

Access to Education by People with Disabilities
Illustrations of Implementation from the United States — Quick Reference Guide

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This paper provides examples of the implementation of U.S. disability laws pertaining to accessible education. A more detailed description is provided in the attached policy paper.

Legislation

Under the Rehabilitation Act of 1973, federal entities cannot discriminate in the services that they provide. Since most schools receive federal funding, this provision brought them under the purview of the statute. The Americans with Disabilities Act (ADA) strengthened the Rehabilitation Act, by extending the non-discrimination principles to private entities and state and local governments. The ADA addressed the issue of discrimination in colleges and universities, entities the federal courts had created an exception for in early interpretations of the Rehabilitation Act. The ADA also required that reasonable accommodations be made for individuals with disabilities. This provision provided students with disabilities access to, among other things, interpreters, readers, and assistive technology.

The Education for All Handicapped Children Act of 1975, whose name was later changed to the Individuals with Disabilities Education Act (IDEA) in 1990, was the most comprehensive piece of legislation addressing students with disabilities and their right to an education. The Act provides additional funding to the states on the condition that each state submit a plan showing that it is guaranteeing that children with disabilities will receive a free, appropriate education in the least restrictive setting. Moreover, the state must show that students with disabilities will receive an individualized education program (IEP) and that it will provide safeguards to ensure the rights of each student.

- **Appropriate Education**

The IDEA requires that students with disabilities receive, and are benefited by, an education that is consistent with that child's needs. In order to effectively provide an appropriate education, schools must provide such things as functional

curricula, transition planning, and other services, which the student will ultimately benefit from.

- **Least Restrictive Setting**

Under federal law, students with disabilities must be educated in the same classroom with students without disabilities to the maximum extent appropriate. If it is determined that the student with the disability is not benefiting from this environment, the school is required to seek alternative methods in order to ensure that the child receives an education appropriate to his or her needs. Alternative methods might include one-on-one student instruction.

- **Individualized Education Program**

The IDEA requires that students with disabilities have an Individualized Education Program (IEP). A parent, teacher, and school district official must work together in creating a plan to educate the child, given the child's needs. If possible, the child with the disability should participate in creating the plan. The IEP contains a high level of specificity regarding the current academic level the child has attained, the age of the child, a description of the disability and how it affects participation in educational programs, as well as the frequency, location, and goals of the special education programs provided.

In order to ensure children with disabilities are receiving a free, appropriate education in the least restrictive setting, several procedural safeguards are required by IDEA. For example, parents are able to access records and participate in meetings regarding their child's independent education evaluation. Further, notice must be given to parents before any changes to the education plan can occur. Mediation and a complaint process are also available to parents who experience difficulties in obtaining the rights afforded to their child under IDEA. The Department of Education has also established other safeguards to assist in carrying out the statute.

- **Technical Assistance**

Technical assistance is provided by the Department of Education in order to assist states, school districts, educators, and individuals with disabilities and their families regarding their rights and obligations under the law. Technical assistance may come in the form of advice by experts and the Department, assistance with developing methods of instruction, and identifying local school officials to provide support. Information regarding procedural safeguards must be disseminated to parents, and this same information must be available on the local school's website. The Department may also provide training for a parent training and information center.

- **Compliance**

The Department of Education has oversight of the states regarding IDEA. The Department must review state plans, and each state must review its own performance plan every six months, with any changes being submitted to the Department. State plans include such items as identifying which children in the state are in need of services, determining eligibility criteria, and establishing

funding mechanisms. States are also required to release the state performance report to the public, and submit an annual assessment to the Department.

- Enforcement

The Department of Education has a number of mechanisms in place to assist in the enforcement of IDEA. The Department may, among other things, advise states of the technical assistance that is available to them, require states to prepare a plan in order to correct problems in administering program, or withhold or recover federal funding for education. The Department of Justice can bring a cause of action in the courts.