

Introduction to Special Education History, Legislation, and Consideration for Eligibility

Vicki A. McGinley, PhD, Tara S. Guerriero, PhD,
and Mary A. Houser, EdD

Learning Objectives

- Identify key points and events in history that have shaped special education.
- Identify the key principles of the Individuals With Disabilities Education Act (IDEA).
- Describe the purpose of Section 504 of the Vocational Rehabilitation Act and the Americans With Disabilities Act.
- Define the categories of disability served under IDEA.
- Discuss the difference between an individualized family service plan, an individualized education program, and a Section 504 service agreement.

Key Terms

Americans With Disabilities Act (p. 8)	IDEA categories of disability (p. 11) developmental delay, autism, deaf-blindness, emotional disturbance, hearing impairment, intellectual disability, multiple disabilities, orthopedic impairment, other health impairment, specific learning disability, speech or language impairment, traumatic brain injury, visual impairment
assessment (p. 4)	
Education for All Handicapped Children Act (EAHCA/EHA) (p. 8)	
Elementary and Secondary Education Act (ESEA) (pp. 6–7)	
Every Student Succeeds Act (ESSA) (p. 7)	independent education evaluation (IEE) (p. 10)
free appropriate public education (FAPE) (p. 10)	Individuals With Disabilities Education Act (IDEA/IDEIA) (p. 9)

(Continued)

(Continued)

individualized education program (IEP) (p. 15)	procedural safeguards (p. 10)
individualized family service plan (IFSP) (p. 15)	Section 504 of the Vocational Rehabilitation Act of 1973 (p. 7)
least restrictive environment (LRE) (p. 10)	Section 504 service agreement (p. 19)
No Child Left Behind (NCLB) (p. 7)	special education (p. 16)
nondiscriminatory identification and evaluation (NDE) (p. 9)	specially designed instruction (SDI) (p. 16)
parent participation (p. 10)	Zero Reject–Child Find (p. 9)

Introduction to the Chapter

Assessment is a complicated concept that carries tremendous weight in our educational system. If done correctly, it can make a major difference in the lives of students, both those with and those without disabilities. Assessment occurs every day in early childhood settings as well as in K–12 classrooms, as teachers are continuously evaluating student performance and collecting data to gain a clear picture of where students are functioning to better determine a direction for instruction. Different types of assessment can provide insight into individual strengths and needs, which can ultimately help educators understand how a student learns best. The more comprehensive the battery of assessments is, the more beneficial it can be in providing a guide for instruction. Assessment can provide a means of evaluating students in intelligence and cognitive development, language and communication, academics, behavior, social and emotional development, physical and motor development, health and medical, and other domains. Assessments can be both formal and informal and take many forms, such as permanent products (homework, worksheets, portfolios, creative projects, etc.), norm-referenced assessments, criterion-referenced assessments, interviews, and observations. Essentially, assessment can be described as the gathering of information to make informed decisions for students.

This chapter will provide an understanding of the history of assessment within special education, as well as the legislation that informs assessment decisions. Further, this chapter will bridge an understanding of assessment and eligibility for special education services as it relates to general education legislation, civil rights legislation, and special education legislation. Many concepts that are covered in great depth throughout later chapters will be briefly introduced in this chapter, to give context to assessment as it relates to special education.

Introduction to Legislation as It Relates to Assessment in Special Education

The practice of evaluating and assessing children with disabilities or children who are suspected of having disabilities has evolved considerably over the last 50 years. From the precedents that were set in pivotal court cases (*PARC v. the Commonwealth of Pennsylvania* in 1972, *Larry P. v. Riles* in 1979, etc.), to the practices that were provided for by civil rights laws (e.g., Section 504 of the Vocational Rehabilitation Act of 1973), to the consideration of specific types of disabilities that came with the passage of the first landmark federal special education law in 1975, the Education for All Handicapped Children Act (EAHCA/EHA), or P.L. 94-142, special education assessment has made major strides.

