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Which Laws Affecting Special Education Should Every Teacher Know?

If you asked 100 directors of special education why special education services exist in their school districts, more than half probably would answer that state and federal laws require them. If you asked specific questions—Why do you try to educate nondisabled students and students who have disabilities in the same classes? Why do you allow parents to challenge proposed changes in their child’s educational program? Why do you make extensive efforts to conduct evaluations that are not racially or culturally biased? Why do school personnel write individualized education programs for students with disabilities?—most of the directors probably would say that state and federal laws require these actions. Most would also indicate that changes that have taken place in the education of students with disabilities, changes that have been in response to the courts or legislatures, have been for the good.

A BRIEF HISTORY

The history of legislation to provide services for people with disabilities dates back to 1817 with formation of the American

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Asylum for the Education and Instruction of the Deaf. Before 1950, most laws were directed at providing institutional care or rehabilitative services. For example, in the 19th century, legislation was enacted to fund asylums, hospitals, and institutions for those with physical and mental disabilities. In the first half of the 20th century, laws were passed to support vocational rehabilitation for disabled war veterans and counseling and job placement for citizens with physical disabilities. In the 1950s, the focus of legislation began to change. Although state and community facilities continued to be funded, there was a new emphasis on research and training, vocational education, assessment, and special education services.

EIGHT IMPORTANT LAWS

Eight laws have important effects on the current practice of special education:

Section 504 of the Rehabilitation Act of 1973 (Public Law 93-112)

Education for All Handicapped Children Act of 1975 (Public Law 94-142)

1986 Amendments to the Education for All Handicapped Children Act (Public Law 99-457)

Individuals With Disabilities Education Act of 1990 (Public Law 101-476)

Americans With Disabilities Act of 1990 (Public Law 101-336)

Amendments to the Individuals With Disabilities Education Act (Public Law 105-17) of 1997

No Child Left Behind Act (Public Law 107-110) of 2001

Reauthorization of the Individuals With Disabilities Education Act of 2004 (IDEA)

Table 1.1 lists the major provisions of these laws.

Table 1.1 Major Federal Laws Affecting Special Education and Their Key Provisions

Section 504 of the Rehabilitation Act (1973)

It is illegal to deny participation in activities, benefits of programs, or to in any way discriminate against a person with a disability solely because of that disability.

Individuals with disabilities must have equal access to programs and services.

Auxiliary aids must be provided to individuals with impaired speaking, manual, or sensory skills.

Education for All Handicapped Children Act (1975)

Students with disabilities have the right to a free, appropriate public education.

Schools must have on file an individualized education program for each student with a disability.

Parents have the right to inspect school records on their child, and when changes are made in a student's educational placement or program, parents must be informed. Parents have the right to challenge what is in records or to challenge changes in placement.

Students with disabilities have the right to be educated in the least restrictive educational environment.

Students with disabilities must be assessed in ways that are considered fair and nondiscriminatory. They have specific protections.

1986 Amendments to the Education for All Handicapped Children Act

Extends all rights of the Education for All Handicapped Children Act to preschoolers with disabilities

Requires each school district to conduct a multidisciplinary assessment and develop an individualized family service plan for each preschool child with a disability

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Table 1.1 (Continued)

Individuals With Disabilities Education Act (1990)

Reauthorizes the Education for All Handicapped Children Act

Adds two new disability categories (traumatic brain injury and autism) to the definitions of students with disabilities

Adds a comprehensive definition of transition services

Includes provisions to make assistive technology more widely available

Americans With Disabilities Act (1992)

Prohibits discrimination on the basis of disability in employment, services rendered by state and local governments, places of public accommodation, transportation, and telecommunication services

Amendments to the Individuals With Disabilities Education Act (1997)

Specifies the participants of IEP teams and IEP documentation

Adds disciplinary changes to IDEA

Requires states to report on the performance and progress of all students

No Child Left Behind Act (2001)

Reauthorizes the Elementary and Secondary Education Act

Specifies that its provisions are for all students, including those with disabilities

Requires annual assessments in reading and math in Grades 3–8 and one year of high school

Provides for literacy interventions through Reading First and Early Reading First

Gives entitlement to supplementary education services

Allows increased parental flexibility in schools that are performing poorly (entitlement to change schools or school districts)

Individuals With Disabilities Education Improvement Act of 2004

Students with disabilities must be taught by highly qualified teachers who have full certification in special education or pass a state special education teacher licensing exam and hold a state license.

New approaches are permitted in identifying students as learning disabled.

Discrepancy scores are no longer required in identification of students with learning disabilities.

Fifteen percent of special education funds may go to providing support services in general education to students not yet identified as disabled.

Special education teachers teaching to alternate achievement standards in specific core academic subjects need to be certified in special education and the core academic subject.

Requirement of having benchmarks and short-term objectives in IEPs is deleted.

Development of multiple-year IEPs is allowed on a selective basis.

Transition planning must be results oriented.

Schools must appoint a parent surrogate for disabled students who are homeless or wards of the court.

Section 504 of the Rehabilitation Act

Section 504 of the Rehabilitation Act of 1973, which was finally adopted in 1977, prohibits discrimination against people with disabilities:

No otherwise qualified handicapped individual shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in any program or activity receiving federal financial assistance.

Because states and school districts depend, at least in part, on federal money to educate students with disabilities, most choose to comply with this mandate.