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POLICIES, PRACTICES, AND PROGRAMS

Many of the policies, procedures, and practices that are common in special education today have resulted from the interaction of a variety of forces, situations, and events. One example is the role that litigation and legislation have played in the development of the field. Coupled with this activity was the gradual realization by professionals that many of our earlier educational customs and methods were ineffective in meeting the needs of individuals with disabilities and their families. Several currently accepted practices, such as nondiscriminatory assessment, placement in a least restrictive environment, and meaningful parent involvement, reflect this correction in thinking.

The purpose of this chapter is to review a variety of contributions that have helped to shape contemporary special education. Besides the impact of national legislation and the courts, we will examine the identification and assessment of individual differences, instructional programming, and models of service delivery.

LITIGATION AND LEGISLATION AFFECTING SPECIAL EDUCATION

Over the past several decades, the field of special education has been gradually transformed and restructured, largely as a result of judicial action and legislative enactments. These two forces have been powerful tools in securing many of the benefits and rights presently enjoyed by more than 7.1 million school-age and younger children with disabilities.

Securing the opportunity for an education has been a slowly evolving process for students with disabilities. What is today seen as a fundamental right for these children was, at one time, viewed strictly as a privilege. Excluding students with disabilities from attending school was a routine practice of local boards of education in the 1890s and early 1900s. In 1893, local school officials in Cambridge, Massachusetts, denied an education to one individual because this student was thought to be too “weak minded” to profit from instruction. In 1919, in Antigo, Wisconsin, a student of normal intelligence but with a type of paralysis attended school through the fifth grade but was subsequently suspended because “his physical appearance nauseated teachers and other students, his disability required an undue amount of his teacher’s time, and he had a negative impact on the discipline and progress of the school” (Osborne, 1996, p. 4). In both instances, state supreme courts upheld the decisions of the school boards. Today, these actions would be seen as clear violations of the pupils’ rights and a flagrant disregard for the equal protection clause of the Fourteenth Amendment to the U.S. Constitution. Still, almost four decades passed before students with disabilities had a legal means for acquiring educational rights.

LEARNING OBJECTIVES

After reading Chapter 2, you should be able to:

- 2.1 **Identify** the court cases that led to the enactment of Public Law 94–142.
- 2.2 **Summarize** the key components of the Individuals with Disabilities Education Act (IDEA) from 1975 to 2004.
- 2.3 **Explain** the legislative intent of Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act.
- 2.4 **Compare** inter- and intraindividual differences.
- 2.5 **Describe** the difference between norm- and criterion-referenced assessments.
- 2.6 **Identify** the steps in the referral process for the delivery of special education services.
- 2.7 **List** the key components of an individualized education program (IEP) and an individualized family service plan (IFSP).
- 2.8 **Define** *mainstreaming, least restrictive environment, regular education initiative, and full inclusion.*

In the 1954 landmark school desegregation case, *Brown v. Board of Education of Topeka, Kansas* (347 U.S. 483), the U.S. Supreme Court reasoned that it was unlawful to discriminate against a group of individuals for arbitrary reasons. The Court specifically ruled that separate schools for black and white students were inherently unequal, contrary to the Fourteenth Amendment, and thus unconstitutional. Furthermore, education was characterized as a fundamental function of government that should be afforded to all citizens on an equal basis. Though primarily recognized as striking down racial segregation, the thinking articulated in *Brown* had major implications for children with disabilities. Much of contemporary litigation and legislation affecting special education is legally, as well as morally, grounded in the precedents established by *Brown*.

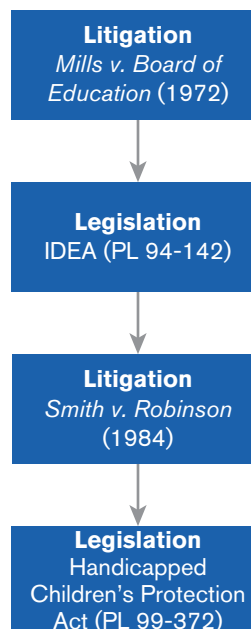
The movement to secure equal educational opportunity for children with disabilities was also aided by the U.S. civil rights movement of the 1960s. As Americans attempted to deal with issues of discrimination, inequality, and other social ills, advocates for individuals with disabilities also pushed for equal rights. Parental activism was ignited. Lawsuits were filed, and legislation was enacted primarily as a result of the untiring, vocal, collaborative efforts of parents and politically powerful advocacy groups. The success of these tactics was felt at the local, state, and eventually national level.

It is exceedingly difficult to say which came first, litigation or legislation. Both of these forces have played major roles in the development of state and federal policy concerning special education. They enjoy a unique and almost symbiotic relationship—one of mutual interdependence. Litigation frequently leads to legislation, which in turn spawns additional judicial action as the courts interpret and clarify the law, which often leads to further legislation (see Figure 2.1). Regardless of the progression, much of special education today has a legal foundation.

Key Judicial Decisions

Since the 1960s and early 1970s, a plethora of state and federal court decisions have helped shape and define a wide range of issues affecting contemporary special education policies and procedures. Although a thorough review of this litigation is beyond the scope of this chapter, Table 2.1 summarizes, in chronological order, some of the landmark cases affecting the field of special education. Several of the judicial remedies emanating from these lawsuits serve as cornerstones for both federal and state

FIGURE 2.1 ■ An Example of the Interrelationship Between Litigation and Legislation



Source: Adapted from M. Yell, *The Law and Special Education*, 5th ed. (New York, NY: Pearson Education, 2019), p. 11.

TABLE 2.1 ■ A Synopsis of Selected Court Cases Influencing Special Education Practice

Case	Year	Issue	Judicial Decision
<i>Brown v. Board of Education of Topeka, Kansas</i>	1954	Educational segregation	Segregation of students by race ruled unconstitutional; children deprived of equal educational opportunity. Ended "separate but equal" schools for white and black pupils. Used as a precedent for arguing that children with disabilities cannot be excluded from a public education.
<i>Diana v. State Board of Education</i>	1970	Class placement	Linguistically different students must be tested in their primary language as well as English. Students cannot be placed in special education classes on the basis of IQ tests that are culturally biased. Verbal test items to be revised so as to reflect students' cultural heritage. Group-administered IQ tests cannot be used to place children in programs for individuals with intellectual disability.
<i>Pennsylvania Association for Retarded Children v. Commonwealth of Pennsylvania</i>	1972	Right to education	State must guarantee a free public education to all children with intellectual disability ages 6–21 regardless of degree of impairment or associated disabilities. Students to be placed in the most integrated environment. Established the right of parents to participate in educational decisions affecting their children. State to engage in extensive efforts to locate and serve ("child-find") all students with intellectual disability. Preschool services to be provided to youngsters with intellectual disability if local school district serves preschoolers who do not have intellectual disability.
<i>Mills v. Board of Education of the District of Columbia</i>	1972	Right to education	Extended the Pennsylvania decision to include all children with disabilities. Established the constitutional right of children with exceptionalities to a public education, matched to their needs, including specialized instruction, regardless of their functional level. Presumed absence of fiscal resources is not a valid reason for failing to provide appropriate educational services to students with disabilities. Elaborate due process safeguards established to protect the rights of the child, including parental notification of pending initial evaluation, reassignment, or planned termination of special services.
<i>Larry P. v. Riles</i>	1972, 1979	Class placement	African American students could not be placed in classes for children with mild intellectual disability solely on the basis of intellectual assessments found to be culturally and racially biased. School officials directed to develop an assessment process that would not discriminate against minority children. Failure to comply with this order resulted in a 1979 ruling that completely prohibited the use of IQ tests for placing African American students in classes for children with mild intellectual disability. Ruling applies only to the state of California.
<i>Lau v. Nichols</i>	1974	Equal educational opportunity	A milestone case in the field of bilingual education. U.S. Supreme Court ruling noted that "there is not equality in treatment merely by providing students with the same facilities, textbooks, teachers, and curriculum; for students who do not understand English are effectively foreclosed from a meaningful education." Required schools to offer special language programs to English learners in order to confer equal educational opportunity.
<i>Armstrong v. Kline</i>	1979	Extended school year	State's refusal to pay for schooling in excess of 180 days for pupils with severe disabilities is a violation of their rights to an appropriate education. The court found that some children with disabilities will regress significantly during summer recess and have longer recoupment periods; thus, they are denied an appropriate education if not provided with a year-round education.
<i>Tatro v. State of Texas</i>	1980	Related services	U.S. Supreme Court held that catheterization qualified as a related service under PL 94–142. Catheterization was not considered an exempted medical procedure, as it could be performed by a health care aide or school nurse. Court further stipulated that only those services that allow a student to benefit from a special education qualify as related services.
<i>Board of Education of the Hendrick Hudson Central School District v. Rowley</i>	1982	Appropriate education	First U.S. Supreme Court interpretation of PL 94–142. Court addressed the issue of what constitutes an "appropriate" education for a student with a hearing impairment making satisfactory educational progress: Ruled that an appropriate education does not necessarily mean an education that will allow for the maximum possible achievement; rather, students must be given a reasonable opportunity to learn. Parents' request for a sign language interpreter, therefore, was denied. An appropriate education is not synonymous with an optimal educational experience.
<i>Daniel R.R. v. State Board of Education</i>	1989	Class placement	Fifth Circuit Court of Appeals held that a segregated class was an appropriate placement for a student with Down syndrome. Preference for integrated placement viewed as secondary to the need for an appropriate education. Established a two-prong test for determining compliance with the least restrictive environment mandate for students with severe disabilities. First, it must be determined if a pupil can make satisfactory progress and achieve educational benefit in the general education classroom through curriculum modification and the use of supplementary aids and services. Second, it must be determined whether the pupil has been integrated to the maximum extent appropriate. Successful compliance with both parts fulfills a school's obligation under federal law. Ruling affects least restrictive environment cases in Louisiana, Texas, and Mississippi, but has become a benchmark decision for other jurisdictions as well.