Special Education History of Assessment and Related Court Cases

The history of special education as it relates to assessment has evolved considerably from early misconceptions of what constituted a disability (e.g., a difference in primary language) and significant differences in educational practice (segregating students with special needs and/or completely denying them access to an education) (Friend, 2018; U.S. Department of Education & Office of Special Education and Rehabilitative Services, 2010) to our current practice, which is heavily guided by law. A number of forces helped bring about change and advanced the field of special education:

- Parents of children with disabilities began advocating for better educational opportunities for their children.
- The civil rights movement brought about court cases that examined discriminatory practices in education (e.g., *Brown v. Board of Education* in 1954), and decisions made by the courts (e.g., separate but equal is not equal; segregation is not equal) ultimately extended to those with disabilities.
- The federal government, with the help of advocacy organizations (e.g., ARC), began to focus on developing educational practices for those with disabilities (U.S. Department of Education & Office of Special Education and Rehabilitative Services, 2010). Federal legislation, such as the Training of Professional Personnel Act of 1959 and the Teachers of the Deaf Act of 1961, was enacted to assist with this training. The Training of Professional Personnel Act helped train teachers and administrators to teach students with intellectual disabilities, while the Teachers of the Deaf Act focused on training teachers of those with hearing impairments and deafness (U.S. Department of Education & Office of Special Education and Rehabilitative Services, 2010). Professionals in the field of

disability were being trained and starting to research student outcomes in relation to school achievement and placement (Dunn, 1968).

- Many court cases served as a catalyst for educational change for students with special needs or helped further define special education law. The following are some examples of pivotal court cases:
 - *Diana v. State Board of Education of California* (1970), in which the court ruled that children must be assessed in their native or primary language
 - *Pennsylvania Association for Retarded Children (PARC) v. The Commonwealth of Pennsylvania* (1972), in which it was ruled that children with intellectual disabilities must be provided with a Free Appropriate Public Education (FAPE)
 - *Mills v. Board of Education* (1972), in which the findings of PARC were extended to children with disabilities in general
 - *Larry P. v. Riles* (1972/1979), in which it was found that assessments such as IQ tests may be inherently racially biased and assessments that discriminate based on race can't be used to identify someone with intellectual disabilities (Yell, 2016)
 - *The Board of Education of Hedrick Hudson Central School Dist. v. Rowley* (1982) and *Endrew v. Douglas County School District* (2017) helped define what is meant by an “appropriate” education under the principle of Free Appropriate Public Education (FAPE) (Supreme Court of the United States, 2017).
 - *Oberti v. The Board of Education* (1993) addressed the complex topic of what is meant by providing education in the Least Restrictive Environment (LRE).

Check Your Understanding 1.1

1. What initial forces in our country brought about changes to the education system? How did they impact this change?
2. How did *Diana v. State Board of Education of California* in 1970 relate to assessment?

Federal Education Legislation That Impacts Students With Special Needs

As a result of advocacy and critical court cases, federal lawmakers enacted sweeping legislation on behalf of children with disabilities. One of the first federal laws in which disability was addressed was the **Elementary and Secondary Education**

Act of 1965 (ESEA, P.L. 89-750). This act was reauthorized in 2015 as our present law, the **Every Student Succeeds Act (ESSA)**, which replaced the previous version of the law, the **No Child Left Behind Act (NCLB)**, signed into law in 2002 (U.S. Department of Education, 2019; U.S. Department of Education, n.d.). While these laws are not specific to special education, being focused on education in general, they have all supported children with disabilities to some extent.

The Elementary and Secondary Education Act of 1965

The Elementary and Secondary Education Act of 1965 (ESEA, P.L. 89-750) provided support for the development of special education centers (U.S. Department of Education, n.d.).

The No Child Left Behind Act

The No Child Left Behind Act (NCLB) supported accountability measures, specifically requiring states to report on student achievement using both aggregated data and disaggregated data related to a variety of subgroups, including children with disabilities.

The Every Student Succeeds Act

The Every Student Succeeds Act (ESSA) requires states to address testing, accountability, and school improvements. The U.S. Department of Education & Office of Elementary and Secondary Education (2018, p. 3) states the following regarding assessment for students with cognitive disabilities.

