Another term for special education.

free appropriate public education (FAPE) The type of education that is guaranteed to all students, regardless of disability.

handicap The previous term for disability.

impairment A condition that diminishes a person's ability to do something.

inclusion The education of students with disabilities along with students without disabilities in the LRE to the maximum extent appropriate.

Individualized Education Program (IEP) A program written for all students with disabilities (ages 3–21) who qualify under IDEA 2004, which outlines the student's placement in special education.

Individualized Family Service Plan (IFSP) A plan for young infants and toddlers (ages birth–3) who qualify under IDEA 2004, which outlines services the child may receive related to special education.

Individuals with Disabilities Education Act (IDEA) A law that protects the rights of students with disabilities.

least restrictive environment (LRE) The setting where, to the maximum extent appropriate, students with disabilities should receive their education.

No Child Left Behind (NCLB) The law mandating that almost all students, regardless of disability, participate in statewide assessments, be taught by highly qualified teachers, and be taught with evidence-based practices.

person-first language An approach to speaking about disabilities in which the individual is mentioned before the disability (e.g., "the student who has dyslexia" rather than "the dyslexic student").

Section 504 The part of the Rehabilitation Act under which students who do not qualify for special education services under IDEA may be able to receive special education services.

special education The specialized branch of education providing services to students with disabilities.