(Continued)

TABLE 2.1 (Continued)

Case	Year	Issue	Judicial Decision
<i>Oberli v. Board of Education of the Borough of Clementon School District</i>	1992	Least restrictive environment	Placement in a general education classroom with supplementary aids and services must be offered to a student with disabilities prior to considering more segregated placements. Pupil cannot be excluded from a general education classroom solely because curriculum, services, or other practices would require modification. Excluding a learner from the general education classroom necessitates justification and documentation. Clear judicial preference for educational integration established.
<i>Agostini v. Felton</i>	1997	Provision of services	U.S. Supreme Court reversed a long-standing ruling banning the delivery of publicly funded educational services to students enrolled in private schools. Interpreted to mean that special educators can now provide services to children in parochial schools.
<i>Cedar Rapids Community School District v. Garret F.</i>	1999	Related services	U.S. Supreme Court expanded and clarified the concept of related services. Affirmed that intensive and continuous school health care services necessary for a student to attend school, if not performed by a physician, qualify as related services.
<i>Schaffer v. Weast</i>	2005	Burden of proof	A U.S. Supreme Court ruling addressing the issue of whether the parent(s) or school district bears the burden of proof in a due process hearing. Determined whether the parent(s), acting on behalf of their child, must prove that their child's individualized education program (IEP) is inappropriate or whether the school district must prove that the IEP is appropriate. Court ruled that the burden of proof is placed upon the party seeking relief.
<i>Arlington Central School District Board of Education v. Murphy</i>	2006	Recovery of fees	U.S. Supreme Court addressed whether or not parents are able to recover the professional fees of an educational consultant (lay advocate) who provided services during legal proceedings. Court ruled that parents are not entitled to reimbursement for the cost of experts because only attorney's fees are addressed in IDEA.
<i>Winkelman v. Parma City School District</i>	2007	Parental rights	The Supreme Court, by unanimous vote, affirmed the rights of parents to represent their children in IDEA-related court cases. Seen as an expansion of parental involvement and the definition of a free appropriate public education. Interpreted to mean that IDEA conveys enforceable rights to parents as well as their children.
<i>Forest Grove School District v. T.A.</i>	2009	Tuition reimbursement	Parents sought tuition reimbursement from the school district after removing their child who had learning disabilities, attention deficit hyperactivity disorder, and depression. The child was never declared eligible for a special education and never received services. Parents unilaterally enrolled the child in a private school. The Supreme Court found that IDEA authorizes reimbursement for private special education services when a public school fails to provide a free appropriate education and the private school placement is appropriate, regardless of whether the student previously received special education services from the public school.
<i>Fry v. Napoleon Community Schools</i>	2017	IDEA exhaustion doctrine	A suit filed on behalf of a young girl with a severe form of cerebral palsy who used a service animal. Because the school provided the student with a personal aide in accordance with her individualized education program, the school district refused to allow her the use of her service dog. The girl's parents sought relief under the Americans with Disabilities Act Amendments (ADAA) and Section 504 of the Rehabilitation Act rather than the Individuals with Disabilities Education Improvement Act (IDEA), which required the parents to exhaust all administrative remedies (e.g., due process hearing) prior to suing under the ADAA and 504. As this was a disability discrimination issue and the adequacy of the student's educational services were not in question, the Supreme Court, in a unanimous decision, found that because the parents were not seeking relief under the free appropriate public education clause of IDEA, the exhaustion requirement of IDEA was not applicable.
<i>Endrew F. v. Douglas County School District</i>	2017	Educational benefit	A far-reaching Supreme Court decision involving an 8-year-old boy with autism spectrum disorder. The child's parents removed him from public school and enrolled him in a private school due to an individualized education program (IEP) that they believed did not provide sufficient academic and social progress. The school district refused the parents' request for tuition reimbursement. Although the lower courts agreed with the school district, the parents appealed to the Supreme Court. The Court found, in a unanimous decision, that an IEP must provide more than <i>de minimis</i> or minimal educational benefit. It stated that an IEP must be "appropriately ambitious" in light of a pupil's circumstances and every student must be given the opportunity to meet challenging objectives.

Source: R. Gargiulo and J. Kilgo, *An Introduction to Young Children with Special Needs*, 5th ed. (Thousand Oaks, CA: Sage, 2020), pp. 30–32.

legislative enactments focusing on students with disabilities. Furthermore, many of today's accepted practices in special education, such as nondiscriminatory assessments and due process procedures, can trace their roots to various court decisions.

Individuals With Disabilities Education Act: 1975–1997

Federal legislative intervention in the lives of persons with disabilities is of relatively recent origin. Before the late 1950s and early 1960s, little federal attention was paid to citizens with special needs. When legislation was enacted, it primarily assisted specific groups of individuals, such as those who were deaf or people with intellectual disability. The past forty years or so, however, have witnessed a flurry of legislative activity that has aided the growth of special education and provided educational benefits and other opportunities and rights to children and adults with disabilities.

Given the multitude of public laws¹ affecting special education, we will focus our attention only on landmark legislation. Our initial review will examine PL 94–142, the Education for All Handicapped Children Act, or, as it came to be known, the Individuals with Disabilities Education Act (IDEA). This change in legislative titles resulted from the enactment on October 30, 1990, of PL 101–476, which will be addressed later in this chapter.

Public Law 94–142

IDEA is viewed as a “Bill of Rights” for children with exceptionalities and their families; it is the culmination of many years of dedicated effort by both parents and professionals. Like many other special educators, we consider this law to be one of the most important pieces, if not the most important piece, of federal legislation ever enacted on behalf of children with special needs. PL 94–142 may rightfully be thought of as the legislative heart of special education.

The purpose of this bill, which was signed into law by President Gerald Ford on November 29, 1975, is

to assure that all handicapped children have available to them . . . a free appropriate public education which emphasizes special education and related services designed to meet their unique needs, to assure that the rights of handicapped children and their parents or guardians are protected, to assist States and localities to provide for the education of all handicapped children, and to assess and assure the effectiveness of efforts to educate handicapped children.
[Section 601(c)]

In pursuing these four purposes, this legislation incorporates six major components and guarantees that have forever changed the landscape of education across the United States. Despite legislative and court challenges over the past four decades, the following principles have endured to the present day:

- **A free appropriate public education (FAPE).** All children, regardless of the severity of their disability (a “zero reject” philosophy), must be provided with an education appropriate to their unique needs at no cost to the parent(s)/guardian(s). Included in this principle is the concept of related services, which requires that children receive, for example, occupational therapy as well as other services as necessary in order to benefit from special education.
- **The least restrictive environment (LRE).** Children with disabilities are to be educated, to the maximum extent appropriate, with students without disabilities. Placements must be consistent with the pupil's educational needs.
- **An individualized education program (IEP).** This document, developed in conjunction with the parent(s)/guardian(s), is an individually tailored statement describing an educational plan for each learner with exceptionalities. The IEP, which will be fully discussed later in this

¹ National legislation, or public law (PL), is codified according to a standardized format. Legislation is thus designated by the number of the session of Congress that enacted the law followed by the number of the particular bill. PL 94–142, for example, was enacted by the 94th session of Congress and was the 142nd piece of legislation passed.

chapter, is required to address (1) the present levels of academic achievement and functional performance (commonly referred to by school personnel as present levels of performance or PLOP); (2) annual goals and accompanying instructional objectives; (3) educational services to be provided; (4) the degree to which the pupil will be able to participate in general education programs; (5) plans for initiating services and length of service delivery; and (6) an annual evaluation procedure specifying objective criteria to determine if instructional objectives are being met. Many teachers and school administrators refer to this as progress monitoring.

- **Procedural due process.** The act affords parent(s)/guardian(s) several safeguards as it pertains to their child's education. Briefly, parent(s)/guardian(s) have the right to confidentiality of records; to examine all records; to obtain an independent evaluation; to receive written notification (in parents' native language) of proposed changes to their child's educational classification or placement; and to an impartial hearing whenever disagreements arise regarding educational plans for their son/daughter. Furthermore, the student's parent(s)/guardian(s) have the right to representation by legal counsel.
- **Nondiscriminatory assessment.** Prior to placement, a child must be evaluated by a multidisciplinary team in all areas of suspected disability by tests that are not racially, culturally, or linguistically biased. Students are to receive several types of assessments, administered by trained personnel; a single evaluation procedure is not permitted for either planning or placement purposes.
- **Parental participation.** PL 94–142 mandates meaningful parent involvement. Sometimes referred to as the “Parents’ Law,” this legislation requires that parents participate fully in the decision-making process that affects their child's education.

Congress indicated its desire by September 1, 1980, to provide a free appropriate public education for all eligible children ages 3 through 21. The law, however, did not require services be provided to preschool children with disabilities. Because many states were not providing preschool services to typical children, an education for young children with special needs, in most instances, was not mandated. Although this legislation failed to require an education for younger children, it clearly focused attention on the preschool population and recognized the value of early education.



Legislation has greatly benefited individuals with disabilities and their families.

TABLE 2.2 ■ Highlights of IDEA Reauthorizations: 1986–1997

Year	Public Law	Key Components
1986	PL 99–457	<ul style="list-style-type: none"> • Legislation viewed as a downward extension of PL 94–142 • Mandated services for preschoolers with disabilities, ages 3–5 • Permitted early intervention services for infants and toddlers, from birth through age 2, with developmental delays or disabilities • Individualized family service plan (IFSP) established for infants and toddlers • “Developmentally delayed” label created
1990	PL 101–476	<ul style="list-style-type: none"> • Name of legislation changed to Individuals with Disabilities Education Act (IDEA) • Autism and traumatic brain injury identified as discrete disability categories • Rehabilitation counseling and social work considered related services • Established the requirement of an individualized transition plan (ITP) by age 16 • States’ immunity from lawsuits for violating IDEA repealed
1997	PL 105–17	<ul style="list-style-type: none"> • Students with disabilities required to participate in state- and districtwide assessments • Transition planning commences at age 14 • Orientation and mobility included as a related service • Discretionary use of “developmentally delayed” label for pupils ages 3–9 • General educators required to participate on individualized education program (IEP) team • Students with disabilities are to be involved in and have access to general education curriculum • Mediation offered as a means of resolving disputes • Benchmarks and measurable annual goals emphasized • Pupils who violate student code of conduct may be removed from their current educational placement only after a due process hearing • Assistive technology needs of each learner must be assessed • Students expelled or suspended from school are still entitled to receive services in accordance with their IEP • Greater variety of assessment tools and strategies are permissible for initial evaluations and reevaluations

Source: U.S. Department of Education.

PL 94–142 did contain some benefits for children under school age. It offered small financial grants (Preschool Incentive Grants) to the individual states as an incentive to serve young children with disabilities. It also carried a mandate for schools to identify and evaluate children from birth through age 21 suspected of evidencing a disability. Finally, PL 94–142 moved from a census count to a child count of the actual number of individuals with disabilities being served. The intent was to encourage the states to locate and serve children with disabilities.

In the 1980s and 1990s, Congress reauthorized the Individuals with Disabilities Education Act. As a result of this legislative activity, services for individuals with disabilities have been expanded, student and parental rights clarified, and discipline procedures articulated along with several other key provisions. Table 2.2 presents a brief overview of some of these revisions to IDEA.