A State may adopt alternate academic achievement standards and alternate tests that measure achievement against those standards for students with the most significant cognitive disabilities. A State may administer an alternate assessment that is aligned to alternative academic standards to no more than 1 percent of its tested students. The State must demonstrate that any alternate assessment provided is aligned with the same grade-level academic content standards as the general assessment for a given grade.

Civil Rights Legislation Related to Students With Special Needs

In addition to legislation that improved the education of all students, civil rights legislation also provided new opportunities for students with disabilities to prevent discrimination.

Section 504 of the Vocational Rehabilitation Act of 1973

Section 504 of the Vocational Rehabilitation Act of 1973 was a landmark civil rights law that supported children and adults with disabilities. Among other

important principles, this law addressed evaluation, identification, and assessment of children with disabilities. It prohibited federally funded programs from discriminating against people with disabilities, and it set the stage for the enactment of the Americans With Disabilities Act, which will be covered in the next section. Section 504 works together with the ADA and the Individuals With Disabilities Education Act (IDEA) to protect children with disabilities from exclusion and unequal treatment in schools, in the workplace, and in the community. In the school setting, children cannot be excluded from the general education curriculum or from activities the school offers, such as sports and musical events.

The Americans With Disabilities Act

According to the U.S. Department of Justice Civil Rights Division (n.d.), the **Americans With Disabilities Act (ADA)** (1990) is a comprehensive civil rights law that prohibits discrimination against people with disabilities. It aims to provide equal opportunities to those with disabilities. It is modeled after both the Civil Rights Act of 1964 (prohibits discrimination on the basis of race, color, religion, sex, or national origin) and Section 504 of the Rehabilitation Act of 1973 (as previously discussed).

It protects those who have a physical or mental impairment that substantially limits one or more major life activities. The ADA does not specifically name all the impairments that are covered, and a condition does not need to be severe or permanent to be a disability. The regulations provide a list of conditions that are included, such as deafness, blindness, an intellectual disability, partially or completely missing limbs or mobility impairments requiring the use of a wheelchair, autism, cancer, cerebral palsy, diabetes, epilepsy, human immunodeficiency virus (HIV) infection, multiple sclerosis, muscular dystrophy, major depressive disorder, bipolar disorder, post-traumatic stress disorder, obsessive-compulsive disorder, and schizophrenia (U.S. Department of Justice Civil Rights Division, n.d.).

The ADA protects against discrimination in areas of employment and public services (e.g., transportation, communication) and provides reasonable accommodations for access, such as changes to a work schedule, assistive technology needed to complete daily activities of living, wheelchair securement on public transportation, and accessible access in facilities (U.S. Department of Justice Civil Rights Division, n.d.).

Federal Special Education Legislation: The Education for All Handicapped Children Act (P.L. 94-142) and the Individuals With Disabilities Education Act

In 1975 the field of special education was forever changed by the enactment of the landmark federal law, the **Education for All Handicapped Children Act (EAHCA/EHA)**, or P.L. 94-142 (U.S. Department of Education & Office of Special Education and Rehabilitative Services, 2010). It was with this law that special

education principles and policies really began to take hold (Yell, Katsiyannis, & Hazelkorn, 2007). With the passage of EHA, a free and appropriate public education for all children with disabilities was truly emphasized and enforced. Prior to that time, many children with disabilities were still excluded from public schools, and many were not receiving an appropriate education. Therefore, the primary concern was access to public schools for children (Katsiyannis, Yell, & Bradley, 2001). There have been many amendments and reauthorizations in the subsequent 45 years that have further defined the law and its impact on students and families with special needs, including a change in name to the **Individuals With Disabilities Education Act (IDEA)** in 1990 and the **Individuals With Disabilities Education Improvement Act (IDEIA)** in 2004. Many in the field of special education continue to refer to the law as IDEA, which is what we will use throughout this text. The name of the law changed from the Education for All Handicapped Children Act to the Individuals With Disabilities Education Act to embrace person-first language. This change came about because people with disabilities are persons first, who are part of a family that resides in society—living, working, and recreating. The language that we use when speaking about others contributes to our ideas and beliefs about them. As such, person-first language emphasizes the person first. To illustrate, we would say not “blind person,” but rather “person with blindness” or “person with a visual impairment.”