Many young children with developmental delays or disabilities have benefited from early intervention.

EDUCATIONAL REFORM: STANDARDS-BASED EDUCATION

Over the past two decades, there has been a growing movement toward greater educational accountability, with accompanying calls for educational reform or restructuring resulting in enhanced academic excellence. (See, for example, President Bill Clinton's Goals 2000: Educate America Act of 1994 [PL 103–227].) As a result of this trend, many states initiated challenging academic standards and more stringent graduation requirements for their students, while several professional organizations published performance indicators in various content areas, such as mathematics, language arts, and science. Likewise, many state departments of education are moving toward performance-based standards when establishing teacher licensure/certification requirements, thus linking student success with teacher qualifications. The overall focus of this movement, fueled by various political, social, and economic forces, was a concern over the learning outcomes of our students. It is equally concerned with establishing educational equity among all learners.

Educational standards, which are “general statements of what students should know or be able to do as a result of their public school education” (Nolet & McLaughlin, 2005, p. 5), are important for a couple of reasons. First, “they are intended,” according to Nolet and McLaughlin (2005), “to create equity across schools and classrooms in that they define what all teachers should teach and . . . [they] also define the content that will be assessed and for which schools will be held accountable” (p. 5). Recent federal legislation embraces this thinking. The importance attached to standards-driven reform is clearly evident in the No Child Left Behind Act of 2001.

No Child Left Behind Act of 2001

In 2001, Congress reauthorized the Elementary and Secondary Education Act, popularly known as No Child Left Behind (PL 107–110). This legislation reflects President George W. Bush's commitment to educational reform and accountability. A brief synopsis of this ambitious law reveals that eventually all pupils, including those in special education, are expected to demonstrate proficiency in mathematics, reading, and science. Annual testing of children in Grades 3 through 8 is required, with students in Grades 10 through 12 assessed at least once. Schools were expected to show adequate yearly progress toward the goal of 100 percent proficiency by 2014. (A small percentage of students may be excused from participating in state- and districtwide achievement tests if their IEP provides for their exemption.) Because this law is concerned with the achievement of *all* students, test scores must be disaggregated according to the pupil's disability, socioeconomic status, race, ethnicity, and English language ability. The anticipated benefit of this requirement is that assessment results will directly translate into instructional accommodations, further aligning special education and general education into a unified delivery system responsible for serving all learners (Salend, 2016).

Schools that experience difficulty attaining the goal of adequate yearly progress will be provided with technical and financial assistance. If a school fails to demonstrate adequate yearly progress for three consecutive years, the local school district is required to offer supplemental instructional services such as tutoring, after-school classes, and summer programs (Council for Exceptional Children, 2003). Parents of children in “failing” schools will be given the opportunity to transfer their children to other schools, including private and parochial schools.

In addition to stressing student educational accomplishment, other aspects of this law require that the public as well as parents be informed of individual school performance and the qualifications of teachers. All elementary and secondary school teachers were expected to be “highly qualified” by the end of the 2005–2006 school year according to state criteria. Rigorous standards are also being imposed on teacher aides.

What are the implications of this law for general as well as special educators? How competently will students with special needs perform in this age of educational reform and standards-based education? Obviously, PL 107–110 emphasizes academic achievement as measured by student performance on standardized tests. The expectation seems to be that effective instructional strategies can compensate for a student's disability. The enactment of this law has ushered in an era of what is now commonly

referred to as “high-stakes testing” or “high-stakes assessment.” Greater emphasis will most likely be placed on ensuring that pupils in special education are exposed to the general education curriculum. One can also anticipate that greater attention will be focused on aligning IEP goals with the content standards of the general education curriculum (Council for Exceptional Children, 2003). Finally, how colleges and universities prepare future teachers will also likely undergo significant change in an effort to ensure that graduates are highly qualified professionals.

The current focus on exposing individuals with special needs to the general education curriculum is clearly seen in an initiative known as the Common Core State Standards (CCSS) (Common Core State Standards Initiative, 2019a). Put forth by the National Governors Association and the Council of Chief State School Officers, the CCSS redefine the general education curriculum while outlining a set of grade-level expectations that describe what students should know in mathematics and English language arts in order to succeed in college and later careers. At the present time, forty-one states and the District of Columbia have adopted these standards (Common Core State Standards Initiative, 2019b).

These standards apply to all students, including pupils receiving a special education. The work of aligning IEP goals to the CCSS will certainly challenge many special educators. How does one adapt instruction to meet the unique learning needs of a child with a disability while also addressing rigorous content standards? Teachers of students with disabilities will need to carefully consider how the students’ disabilities impact their involvement with and progress in the general education curriculum (Constable, Grossi, Moniz, & Ryan, 2013). The reforming of the general education curriculum with its emphasis on academic achievement for all learners is certainly praiseworthy, yet we believe that it cannot—nor should it—replace an effective special education program that provides specialized, individually tailored, and intensive services to children with special needs (Zigmond & Kloo, 2017).

See the accompanying First Person feature (page 51) for one educator’s perspective on teaching in the current era of heightened accountability.

Individuals With Disabilities Education Improvement Act of 2004

On November 19, 2004, Congress passed legislation reauthorizing the Individuals with Disabilities Education Act. The new version of this law is called the Individuals with Disabilities Education Improvement Act of 2004, commonly referred to as IDEA 2004. President George W. Bush signed this bill (PL 108–446) into law on December 3, 2004. Many of the provisions of this legislation became effective on July 1, 2005; some elements of the law became effective, however, on the date the president signed the bill. It is safe to say that IDEA 2004 will significantly affect the professional lives of both general education teachers and special educators. Parents of children with disabilities will also encounter new roles and responsibilities as a result of this law.



The Every Student Succeeds Act maintains a focus on accountability, high standards, and student achievement.

The Individuals with Disabilities Education Improvement Act of 2004 (IDEA) [has] increased the focus of special education from simply ensuring access to education to improving the educational performance of students with disabilities and aligning special education services with the larger national school improvement efforts that include standards, assessments, and accountability [i.e., greater conformity with the No Child Left Behind Act]. (Nolet & McLaughlin, 2005, pp. 2–3)

Some of the significant issues addressed in this historic document are portrayed in Table 2.3.

TABLE 2.3 ■ A Snapshot of IDEA 2004 Highlights

- Modified criteria for identifying students with specific learning disabilities. Schools can now elect to use a process that determines whether the pupil responds to empirically validated, scientifically based interventions—commonly called response to intervention (RTI)
- Eliminates use of short-term objectives in individualized education programs (IEPs) except for students evaluated via alternate assessments that are aligned with alternate achievement standards
- IEPs must include a statement of the student’s present level of academic achievement and functional performance; annual goals must be written in measurable terms
- Relaxes requirements for participation in IEP meetings
- Multiyear IEPs are permissible
- IEPs to incorporate research-based interventions
- Transition planning to begin with first IEP in effect once student reaches age 16
- Students with disabilities may be removed to an interim alternative educational setting for up to 45 school days for offenses involving weapons, drugs, or inflicting serious bodily injury
- All pupils are required to participate in all state- and districtwide assessments with accommodations or alternate assessments as stipulated in their IEP
- Special educators must be “highly qualified” according to individual state standards
- Resolution session required prior to a due process hearing
- Statute of limitations imposed on parents for filing due process complaints
- Modifies provision of student’s native language and preferred mode of communication

Source: U.S. Department of Education.

Every Student Succeeds Act

One of the recent changes that will impact public education over the coming years occurred on December 10, 2015, when President Barack Obama signed the Every Student Succeeds Act (ESSA) (PL 114–95) into law. This legislation is the seventh reauthorization of the historic Elementary and Secondary Education Act (PL 89–10) initially passed in 1965 and, until now, known as the No Child Left Behind Act (PL 107–110). The aim of the ESSA was to preserve the spirit and intent of No Child Left Behind while remediating some of the perceived flaws and deficiencies voiced by legislators, educators, policy makers, school administrators, and parents. Although this new legislation retains an emphasis on accountability, high standards, and student achievement, the mechanisms for accomplishing these aims is substantially changed. Some of the provisions of this act include the following:

- ESSA still requires the annual testing of students in third through eighth grade in math and reading and once in high school in addition to a science test across elementary, middle, and high school; however, the adequate yearly progress provision has been repealed and replaced by a statewide accountability system.
- Allows states to adopt the Common Core State Standards but does not require their adoption.
- Eliminates “highly qualified” teacher status.
- Maintains the requirement that achievement data be disaggregated according to the student’s disability, socioeconomic status, race, ethnicity, and English language ability.

- Identifies low-performing schools as those whose assessment scores are in the bottom 5 percent, schools that have a high school graduation rate of less than 67 percent, or schools where subgroups of pupils consistently underperform. In these situations, state intervention is possible although specific remedies are not defined.
- For individuals with disabilities, the legislation ensures access to the general education curriculum, accommodations on assessments, and the use of universal design for learning principles, in addition to evidence-based interventions in schools where subgroups consistently underperform (Council for Exceptional Children, 2019).

The coming years will be ones of exciting opportunities and challenges as the entire educational community responds to the mandates of PL 108–446 and PL 114–95. These laws, like PL 94–142 more than forty years ago, will dramatically change the educational landscape for both general and special education.

Charter Schools and Students With Disabilities

We need to briefly mention an educational phenomenon that is growing in popularity in some communities across the United States—charter schools. According to the National Center for Special Education in Charter Schools (2019), “the charter school concept emerged from a deep commitment to quality and equity; schools of choice operating autonomously from traditional districts would serve as incubators of innovation” (para. 1). These schools are one example of school choice initiatives. In the 2017–2018 school year, charter schools numbered over 7,000 serving nearly 3.2 million students across 43 states and the District of Columbia (David & Hesla, 2018). Because charter schools are public schools, they are required to follow the mandates found in the IDEA legislation and Section 504 of the Rehabilitation Act of 1973, as well as the requirements of the Americans with Disabilities Act (see the following discussion on these laws). Despite their autonomy and the use, in some settings, of successful instructional models, charter schools have failed to benefit individuals with exceptional learning needs. Charter schools enroll fewer students with disabilities than typical public schools (Rhim, 2016), and it is believed by some that charter schools do not offer quality educational experiences to students with special needs, nor do they offer access to innovative educational experiences. The challenge confronting educators and other stakeholders is “to increase access and develop exemplary programs for students with disabilities” (National Center for Special Education in Charter Schools, 2019, para. 3). Hopefully, these efforts will be fruitful, and *all* students will benefit from creative thinking and powerful instructional programs.

CIVIL RIGHTS LEGISLATION

Section 504 of the Rehabilitation Act of 1973

The pieces of legislation that we just examined are representative special education laws (the exception being PL 107–110). PL 93–112, the Rehabilitation Act of 1973, however, is a *civil rights* law. Section 504 of this enactment was the first public law specifically aimed at protecting children and adults against discrimination due to a disability. It said that no individual can be excluded, solely because of his or her disability, from participating in or benefiting from any program or activity receiving federal financial assistance, which includes schools (Council for Exceptional Children, 1997).

Unlike IDEA, this act employs a functional rather than categorical model for determining a disability. According to this law, individuals are eligible for services if they

1. have a physical or mental impairment that substantially limits one or more major life activities;
2. have a record of such an impairment; or
3. are regarded as having such an impairment by others.

“Major life activities” are broadly defined and include, for example, walking, seeing, hearing, working, and learning.

To fulfill the requirements of Section 504, schools must make “reasonable accommodations” for pupils with disabilities so that they can participate in educational programs provided to other students. Reasonable accommodations might include modifications of the general education program, the assignment of an aide, a behavior management plan, or the provision of special study areas (Smith, 2002; Smith & Patton, 2007). Students may also receive related services such as occupational or physical therapy even if they are not receiving a special education through IDEA.

Because the protections afforded by this law are so broad, an individual who is ineligible for a special education under IDEA may qualify for special assistance or accommodations under Section 504. A student with severe allergies, for example, would be eligible for services via Section 504 although it is unlikely that he or she would be eligible to receive services under IDEA. All students who are eligible for a special education and related services under IDEA are also eligible for accommodations under Section 504; the converse, however, is *not* true.

As with IDEA, there is a mandate contained within Section 504 to educate pupils with special needs with their typical peers to the maximum extent possible. In addition, schools are required to develop an accommodation plan (commonly called a “504 plan”) customized to meet the unique needs of the individual. This document should include a statement of the pupil’s strengths and needs, a list of necessary accommodations, and the individual(s) responsible for ensuring implementation. The purpose of this plan is to enable the student to receive a free appropriate public education (Gargiulo & Metcalf, 2017).

Finally, unlike IDEA, which offers protections for students only between the ages of 3 and 21, Section 504 covers the individual’s life span. See Table 2.4 for a comparison of some of the key provisions of IDEA and Section 504.

Provision	IDEA	Section 504
Purpose	Provides a free appropriate public education to children and youth with specific disabilities.	Prohibits discrimination on the basis of a person’s disability in all programs receiving federal funds.
Ages Covered	Individuals 3–21 years old.	No age restriction.
Definition of Disability	Twelve disabilities defined according to federal regulations plus state/local definition of <i>developmentally delayed</i> .	Broader interpretation of a disability than found in IDEA—a person with a physical or mental impairment that substantially limits a major life activity, who has a record of such impairment, or who is regarded as having such impairment.
Funding	States receive some federal dollars for excess cost of educating students with disabilities.	Because this is a civil rights law, no additional funding is provided.
Planning Documents	Individualized education program (IEP).	Accommodation plan (commonly referred to as a “504 plan”).
Assessment Provisions	A comprehensive, nondiscriminatory eligibility evaluation in all areas of suspected disability conducted by a multidisciplinary team; reevaluations every three years unless waived.	Eligibility determination requires nondiscriminatory assessment procedures; requires reevaluation prior to a “significant change” in placement.
Due Process	Extensive rights and protections afforded to student and parents.	Affords parents impartial hearing, right to inspect records, and representation by counsel. Additional protections at discretion of local school district.
Coordination	No provision.	School district required to identify a 504 coordinator.
Enforcement	U.S. Department of Education, Office of Special Education Programs.	Office for Civil Rights, U.S. Department of Education.



FIRST PERSON: LISA

TEACHING IN THE AGE OF ACCOUNTABILITY

Having taught for almost ten years, I can safely say there is a definite need for accountability in education, but teaching in the twenty-first century presents some unique challenges. Everyone is accountable to someone for something. Teachers, for example, are accountable for teaching curriculum in preparation for high-stakes assessments, delivering data-driven instruction, using research-based strategies, and meeting the demands and deadlines imposed by administrators, while also communicating with parents. Students, on the other hand, are accountable for passing the high-stakes assessments and responding to the data-based instruction and research-based instructional strategies, while making adequate progress at increasingly higher levels of performance. Each year, it almost seems as though we have to surpass what was accomplished the previous year. The accompanying paperwork to prove this accountability doesn't get any less cumbersome either.

All this accountability comes from increasing concerns about the quality of our education. Yet, even with all this accountability, we see many students transfer with gaps in learning from not having been taught to the same high expectations. There are disparities from school system to school system that make it difficult to reach these ever increasing levels of accountability. This "achievement gap" affects what we have to work with, yet we are still accountable for getting these pupils to the academic level they need to be at. If there is one thing you can count on in teaching, it is that change is constant.

Teaching is a balancing act, and educators have to be sure that they do not get lost in the "accountability jungle" or forget that one of the reasons we teach is to help our students become discoverers of their own learning, not simply pass a high-stakes assessment. As educators, our accountability goal should be how well our students apply and generalize the knowledge and information that we share with them, not

how well they can regurgitate facts in order to pass an isolated test that represents only a small sample of what they have learned.

The school days are getting longer, lunchtimes are getting shorter, and weekends are often spent in a quiet classroom in preparation for teaching in the coming week. It seems as though we are overly accountable to the point that we are losing valuable instructional time and focus. With all that said, accountability is important as long as we view it wisely.

General education teachers are now being required to prove that their students are being taught with research-based tools and that student performance is documented. No longer are student performance, methods of instruction, and teaching practices at the teacher's discretion. This new level of accountability for general education teachers is going to require them to rely more and more on the expertise of special education teachers not only for the students who have individualized education programs but also for all struggling learners. At the same time, the special educator is also held accountable for ensuring compliance with regulations, timelines, and mounting paperwork with increasingly larger caseloads. It is a constant battle to find the proper balance—the demands of paperwork, the needs of individual students, and communication with families and general education teachers are all under the accountability microscope. This balance is more difficult to find with each new law, mandate, and policy. Although I feel it is a privilege to work as a teacher, and more particularly as a special education teacher, working as an inclusive teacher in the age of accountability becomes increasingly difficult each year.

—Lisa Cranford
Instructional Support Teacher
Rocky Ridge Elementary, Hoover, Alabama

Public Law 101-336 (Americans With Disabilities Act)

Probably the most significant civil rights legislation affecting individuals with disabilities, the Americans with Disabilities Act (ADA) was signed into law on July 26, 1990, by President George H. W. Bush, who stated, "Today, America welcomes into the mainstream of life all people with disabilities. Let the shameful wall of exclusion finally come tumbling down." This far-reaching enactment, which parallels Section 504 of PL 93-112, forbids discrimination against persons with disabilities in both the public and private sectors. Its purpose, according to Turnbull (1993), is to "provide clear, strong, consistent, and enforceable standards prohibiting



The Americans with Disabilities Act requires that mass transit systems be accessible to citizens with disabilities.

Jeff Greenberg/Universal Images Group/Getty Images

discrimination against individuals with disabilities without respect for their age, nature or extent of disability” (p. 23).

The ADA goes far beyond traditional thinking of who is disabled and embraces, for instance, people with AIDS, individuals who have successfully completed a substance abuse program, and persons with cosmetic disfigurements. In fact, any person with an impairment that substantially limits a major life activity is covered by this legislation. It extends protections and guarantees of civil rights in such diverse arenas as private sector employment, transportation, telecommunications, public and privately owned accommodations, and the services of local and state government.

Examples of the impact of this landmark legislation include the following:

- Employers of fifteen or more workers must make “reasonable accommodations” so that an otherwise qualified individual with a disability is not discriminated against. Accommodations might include a Braille computer keyboard for a worker who is visually impaired or wider doorways to allow easy access for an employee who uses a wheelchair. Furthermore, hiring, termination, and promotion practices may not discriminate against an applicant or employee who has a disability.
- Mass transit systems, such as buses, trains, and subways, must be accessible to citizens with disabilities.
- Hotels, fast-food restaurants, theaters, hospitals, early childhood centers, banks, dentists’ offices, retail stores, and the like may not discriminate against individuals with disabilities. These facilities must be accessible, or alternative means for providing services must be available.
- Companies that provide telephone service must offer relay services to individuals with hearing or speech impairments.

Think what this legislation means for the field of special education in general, and specifically for adolescents with disabilities as they prepare to leave high school and transition to the world of adulthood as independent citizens able to participate fully in all aspects of community life. Thanks to this enactment, the future for millions of Americans with disabilities is definitely brighter and more secure.

Public Law 110–325 (Americans With Disabilities Act Amendments of 2008)

On September 25, 2008, President George W. Bush signed into law the Americans with Disabilities Act Amendments. PL 110–325 became effective on January 1, 2009. Commonly called ADAA, this legislation revises the definition of a disability in favor of a broader interpretation, thereby extending protections to greater numbers of individuals. In fact, this law expressly overturned two Supreme Court decisions that had previously limited the meaning of the term *disability*. Additionally, ADAA expands the definition of “major life activities” by including two noninclusive lists, the first of which includes activities not expressly stipulated, such as reading, concentrating, and thinking. The second list includes major bodily functions—for example, functions of the immune system or neurological functioning (U.S. Equal Employment Opportunity Commission, n.d.). The act also states that the interpretation of “substantial limitation” must be made without regard to the ameliorative effects of mitigating measures like medication or medical equipment. (The only stated exception is eyeglasses or contact lenses.)

Changes incorporated in this legislation also apply to students eligible for protections under Section 504 of PL 93–112. According to Zirkel (2009), “the overall effect is obviously to expand the number and range of students eligible under Section 504” (p. 69). A pupil, however, cannot be “regarded as” having a disability if his or her disability is minor or transitory (a duration of six months or less). It is anticipated that the new ADAA eligibility standards will have a significant impact on special education. “IDEA eligibility teams will need to closely coordinate with Section 504 eligibility teams not only when determining that a student is ineligible for initial services under IDEA but also upon exiting the student from an IEP” (Zirkel, 2009, p. 71).

We see the overall intent of this enactment as ensuring that individuals with disabilities receive the protections and services to which they are legally entitled.