The following six principles are typically discussed in relation to IDEA: Zero Reject–Child Find, nondiscriminatory evaluation (NDE), FAPE, least restrictive environment (LRE), procedural safeguards, and parental participation (Heward, 2006).

- **Zero Reject–Child Find:** The principle of **Zero Reject–Child Find** encompasses the Child Find System, which requires states/local education agencies to have policies and practices in place to identify, locate, and evaluate children who are suspected of having a developmental delay or who are at risk of developmental delay. They must provide all children (from birth to age 21) with a free and appropriate public education regardless of the severity of the disability. For children served under Part C of IDEA (infants and toddlers), children may be identified at birth as having a disability and in need of services. Referrals should be made as early as possible to the appropriate agency by anyone who suspects a delay.
- **Nondiscriminatory identification and evaluation (NDE):** **Nondiscriminatory identification and evaluation**, a principle that is highly important with regard to assessment, requires schools to use assessments that are nonbiased on the basis of race, culture, and native language, as well as use multiple methods of evaluation to determine whether a child has a disability. Identification and placement decisions cannot be made on the basis of a single test score.

- **Free appropriate public education (FAPE):** The principle of **free appropriate public education (FAPE)** requires schools to provide a free appropriate public education to all children with disabilities, regardless of the severity of the disability. Appropriate services are provided at public expense and are no charge to the child's parents.
- **Least restrictive environment (LRE):** The principle of **least restrictive environment (LRE)** requires that all students with disabilities be educated in their least restrictive environment, with an emphasis on educating them together with both others with disabilities and others without disabilities to the maximum extent appropriate. States must offer a continuum of placements for children with disabilities, to ensure that they are being educated in their least restrictive environment. Students with disabilities may be placed in separate classes or schools only when their disabilities are of a severity that they cannot receive an appropriate education in a general education classroom with supplementary aids and services. The law creates a presumption in favor of inclusion in the regular classroom by requiring that a student's IEP contain a justification of the extent, if any, to which a child will not participate with nondisabled peers in the general academic curriculum, extracurricular activities, and other activities (lunch, recess, etc.).
- **Procedural safeguards:** The principle of **procedural safeguards** ensures protections of the rights of the family and child with disabilities. Thus, as part of the process, parents receive a copy of their procedural safeguard notices, which outlines parental rights within the special education system. It speaks to parental consent for initial evaluations, and subsequent evaluations, as well as placement decisions; schools must maintain the confidentiality of all records and make those records available to the parents. Additionally, it discusses the parents' rights to **due process** and outlines what options are available when the school and parents disagree. For example, when parents disagree with the results of an evaluation performed by the school, they may be able to obtain an **independent education evaluation (IEE)** at public expense. When there is disagreement on the identification, evaluation, placement, or provision of the program, a due process hearing may be requested. However, states are also required to offer parents an opportunity to resolve the matter through other avenues, such as IEP facilitation and mediation. Parents have the right to attorney's fees if they prevail in due process or judicial proceedings under IDEA.
- **Parental participation:** The final principle, **parental participation**, states that schools must collaborate with parents and students with

disabilities in the design and implementation of special education services to include IEP goals and objectives, related-service needs, and placement decisions.

Check Your Understanding 1.2

1. Why do you believe the six principles associated with IDEA were included as part of the law? Choose three, and discuss how they would pertain to assessment.
2. How did ESEA/NCLB/ESSA support students with special needs?

Eligibility Criteria For Special Education Services Under IDEA

IDEA 2004 is the standard by which special education eligibility decisions are made and, further, governs special education services. As such, IDEA will be addressed globally throughout the textbook in discussions relating to evaluation, diagnosis, and eligibility. Chapters 2 and 4 will address diagnosis and eligibility in great detail; however, in this chapter, we are including a brief overview of what is required for eligibility.