IDENTIFICATION AND ASSESSMENT OF INDIVIDUAL DIFFERENCES

One of the distinguishing characteristics of our field is the individuality and uniqueness of the students we serve. There is considerable wisdom in the maxim “No two children are alike.” Experienced educators will quickly tell you that even though students may share a common disability label, such as *learning disabled* or *visually impaired*, that is where the similarity ends. These pupils are likely to be as different as day and night. Of course, the individuality of our students, both typical and atypical, has the potential for creating significant instructional and/or management concerns for the classroom teacher. Recall from Chapter 1 the types of youngsters enrolled in Mr. Thompson’s fifth-grade classroom. Today’s schools are serving an increasingly diverse student population. At the same time, there is greater cooperation and more shared responsibility between general and special educators as they collectively plan appropriate educational experiences for all learners.

When teachers talk about the individuality of their students, they often refer to **interindividual differences**. These differences are what distinguish each student from his or her classmates. Interindividual differences are differences *between* pupils. Examples might include distinctions based on height, reading ability, athletic prowess, or intellectual competency. Some interindividual differences are more obvious and of greater educational significance than others.

interindividual differences
Differences between two or more persons in a particular area.

Interindividual differences are frequently the reason for entry into special education programs. One child might be significantly above (or below) average in intellectual ability; another might exhibit a significant degree of hearing loss. Categorization and placement decision making by school personnel revolve around interindividual differences. Stated another way, school authorities identify, label, and subsequently place a student in an instructional program on the basis of the student’s interindividual differences.

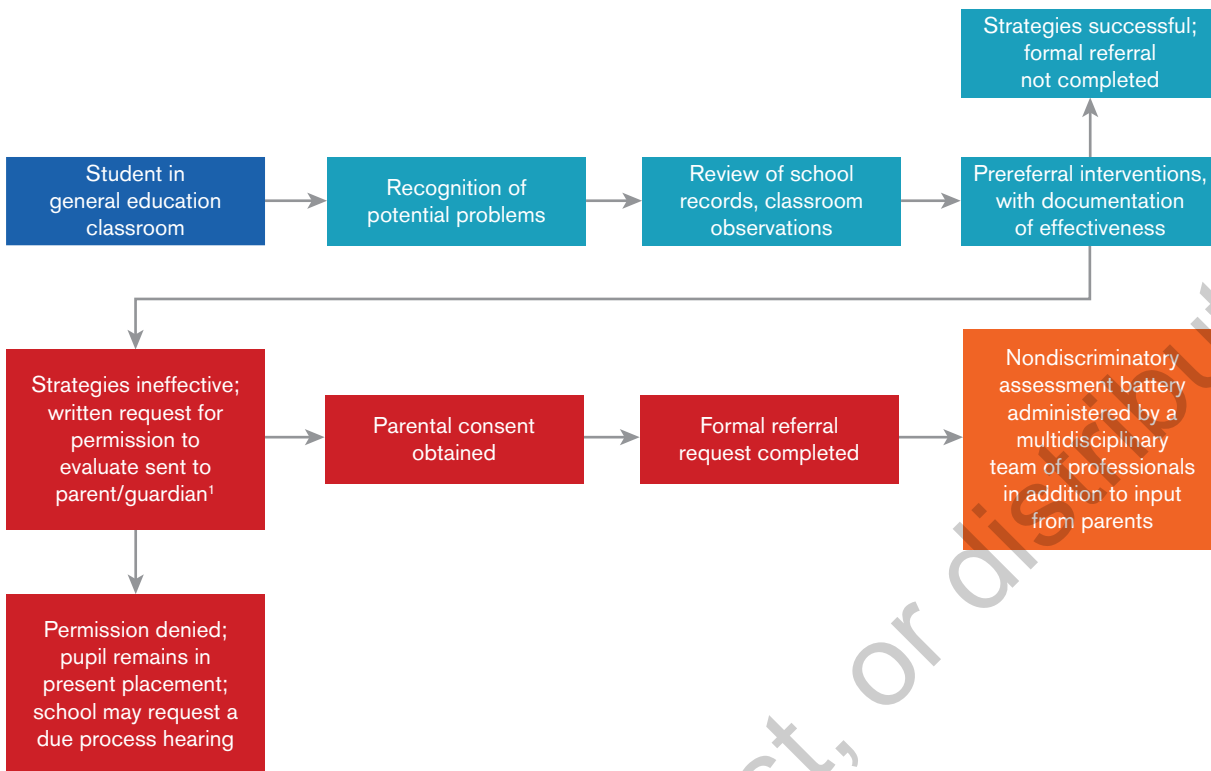
However, not all pupils in a given program are alike. Children also exhibit **intraindividual differences**—a unique pattern of strengths and needs. Intraindividual differences are differences *within* the child. Instead of looking at how students compare with their peers, teachers focus on the individual’s abilities and limitations. We should point out that this is a characteristic of all pupils, not just those enrolled in special education programs. For example, Victoria, who is the best artist in her eighth-grade class, is equally well known for her inability to sing. One of her classmates, Melinda, has a learning disability. Her reading ability is almost three years below grade level, yet she consistently earns very high grades in math.

intraindividual differences
Differences within the individual; unique patterns of strengths and needs.

Intraindividual differences are obviously of importance to teachers. A student’s IEP reflects this concern. Assessment data, derived from a variety of sources, typically profile a pupil’s strengths and needs. This information is then used in crafting a customized instructional plan tailored to meet the unique needs of the learner.

REFERRAL AND ASSESSMENT FOR SPECIAL EDUCATION

“Evaluation [assessment] is the gateway to special education but referral charts the course to the evaluation process” (Turnbull, Turnbull, Erwin, & Soodak, 2006, p. 232). Litigation, IDEA requirements, and today’s best practices serve as our road map as we travel along the evaluation pathway to providing appropriate educational experiences for students with disabilities. This journey from referral to assessment to the development of an IEP and eventual placement in the most appropriate environment is a comprehensive process incorporating many different phases. Figure 2.2 illustrates this process. In the following sections, we examine several of the key elements involved in developing individualized program plans.

FIGURE 2.2 ■ A Procedural Decision-Making Model for the Delivery of Special Education Services

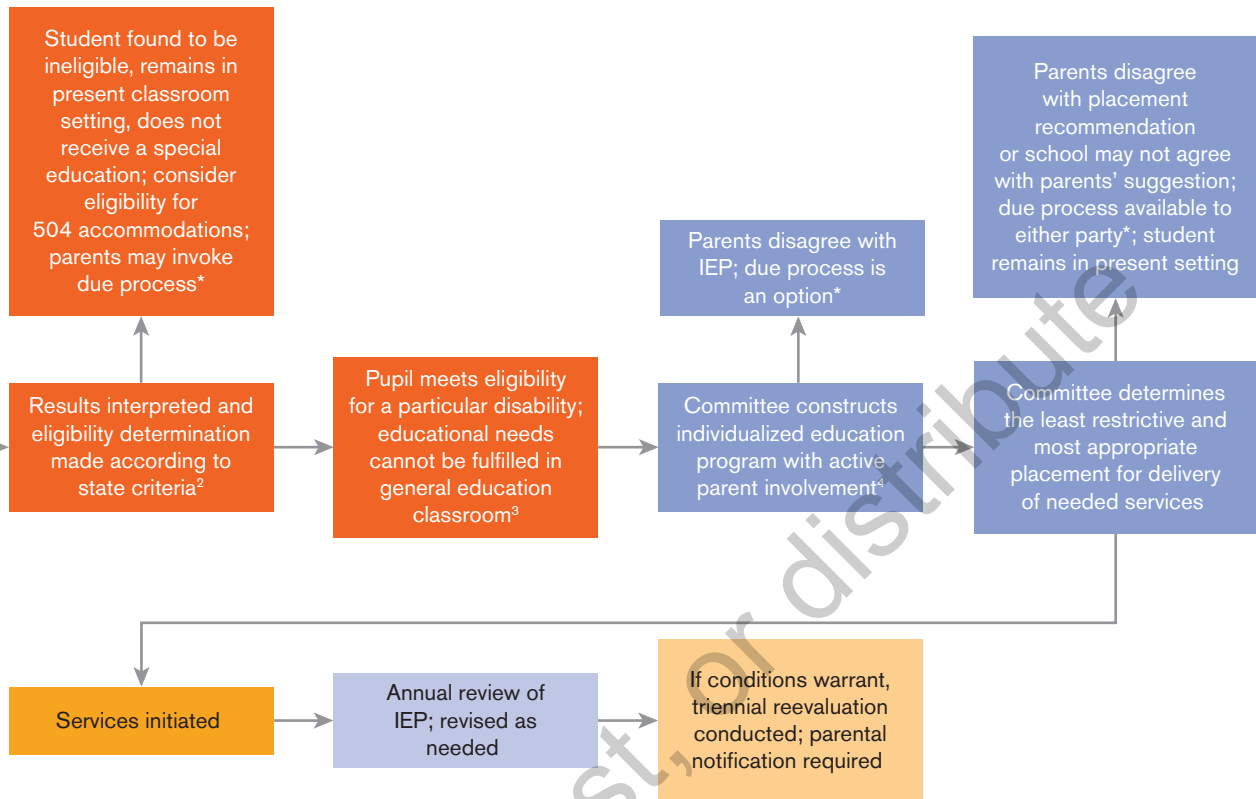
1. IDEA does not mandate parental consent for referral but does require consent for evaluation.
2. Eligibility determination must occur within sixty days of referral.
3. If parents refuse consent for a special education, the school district is not responsible for providing a free appropriate public education.

Prereferral

Although evaluation may be the gateway to special education, a great deal of activity occurs prior to a student's ever taking the first test. Careful scrutiny of our model reveals an intervention strategy known as **prereferral intervention**, which occurs prior to initiating a referral for possible special education services. The purpose of this strategy is to reduce unwarranted referrals while providing individualized assistance to the student without the benefit of a special education. Although not mandated by IDEA, prereferral interventions have become increasingly common over the past two decades. In fact, IDEA 2004 permits the use of federal dollars to support these activities. Many states either require or recommend the use of this tactic with individuals suspected of having a disability.

Prereferral interventions are preemptive by design. They call for collaboration between general educators and other professionals for the express purpose of developing creative, alternative instructional and/or management strategies designed to accommodate the particular needs of the learner. This process results in shared responsibility and joint decision making among general and special educators, related service providers, administrators, and other school personnel, all of whom possess specific expertise; the pupil's parents typically do not participate in this early phase. The child's success or failure in school no longer depends exclusively on the pedagogical skills of the general educator; rather, it is now the responsibility of the school-based intervention assistance team (also commonly known as a teacher-assistance team, instructional support team, or child study team) (Buck, Polloway, Smith-Thomas, & Cook, 2003).

prereferral intervention
Instructional or behavioral strategies introduced by a general educator to assist students experiencing difficulty; designed to minimize inappropriate referrals for special education.



4. The IEP must be developed within thirty days of eligibility determination.

* Mandatory resolution session required prior to a due process hearing.

As beneficial as this strategy often is, it is not always successful. Detailed documentation of these intervention efforts provides a strong justification for the initiation of a formal referral.

Referral

A **referral** is the first step in a long journey toward receiving a special education. As we have just seen, a referral may start as a result of unsuccessful prereferral interventions, or it may be the outcome of **child-find** efforts (IDEA-mandated screening and identification of individuals suspected of needing special education).

Simply stated, a referral is a written request to evaluate a student to determine whether the child has a disability. Typically, a referral begins with a general educator; it may also be initiated by a school administrator, a related services provider, a concerned parent, or another individual. Referrals typically arise from a concern about the child's academic achievement and/or social/behavioral problems. In some instances, a referral may be initiated because of a pupil's cultural or linguistic background; it may even be the result of problems caused by inappropriate teacher expectations or poor instructional strategies. Thus, the reasons for the referral may not always lie within the student. This is one reason why prereferral intervention strategies are so important. Not all referrals for special education services result in placement; many children are found to be ineligible for a variety of reasons.

referral A formal request by a teacher or parent that a student be evaluated for special education services.

child-find A function of each state, mandated by federal law, to locate and refer individuals who might require special education.



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Assessments can be conducted at a young age and must be individualized and comprehensive.

but typically includes an administrator, a school psychologist, and experienced teachers. Other personnel may also be involved, depending on the nature of the referral. It is the job of this committee to review the available information and decide whether further assessment is warranted. If the team decides to proceed, a written request for permission to evaluate is sent to the child's parent(s). School authorities *must* obtain permission from the parent/guardian before proceeding with a formal evaluation. Interestingly, IDEA does not require parental consent for referrals. We believe, however, that it is wise to notify parents that a referral is being initiated, explain the reasons for the referral, and solicit their input and cooperation in the referral process.

Assessment

The first step in determining whether a student has a disability, and is in need of a special education, is securing the consent of the child's parent(s)/guardian(s) for the evaluation. As noted previously, this step is mandated by IDEA as part of the procedural safeguards protecting the legal rights of parent(s)/guardian(s). Under the provisions of IDEA, school officials must notify the pupil's parent(s)/guardian(s), in their native language, of the school's intent to evaluate (or refusal to evaluate) the student and the rationale for this decision; they must explain the assessment process and alternatives available to the parent(s)/guardian(s), such as the right to an independent evaluation of their son or daughter. Many schools automatically send parent(s)/guardian(s) a statement of their legal rights when initial permission to evaluate is sought.

Assessment, according to Gargiulo and Metcalf (2017), is a generic term that refers to the process of gathering information about a pupil's strengths and needs. Educational assessment can rightly be thought of as an information-gathering and decision-making process.

One of the goals of the assessment process is to obtain a complete profile of the student's abilities and his or her needs. By law (IDEA), this requires the use of a **multidisciplinary team** of professionals, of which one member must be a teacher. In practice, some school districts are fulfilling this mission by establishing inter- and transdisciplinary assessment teams. Regardless of the model adopted by the school district, the team is responsible for developing an individualized and comprehensive assessment package that evaluates broad developmental domains (cognitive, academic achievement) as well as the specific areas of concern noted on the referral, such as social/emotional problems or suspected visual impairments.

Successful accomplishment of this task dictates the use of both formal and informal assessment tools. Once again, IDEA is very clear about this issue: No one procedure may be used as the sole basis of evaluation; a multitude of tests is required. IDEA regulations further require that the evaluations be presented in the pupil's native language or, when necessary, via other modes of communication such as sign language or Braille for students with a sensory impairment. Additionally, the selection and

assessment The process of gathering information and identifying a student's strengths and needs through a variety of instruments and products; data used in making decisions.

multidisciplinary team A group of professionals from different disciplines who function as a team but perform their roles independent of one another.

administration of the assessment battery must accurately reflect the child's aptitude and achievement and not penalize the student because of his or her impairment in sensory, manual, or speaking skills. The accompanying Insights feature (page 58) describes some accommodations that may be needed for accurate assessment.

School psychologists, educational diagnosticians, and other professionals responsible for evaluating the student have a wide variety of assessment instruments at their disposal. Evaluators attempt to gauge both inter- and intraindividual differences by using both norm- and criterion-referenced assessments. Simply stated, **norm-referenced assessments** are standardized tests and are linked to interindividual differences. Norm-referenced tests compare a pupil's performance with that of a representative sample of children, providing the evaluator with an indication of the pupil's performance relative to other individuals of similar chronological age. Data are typically presented in terms of percentile ranks, stanines, or grade-equivalent scores. Data gleaned from norm-referenced tests provide limited instructional information. In contrast, **criterion-referenced assessments** are associated with intraindividual differences and can provide data that are useful for instructional planning. In this type of assessment procedure, a student's performance on a task is compared to a particular level of mastery. The criterion level is typically established by the classroom teacher. Criterion-referenced assessments are especially helpful, according to Gargiulo and Metcalf (2017), in pinpointing the specific skills that the pupil has mastered as well as determining what skills necessitate additional instruction. Teachers are concerned with the individual's pattern of strengths and needs rather than how the student compares with his or her classmates.

As mentioned earlier, evaluators must put together a complete educational portrait of the student's abilities. This frequently requires multiple sources of information, which typically include standardized tests, work samples, and observational data, among other forms of input. Table 2.5 summarizes some of the types of assessments increasingly being used by evaluation specialists to complement data derived from norm-referenced tests.

norm-referenced assessments Refers to standardized tests on which a pupil's performance is compared to that of his or her peers.

criterion-referenced assessment An assessment procedure in which a student's performance is compared to a particular level of mastery.

Instructional Programming and Appropriate Placement

When properly conducted, educational assessments lead to the development of meaningful IEPs and IFSPs. Measurable annual goals (and short-term objectives/benchmarks for pupils evaluated via

Source	Description
Naturalistic Observation	Documentation of qualitative as well as quantitative aspects of a youngster's behavior in the natural environment. Information may be recorded formally (rating scales, observational recording systems) or informally (anecdotal records, audio recordings). Data can be used to support or refute information gathered from other sources.
Interviews	Information obtained from significant individuals in a student's life—parents, teachers, older siblings, or the pupil him- or herself. Interviews are a planned and purposeful activity whose purpose is to gain insight or perspective on specific areas of interest, such as the child's background or possible reasons for behavioral problems. Format may be formal (interviewer follows a predetermined set of questions) or informal (interview proceeds according to the individual's responses). Data may be gathered orally or in writing.
Work Samples	Evidence of a pupil's actual classroom performance, typically focused on particular skill development. Sometimes referred to as a permanent product. Spelling tests, arithmetic fact sheets, and handwriting samples are examples of this information source. Work samples are especially useful when planning instructional intervention and modification. Requires the teacher to think diagnostically and look, for example, at error patterns or clarity of directions.
Portfolios	A type of authentic assessment, portfolios are an outgrowth of the familiar work folder concept. They include a wide range of examples of a student's emerging abilities and accomplishments over time. Qualitative and quantitative indicators of performance might include writing samples, audio/video recordings, worksheets, drawings, photographs, or other forms of evidence. Useful for student self-assessment.

alternate assessments) are crafted based on data gleaned from these evaluations. But first, the multidisciplinary team must determine whether the student is eligible to receive special education services according to specific state criteria. Eligibility standards differ from state to state, but most are framed around IDEA criteria.

If team members, working in concert with the child's parent(s), determine that the student fails to qualify for a special education, we suggest developing intervention strategies and recommendations for accommodations to address the referral concerns. We believe this is necessary because the pupil will remain in his or her present placement—the general education classroom. Additionally, the team may wish to consider the pupil for a 504 accommodation plan if the student is eligible for such services. Parent(s)/guardian(s) must be sent written notification summarizing the evaluation and stating why their son or daughter is ineligible to receive a special education. If, however, it is determined that the pupil is eligible for a special education, the multidisciplinary team is then confronted with two monumental tasks: constructing the IEP/IFSP and determining the most appropriate placement for the student.



INSIGHTS

ASSESSMENT ACCOMMODATIONS

In order to accurately portray a pupil's abilities and needs, assessment accommodations are sometimes necessary. Accommodations are changes in how students access and demonstrate learning without changing the standards they are working toward. Accommodations must be individualized; not all pupils require them, nor do students with the same disability require the same type of accommodations. The need for accommodations may change over time; some individuals may require fewer accommodations in one situation while in other situations additional support is required. Listed as follows are examples of accommodations that individualized education program teams may find beneficial.

Presentation accommodations let students access assignments, tests, and activities in ways other than reading standard print. Students with print disabilities (inability to visually decode standard print because of a physical, sensory, or cognitive disability) may require a combination of these accommodations:

- Visual: large print, magnification devices, sign language, visual cues
- Tactile: Braille, Nemeth code, tactile graphics
- Auditory: human reader, tablets, audio amplification devices
- Visual and auditory: screen reader, video recording, descriptive video, talking materials

Response accommodations allow students to complete assignments, tests, and activities in different ways or solve or organize problems using an assistive device or organizer. Response accommodations include:

- Different ways to complete assignments, tests, and activities: expressing responses to a scribe

through speech, sign language, pointing, or an assistive communication device; typing on or speaking to a word processor, Braille, or audio recorder; writing in a test booklet instead of on an answer sheet

- Materials or devices to solve or organize responses: calculation devices; spelling and grammar assistive devices; visual or graphic organizers

Timing and scheduling accommodations give students the time and breaks they need to complete assignments, tests, and activities and may change the time of day, day of the week, or number of days over which an activity takes place. These include:

- Extended time
- Multiple or frequent breaks
- Changing the testing schedule or order of subtests
- Dividing long-term assignments

Setting accommodations change the location in which a student receives instruction or the conditions of the setting. Students may be allowed to sit in a different location than the majority of students to:

- Reduce distractions
- Receive accommodations
- Increase physical access
- Use special equipment

Source: Adapted from S. Thompson, "Choosing and Using Accommodations on Assessments," *CEC Today*, 10(6), 2004, pp. 12, 18.

DESIGNING INDIVIDUALIZED INSTRUCTIONAL PROGRAMS

According to IDEA, each student identified by a multidisciplinary child study team as having a disability and in need of special education must have an individualized program of specially designed instruction that addresses the unique needs of the child and, in the case of infants and toddlers, the needs of the family as well. IEPs and IFSPs are guides to the design and delivery of customized services and instruction. They also serve as vehicles for collaboration and cooperation between parents and professionals as they jointly devise appropriate educational experiences.