To be eligible for special education services, a child must have a disability and demonstrate a need for special education services and specially designed instruction (SDI) and/or related services (Friend, 2018). Section 300.8 of IDEA (2004) has defined 14 **categories of disability** and, further, defines a child with a disability as

a child evaluated in accordance with §§300.304 through 300.311 as having an intellectual disability, a hearing impairment (including deafness), a speech or language impairment, a visual impairment (including blindness), a serious emotional disturbance (referred to in this part as “emotional disturbance”), an orthopedic impairment, autism, traumatic brain injury, an other health impairment, a specific learning disability, deaf-blindness, or multiple disabilities, and who, by reason thereof, needs special education and related services.

(IDEA, 2004, § 300.8(a)(1))

IDEA recognizes the following 14 categories: developmental delay, autism, deaf-blindness, deafness, emotional disturbance, hearing impairment, intellectual

disability, multiple disabilities, orthopedic impairment, other health impairment, specific learning disability, speech or language impairment, traumatic brain injury, and visual impairment.

Developmental Delay

Developmental delay refers to children aged 3 through 9 experiencing developmental delays. Child with a disability for children ages 3 through 9 (or any subset of that age range, including ages 3 through 5), may, subject to the conditions described in §300.111(b), include a child who is experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: Physical development, cognitive development, communication development, social or emotional development, or adaptive development; and who, by reason thereof, needs special education and related services.

(IDEA, 2004, § 300.8(b))

Autism

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. Autism does not apply if a child's educational performance is adversely affected primarily because the child has an emotional disturbance.

(IDEA, 2004, § 300.8(c)(1))

Deaf-Blindness

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 with deafness or children with blindness.

(IDEA, 2004, § 300.8(c)(2))

Deafness

Deafness means a hearing impairment that is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification that adversely affects a child's educational performance.

(IDEA, 2004, § 300.8(c)(3))

Emotional Disturbance

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:

- (i). An inability to learn that cannot be explained by intellectual, sensory, or health factors.
- (ii). An inability to build or maintain satisfactory interpersonal relationships with peers and teachers.
- (iii). Inappropriate types of behavior or feelings under normal circumstances.
- (iv). A general pervasive mood of unhappiness or depression.
- (v). A tendency to develop physical symptoms or fears associated with personal or school problems.

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

(IDEA, 2004, § 300.8(c)(4))

Hearing Impairment

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 in this section.

(IDEA, 2004, §300.8(c)(5))

Intellectual Disability

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. The term 'intellectual disability' was formerly termed 'mental retardation.'

(IDEA, 2004, § 300.8(c)(6))

Multiple Disabilities

Multiple disabilities means concomitant impairments (such as intellectual disability-blindness or intellectual disability-orthopedic impairment), the combination of which causes such severe educational needs that they cannot be accommodated in special education programs

solely for one of the impairments. Multiple disabilities does not include deaf-blindness.

(IDEA, 2004, § 300.8(c)(7))

Orthopedic Impairment

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).

(IDEA, 2004, § 300.8(c)(8))

Other Health Impairment

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 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 adversely affects a child's educational performance.

(IDEA, 2004, § 300.8(c)(9))

Specific Learning Disability

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 to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. . . . Specific learning disability does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of intellectual disability, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

(IDEA, 2004, § 300.8(c)(10))

Speech or Language Impairment

Speech or language impairment means a communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment, that adversely affects a child's educational performance.

(IDEA, 2004, § 300.8(c)(11))

Traumatic Brain Injury

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. Traumatic brain injury 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.

(IDEA, 2004, § 300.8(c)(12))

Visual Impairment

Visual impairment, including blindness, means an impairment in vision that, even with correction, adversely affects a child's educational performance. The term includes both partial sight and blindness.

(IDEA, 2004, § 300.8(c)(13))

Special Education Services (IEP and IFSP) and Alternative Plans (Section 504 Service Agreement)

If a child is deemed eligible for special education services (the child is deemed to be a child with a disability, and there is evidence of need for special education services), an **individualized education program (IEP)** or **individualized family service plan (IFSP)** must be developed and implemented. If a child does not show evidence of need for specially designed instruction or special education services that are provided for under IDEA, he or she may receive accommodations under Section 504 of the Vocational Rehabilitation Act of 1973 (see above) through a Section 504 service agreement.