Individualized Education Program

An individualized education program is part of an overall strategy designed to deliver services appropriate to the individual needs of pupils ages 3 and older. By the time we reach the IEP stage, the appropriate permissions have been gathered, assessments have been conducted, and a disability determination has been made. We are now at the point where the IEP is to be developed, followed by placement in the most appropriate and least restrictive setting. Bateman and Linden (2012) make a very important point about *when* the IEP is to be developed. They believe that IEPs are often written at the wrong time. Legally, the IEP is to be developed within thirty days following the evaluation and determination of the child's disability, but *before* a placement recommendation is formulated. Placement in the least restrictive and most normalized setting is based on a completed IEP, not the other way around. An IEP should not be limited by placement options or the availability of services. We believe it is best to see the IEP as a management tool or planning vehicle that ensures that children with disabilities receive an individualized education appropriate to their unique needs. It also guides the integration of the general and special education curriculum (Diliberto & Brewer, 2012). This focus is in concert with both the intent and the spirit of IDEA.

IEPs are written by a team. At a minimum, participation must include a parent/guardian; the child's teachers, including a general education teacher and a special educator; a representative from the school district; and an individual able to interpret the instructional implications of the evaluation. When appropriate, the student, as well as other professionals who possess pertinent information or whose expertise is desired, may participate at the discretion of the parent or school. Parents have a legal right to participate meaningfully in this planning and decision-making process; they serve as the child's advocate. Although IDEA mandates a collaborative role for parents, it does not stipulate the degree or extent of their participation.

IEPs will vary greatly in their format and degree of specificity. Government regulations do not specify the level of detail considered appropriate, nor do they stipulate how the IEP is to be constructed—only that it be a written document. What is specified are the components (see the accompanying Insights feature on page 60).

As stated previously, an IEP is, in essence, a management tool that stipulates *who* will be involved in providing a special education, *what* services will be offered, *where* they will be delivered, and for *how long*. In addition, an IEP gauges *how successfully* goals have been met. Although the IEP does contain a measure of accountability, it is not a legally binding contract; schools are not liable if goals are not achieved. Schools are liable, however, if they do not provide the services stipulated in the IEP. IEPs are to be reviewed annually, although parents may request an earlier review. A complete reevaluation of the pupil's eligibility for special education must occur every three years. PL 108–446 waives this requirement, however, if both the parents and school officials agree that such a review is not necessary.

IEPs are not meant to be so detailed or complete that they serve as the entire instructional agenda, nor are they intended to dictate what the individual is taught. They do have to be individualized, however, and address the unique learning and/or behavioral requirements of the student.

For an in-depth example of an IEP, visit the SAGE edge student study site at edge.sagepub.com/gargiulo7e.



INSIGHTS

ELEMENTS OF A MEANINGFUL INDIVIDUALIZED EDUCATION PROGRAM

Current Performance. A statement of the student's present levels of educational and functional performance, including how the pupil's disability affects his or her involvement and progress in the general education curriculum, or, for preschoolers, how the disability affects participation in age-appropriate activities.

Goals. A statement of measurable annual goals (both functional and academic) that address the student's involvement and progress in the general education curriculum as well as the student's other education needs; short-term objectives or benchmarks are required for pupils who take alternate assessments aligned to alternate achievement standards.

Special Education and Related Services. A statement of special education, related services, and supplementary aids and services (based on peer-reviewed research) to be provided, including program modifications or supports necessary for the student to advance toward attainment of annual goals; to be involved and progress in the general education curriculum, extracurricular activities, and nonacademic activities; and to be educated and participate in activities with other children both with and without disabilities.

Participation With Typical Students. An explanation of the extent, if any, to which the student will *not* participate in the general education classroom.

Participation in State- and Districtwide Assessments. A statement of any individual modifications needed for the student to participate in a state- or districtwide assessment; if a student will not participate, a statement of why the assessment is inappropriate and how the pupil will be assessed.

Dates and Places. Projected date for initiation of services; expected location, duration, and frequency of such services.

Transition Services. Beginning at age 16, a statement of needed transition services identifying measurable postschool goals (training, education, employment, and, if appropriate, independent living skills), including a statement of interagency linkages and/or responsibilities.

Measuring Progress. A statement of how progress toward annual goals will be measured and how a student's parents (or guardians) will be regularly informed of such progress.

Age of Majority. Information provided at least one year before reaching the age of majority regarding transfer of rights to the student upon reaching the age of majority.



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Parents play a crucial role in developing their child's individualized education program.

It is for this reason that we find fault with the growing reliance on computer-generated goals and objectives. Although computer-managed IEPs may serve as a useful logistical tool, like Bateman and Linden (2012), we have grave doubts as to the educational relevancy of this procedure and question its legality. We hope teachers will use this resource only as a starting point for designing customized and individually tailored plans.

One of the challenges confronting the IEP team is ensuring that students have access to the general education curriculum as stipulated in both the 1997 and 2004 reauthorizations of IDEA. But what is the general education curriculum? In most instances, it is the curriculum that

typical learners are exposed to, which is often established by individual state boards of education. The IEP must address how the pupil's disability affects his or her involvement in and ability to progress in the general education curriculum. The underlying assumption seems to be that even if a child is receiving a special education, he or she should engage the general education curriculum. Documentation is required if the team believes that this curriculum is inappropriate for a particular student.

IDEA 2004 requires the IEP team to develop measurable annual goals while also emphasizing exposure to the general education curriculum. Goal statements are purposely broad. Their intent is to

provide long-range direction to a student's educational program, not to define exact instructional tasks. Based on the pupil's current level of performance, goals are "written to reflect what a student needs in order to become involved in and to make progress in the general education curriculum" (Yell, 2019, p. 235). They represent reasonable projections or estimates of what the pupil should be able to accomplish within the academic year. They also answer the question "What should the student be doing?" Annual goals can reflect academic functioning, social behavior, adaptive behavior, or life skills. Regardless of their emphasis, goal statements should be positive, student oriented, and relevant (Polloway, Patton, Serna, & Bailey, 2018).

Measurable annual goals should include the following five components:

- The student (the who)
- Will do what (the behavior)
- To what level or degree (the criterion)
- Under what conditions (the conditions)
- In what length of time (the time frame)

Quality IEPs largely depend on having well-written and appropriate goals (and objectives) that address the unique needs of the individual. IEPs are the primary means of ensuring that a specially designed educational program is provided. The accompanying Strategies for Effective Teaching and Learning feature provides a sample agenda for an IEP team meeting.



STRATEGIES FOR EFFECTIVE TEACHING AND LEARNING

SUGGESTED INDIVIDUALIZED EDUCATION PROGRAM MEETING AGENDA

- | | |
|--|--|
| • Welcome and introduction of participants and their respective roles | – Assistive technology needs |
| • Statement of purpose | – Transition goals |
| • Review of previous year's IEP (except for initial placement) and accomplishments | – Behavior intervention plan |
| • Discussion of student's present level of performance and progress: | – Language needs for student with limited English proficiency |
| – Assessment information | – Braille instruction for student who is visually impaired |
| – Strengths and emerging areas | • Development of annual goals (and benchmarks if appropriate) |
| • Consideration of specific needs: | • Recommendations and justification for placement in least restrictive environment |
| – Instructional modifications and accommodations | • Closing comments, securing of signatures |
| – Participation in state- and districtwide assessments | • Copies of IEP to all team members |
| – Related services | |

Individualized Family Service Plan

The individualized family service plan is the driving force behind the delivery of early intervention services to infants and toddlers who are at risk or have a disability. The IFSP was originally conceived to focus on children younger than age 3, but recent changes in thinking now allow this document to be used with preschoolers who require a special education. This change was initiated by the federal

government in an effort to minimize the differences between early intervention and preschool special education services; the government is now encouraging states to establish “seamless systems” designed to serve youngsters from birth through age 5. As a result of this policy decision, states now have the authority to use IFSPs for preschoolers with special needs until the children enter kindergarten (Lipkin & Schertz, 2008).

For an in-depth example of an IFSP, visit the SAGE edge student study site at edge.sagepub.com/gargiulo7e.

Like an IEP, an IFSP is developed by a team consisting of professionals and the child’s parents as key members. In addition, parents may invite other family members to participate, as well as an advocate. Typically, the service coordinator who has been working with the family, the professionals involved in the assessment of the youngster, and the service providers constitute the remainder of the group charged with the responsibility of writing the IFSP. The elements required for an IFSP, as stipulated in PL 108–446, are summarized in Table 2.6.

The IFSP was intentionally designed to preserve the family’s role as primary caregiver. Well-constructed IFSPs, which are reviewed every six months, fully support the family members and encourage their active and meaningful involvement. This thinking is in keeping with an empowerment model (Turnbull, Turnbull, Erwin, Soodak, & Shogren, 2015) that views families as capable (with occasional assistance) of helping themselves. It allows parents to retain their decision-making role, establish goals, and assess their own needs. It is also in keeping with our support of an ecological perspective (Gargiulo & Kilgo, 2020), which argues that one cannot look at a child without considering the various systems and spheres of influence that provide support—in this instance, the infant or toddler’s family and community.

TABLE 2.6 ■ Comparable Components of an IEP and IFSP

Individualized Education Program	Individualized Family Service Plan
A statement of the child’s present levels of academic achievement and functional performance, including involvement and progress in the general education curriculum	A statement of the infant or toddler’s present levels of physical, cognitive, communication, social/emotional, and adaptive development
No comparable feature	A statement of the family’s resources, priorities, and concerns
A statement of measurable annual goals, including benchmarks or short-term instructional objectives for children who take alternate assessments aligned to alternate achievement standards	A statement of measurable results or outcomes expected to be achieved for the infant or toddler and the family
A statement indicating progress toward annual goals and a mechanism for regularly informing parents/guardians of such progress	Criteria, procedures, and timelines used to determine the degree to which progress toward achieving the outcomes or results is being made
A statement of specific special education and related services and supplementary aids and services, based on peer-reviewed research, to be provided and any program modifications	A statement of specific early intervention services, based on peer-reviewed research, necessary to meet the unique needs of the infant or toddler and the family
An explanation of the extent to which the child will not participate in general education programs	A statement of the natural environments in which early intervention services will appropriately be provided, or justification, if not provided
Modifications needed to participate in state- or districtwide assessments	No comparable feature
The projected date for initiation of services and the anticipated duration, frequency, and location of services	The projected date for initiation of services and the anticipated duration of services
No comparable feature	The name of the service coordinator
At age 16, a statement of transition services needed, including courses of study in addition to measurable postsecondary goals	The steps to be taken to support the child’s transition to other services at age 3

Source: Adapted from Individuals with Disabilities Education Improvement Act of 2004, Title 20 U.S. Code (U.S.C.) 1400 *et seq*, Part B Section 614 (d) (1) (A), and Part C Section 636 (d).