Individualized Education Program (IEP)

The **individualized education program (IEP)** is an educational program for children with disabilities and must by law include the following components (NASSET, 2019; IDEA, 2004, § 300.320):

- *Present levels of academic and functional performance* is an indication of the student's current functioning that includes information about how

the disability impacts the student's current involvement and progress in the general education curriculum.

- *Measurable annual goals* are developed as a means of determining what students should be able to accomplish during the IEP period in connection with special education services. Annual goals can be academic and/or functional goals, as appropriate. Further, short-term objectives or benchmarks are included for children who take alternative assessments instead of the regular assessments required by ESSA (as discussed earlier in the chapter).
- A statement will be made regarding *how progress toward meeting annual goals will be measured and when progress will be reported*.
- A statement will be made indicating *special education and related services/supplementary aids and services/program modifications* that will help students (1) attain their annual goals, (2) make progress in the general education curriculum, (3) participate in extracurricular and nonacademic activities, and (4) participate with children with and without disabilities.
 - **Special education** means “specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability” (IDEA, 2004, § 300.39(a)(1)). **Specially designed instruction (SDI)** refers to the adaptation of content, methodology, and/or delivery of instruction for a child with a disability that will meet the unique needs of the child and ensure access to the general curriculum so that the child can meet the educational standards (IDEA, 2004, § 300.39(b)(3)).
 - *Related services* are services that support a child with a disability in benefiting from special education—such as transportation, speech-language pathology and audiology services, interpreting services, occupational therapy, physical therapy, nursing, orientation and mobility therapy, recreation, counseling services, medical services (only for diagnostic or evaluation purposes, not for ongoing treatment), social work, and parent counseling and training.
 - *Supplementary aids and services* are services to improve a child's access to the curriculum, extracurricular activities, and other nonacademic activities. They include assistive technology and paraprofessional support.
- A statement discussing the *extent of nonparticipation in the general education curriculum* will include an explanation of the extent, if any, to which the child will not participate with nondisabled peers in the regular class and in other school settings and activities.

- A description of any *testing accommodations or changes* that will be made to the student's participation in statewide or district-wide assessments. The team may decide whether the student can take the assessments as is, whether the student needs permissible accommodations (extra time, testing in another environment, etc.) to take the assessment, or whether the student needs some means of an alternative assessment (reported progress toward goals, portfolio, etc.).
- *Documentation of delivery of services* will include information about when services will begin, the frequency and duration of services, and the location in which services will be provided.
- *Transition services* will also be included in the IEP when the child turns 16, or earlier if deemed appropriate.

Individualized Family Service Plan (IFSP)

The special education law provides education and protection for infants and toddlers, ages 0 to 2, in Part C of IDEA. The program for infants and toddlers with disabilities requires states to operate a comprehensive statewide program of early intervention services. The **individualized family service plan (IFSP)** is the legal document that serves the child and the family, and it includes necessary supports and services. It will include strengths of both the child and the family, and it will address goals needed to support the child. Like the IEP, it must contain certain components (Parent Information Center, 2019; IDEA, 2004, § 303.344); however, there is a greater emphasis on the child, the family, and the environment. The IFSP includes:

- Information about the child's present level of physical, cognitive, communication, social/emotional, and adaptive development
- Information about the family's resources, priority, and concerns in improving the development of the child
- A statement of results or outcomes that are expected to be achieved by the child and family, along with strategies and ways in which progress will be measured
- A statement of the early intervention services that are needed to meet the needs of the child and family that includes the projected start date for services, as well as the "length, duration, frequency, intensity, and method" (IDEA, 2004, § 303.344(d)(1)(i)) for delivering the services (Services for children who are at least 3 years old will include school readiness skills, as well as pre-literacy skills, language skills, and numeracy skills.)

- A statement indicating that services will be provided in the child's natural environment to the greatest extent possible (If they aren't, a justification statement for why they can't occur in the natural environment will be made.)
- Transition services as appropriate
- A summary of documented medical services the child may need
- The contact information of the Service Coordinator and the names of all team members

Check Your Understanding 1.3

1. What is required for a child to be eligible for special education services?
2. What are the components of an IEP? Describe each.
3. Describe the components of an IFSP. How is an IFSP different from an IEP?

Alternative Means of Providing Accommodations to Children With Disabilities

Children who are not eligible for special education services because either they don't have a disability (as identified in Section 300.8 of IDEA) or they don't need special education services and specially designed instruction may receive accommodations under Section 504 of the Vocational Rehabilitation Act of 1973 (as discussed earlier in the chapter). In Section 504, "disability" is defined broadly as a physical or mental disability ("any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or any mental or psychological disorder, such as [intellectual disabilities], organic brain syndrome, emotional or mental illness, and specific learning disabilities" [OCR, 2018, Question 11]) that substantially limits one or more of the following major life activities: "walking, seeing, hearing, speaking, breathing, learning, working . . . eating, sleeping, standing, lifting, bending, reading, concentrating, thinking, communicating . . . major bodily functions (functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions)" (OCR, 2018, Question 11). An individual

who might not qualify under IDEA might be considered to have a disability under these guidelines.

Students who are served under Section 504 will not have an IEP or IFSP but will instead have a **Section 504 service agreement** that outlines what accommodations, medications, and aids they may need. Examples of accommodations are preferential seating, extended time on tests and assignments, reduced workload, assistive technology aides, organizational materials, adapted tests, use of audio materials such as voice-output devices, excused absences, provisions for lateness, and therapies.

Check Your Understanding 1.4

1. How does a Section 504 service agreement differ from an IEP or IFSP?
2. What is included in a Section 504 service agreement?

Looking Ahead

Throughout the course of the text, the goal is to develop a better understanding of the role that assessment plays in the diagnosis of a disability, determination of eligibility for special education services, and education of students with disabilities. While special education teachers may not be the ones to conduct comprehensive evaluations of students, it is paramount that they possess a strong understanding of student characteristics in all areas, as well as a true understanding of how assessment is used to determine diagnosis and eligibility in order to effectively teach students with disabilities. It is central to their being the most informed and ultimately effective special educators that they can be and is critical to their pedagogical expertise. This text will help prepare teachers to be able to provide the most comprehensive instruction to students.

- Part I of the text provides the background in assessment that is necessary for comprehending and applying the components of a comprehensive evaluation that would be included in evaluating a student for special education services under IDEA. More specifically, it includes an overall introduction to topics related to assessment, a discussion of assessment types, and an overview of assessment in different areas of student characteristics that can be used for diagnosis and eligibility purposes.

- Part II provides a description of the diagnostic and eligibility criteria and the assessment process associated with the IDEA categories of disability that may be diagnosed in an educational or a private setting.
- Part III provides a description of the diagnostic and eligibility criteria and the assessment process associated with disabilities, disorders, conditions, and syndromes associated with the IDEA categories of disability that are generally diagnosed not in an educational setting, but rather in a medical setting. The purpose of the chapters in Part III is to facilitate the understanding of medically diagnosed disabilities and to promote an awareness of the diagnostic criteria and their relevance to eligibility for special education services under IDEA. Further, they focus on the impact that each disability may have on education, as well as differences that may occur based on the age of onset or diagnosis (prenatal, perinatal, and postnatal).
- Part IV focuses on the effective use of assessment results to make educational decisions for students.

CHAPTER SUMMARY

There is a rich history that has brought us to the present state of special education services. Special education law is very clear on procedures for the initial identification and evaluation of students who may need supports and services. It requires strict adherence to the guidelines, to ensure that students with special needs receive the most appropriate

services that are unique to their needs. The law further states the importance of developing an education program (IEP or IFSP) for instruction that takes into consideration the specific characteristics of the individual. The focus of the text will now shift to the assessment, diagnosis, and eligibility of students with special needs.

APPLY WHAT YOU HAVE LEARNED

1. Select a time in history to research, and write a summary of the state of special education at that time. What was going on specifically for children with disabilities? How is it different from today?
2. Choose three of the court cases discussed in the chapter, research each of their findings, and discuss how they impacted special education legislation.
3. List the 14 IDEA categories of disability, and circle the disabilities for which you know someone personally who has the disability. Of the disabilities that you circled, choose three, and list the educational characteristics (both strengths and needs) that you have noticed about that person.

REFERENCES

- Americans With Disabilities Act of 1990, Pub. L. No. 101-336, 104 Stat. 328 (1990).
- Brown v. Board of Educ., 347 U.S. 483 (1954).
- Dunn, L. M. (1968). Special education for the mildly retarded—is much of it justifiable? *Exceptional Children*, 35, 5–22.
- Elementary and Secondary Education Act, amended by Pub. L. No. 89-750 §161 [Title VI], 80 Stat. 1204 (1966).
- Endrew v. Douglas County School District, 580 U.S. (2017).
- Every Student Succeeds Act, 20 U.S.C. § 6301 *et seq.* (2015).
- Friend, M. (2018). *Special education: Contemporary perspectives for school professionals*. New York, NY: Pearson.
- Heward, W. L. (2006). *Exceptional children: An introduction to special education* (8th ed.). Upper Saddle River, NJ: Pearson Education/Merrill/Prentice Hall.
- Individuals With Disabilities Education Act, 20 U.S.C. § 1400 *et seq.* (2012).
- Katsiyannis, A., Yell, M. L., & Bradley, R. (2001). Reflections on the 25th anniversary of the Individuals With Disabilities Education Act. *Remedial and Special Education*, 22, 324–334.
- Mills v. Board of Education, 348 F. Supp. 866 (D.D.C. 1972).
- National Association for Special Education Teachers (NASSET). (2019). *IEP components*. Retrieved from <https://www.naset.org/3321.0.html>
- No Child Left Behind Act, 20 U.S.C. § 16301 *et seq.* (2001).
- Office for Civil Rights (OCR). (2018). *Protecting students with disabilities: Frequently asked questions about Section 504 and the education of children with disabilities*. Retrieved from <https://www2.ed.gov/about/offices/list/ocr/504faq.html>
- Parent Information Center. (2019). *What's an IFSP?* Retrieved from <https://picnh.org/ifsp/>
- Pennsylvania Association of Retarded Citizens (PARC) v. Commonwealth of Pennsylvania, 343 F. Supp. 279 (E.D. PA 1972).
- Rehabilitation Act of 1973, Section 504, 29 U.S.C. § 794
- Supreme Court of the United States. (2017). *Endrew F., a minor, by and through his parents and next friends, Joseph F. and Jennifer F., petitioner v. Douglas County School District Re-1* 580 U. S. ____ (2017). Retrieved from https://www.supremecourt.gov/opinions/16pdf/15-827_0pml.pdf
- U.S. Department of Education. (n.d.). *Every Student Succeeds Act (ESSA)*. Retrieved from <https://www.ed.gov/essa>
- U.S. Department of Education. (2019). *Every Student Succeeds Act (ESSA)*. Retrieved from <https://www2.ed.gov/policy/elsec/leg/essa/index.html>
- U.S. Department of Education & Office of Elementary and Secondary Education. (2018). *Understanding the Every Student Succeeds Act: A parents' guide to the nation's landmark education law*. Washington, DC: U.S. Department of Education & Office of Elementary and Secondary Education.
- U.S. Department of Education & Office of Special Education and Rehabilitative Services. (2010). *Thirty-five years of progress in educating children with disabilities through IDEA*. Washington, DC: U.S. Department of Education & Office of Special Education and Rehabilitative Services.

U.S. Department of Justice Civil Rights Division. (n.d.). *Introduction to the ADA*. Retrieved from https://www.ada.gov/ada_intro.htm

Yell, M. L. (2016). *The law and special education*. New York, NY: Pearson.

Yell, M. L., Katsiyannis, A., & Hazelkorn, M. (2007). Reflections on the 25th anniversary of the U.S. Supreme Court's decision in *Board of Education v. Rowley*. *Focus on Exceptional Children*, 39(9), 1–12.