Information obtained from the assessment of the family and data about the infant or toddler's developmental status are used to generate outcome statements or goals for the child and his or her family. Practitioners are increasingly emphasizing real-life or authentic goals for children with special needs (Johnson, Rahan, & Bricker, 2015). These goals, which are based on the priorities and concerns of the family, are reflected in the IFSP's required outcome statements. Interventionists no longer teach skills in isolation; rather, goals are developed that are relevant to the daily activities of the youngsters and their families. These statements need to be practical and functional, reflecting real-life situations occurring in the natural environment.

SERVICE DELIVERY OPTIONS: WHERE A SPECIAL EDUCATION IS PROVIDED

Now that the IEP/IFSP team has decided *what* will be taught, it must decide *where* special education services will be provided. The issue of appropriate placement of children with disabilities has generated considerable controversy and debate. In fact, it has been a point of contention among special educators for almost forty years. IDEA mandates that services be provided to students in the least restrictive setting—or, as Henry and Flynt (1990) called it, the most productive environment. The question confronting the team is “What is the most appropriate placement for achieving the goals (outcomes) of the IEP (IFSP)?” The chosen setting must allow the pupil to reach his or her IEP (or IFSP) goals and work toward his or her potential.

It is at this point in our decision-making model that school authorities, in collaboration with the child's parent(s)/guardian(s), attempt to reach agreement about where the student will be served. The principle guiding this decision is known as the **least restrictive environment (LRE)**. This is a relative concept; it must be determined individually for each pupil. We interpret this principle to mean that students with disabilities should be educated in a setting that most closely approximates the general education classroom *and* still meets the unique needs of the individual. As we will see shortly, for a growing number of students, this setting is the general education classroom. The concept of LRE calls for maximum opportunity for meaningful involvement and participation with classmates who are not disabled. One of its inherent difficulties is the required balancing of maximum integration with the delivery of an appropriate education.

least restrictive environment (LRE) A relative concept individually determined for each student; principle that each pupil should be educated, to the maximum extent appropriate, with classmates who are typical.

Educational Placements

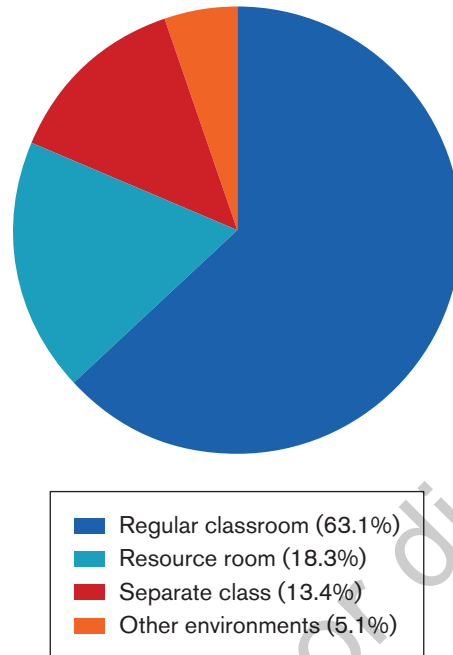
The federal government annually monitors the different settings in which pupils with disabilities receive a special education. Figure 2.3 illustrates the percentage of students in the various educational environments recognized by the U.S. Department of Education. Table 2.7 describes six typical school settings serving individuals with special needs. We will report placement information in future chapters according to these environments.

A Cascade of Service Delivery Options

As we have just seen, the federal government recognizes that no one educational setting is appropriate for meeting the needs of all children with disabilities. Effective delivery of a special education requires an array or continuum of placement possibilities customized to the individual requirements of each pupil. The concept of a continuum of educational services has been part of the fabric of American special education for over four decades. Reynolds originally described the concept of a range of placement options in 1962. His thinking was later elaborated on and expanded by Deno (1970), who constructed a model offering a “cascade” or continuum of settings. A traditional view of service delivery options is portrayed in Figure 2.4.

In this model, the general education classroom is viewed as the most normalized or typical setting; consequently, the greatest number of students are served in this environment. This placement would

FIGURE 2.3 ■ Percentage of School-Age Children With Disabilities Served in Various Educational Settings



Note: Data are for students ages 6–21 enrolled in special education during the 2016–2017 school year.

Other environments include separate schools, residential facilities, homebound/hospital environments, correctional facilities, and parentally placed in private schools.

Information based on data from forty-nine states, the District of Columbia, Puerto Rico, Bureau of Indian Education schools, and outlying areas. Data for Wisconsin not included.

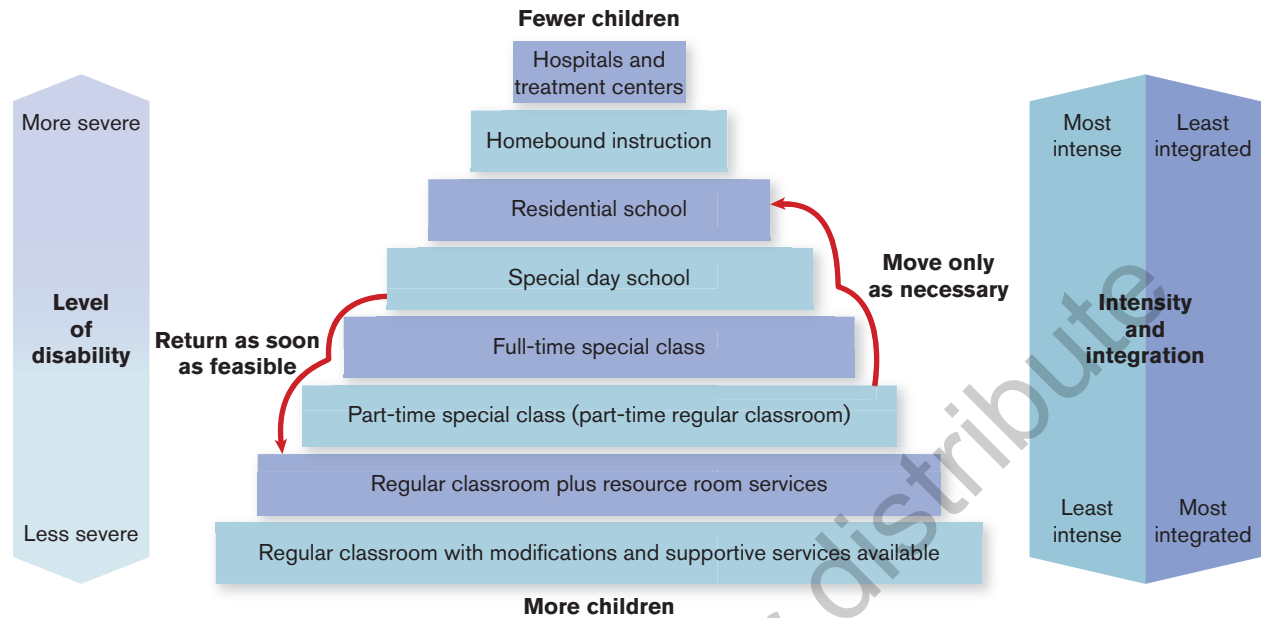
Source: U.S. Department of Education. (2018). *Fortieth annual report to Congress on the implementation of the Individuals with Disabilities Education Act, 2018* (Washington, DC: U.S. Government Printing Office), p. 52.

TABLE 2.7 ■ Definitions of Typical Educational Settings Serving School-Age Students With Disabilities

Setting	Definition
Regular Classroom	Students who spend at least 80 percent of the school day in a regular or general education classroom.
Resource Room	Students who receive special education and related services in the regular classroom between 40 and 79 percent of the school day. Students are “pulled out” of the regular classroom and receive specialized instruction or services in a separate classroom for limited periods of time. Services may be individualized or offered in small groups.
Separate Class	Students who receive special education and related services in the regular classroom for less than 40 percent of the school day. Commonly known as a self-contained classroom wherein pupils, usually those with more severe disabilities, receive full-time instruction or, in a modified version, participate in nonacademic aspects of school activities. Classroom is located in typical school building.
Separate School	Students who receive special education and related services in a public or private separate day school for students with disabilities, at public expense, for more than 50 percent of the school day.
Residential Facility	Students who receive a special education in a public or private residential facility, at public expense, twenty-four hours a day.
Homebound/Hospital	Students placed in and receiving a special education in a hospital or homebound program.

Source: Adapted from U.S. Department of Education. (2000). *Twenty-second annual report to Congress on the implementation of the Individuals with Disabilities Education Act* (Washington, DC: U.S. Government Printing Office), pp. II–14.

FIGURE 2.4 ■ A Traditional View of Service Delivery Options



Source: Adapted from S. Graves, R. Gargiulo, and L. Sluder, *Young Children: An Introduction to Early Childhood Education* (St. Paul, MN: West, 1996), p. 398.

be considered the least restrictive option. Deviation from the general education classroom should occur only when it is educationally necessary for the pupil to receive an appropriate education. Each higher level depicted in Figure 2.4 represents a progressively more restrictive setting. Movement up the hierarchy generally leads to the delivery of more intensive services to children with more severe disabilities, who are fewer in number. However, intensive supports are now being provided in general education classrooms with increasing frequency. Environments at the upper levels are considered to be the most restrictive and least normalized, yet, as we will see shortly, they may be the most appropriate placement for a particular individual.

As originally conceived, the natural flow of this cascade of service delivery options would be in a downward movement from more restrictive settings to those viewed as least restrictive, such as the general education classroom with or without support services. Contemporary thinking, however, suggests that pupils begin in the general education classroom and ascend the model, reaching a level that meets their unique needs. A key feature of this model, too often overlooked, is that a particular placement is only temporary; flexibility or freedom of movement is what makes this model work. The settings must be envisioned as fluid rather than rigid. As the needs of the pupil change, so should the environment; this is why there is an array of service delivery possibilities. In our opinion, there is no one best educational placement for each and every student with disabilities.

A Contemporary Challenge

At the present time, the field of special education is confronting the challenge of calls for greater inclusion of individuals with disabilities into all aspects of society, especially educational programs. Simply stated, some advocates for people with disabilities (and some parents as well) dismiss the long-standing concept of a continuum of service delivery possibilities and argue that *all* pupils with disabilities, regardless of the type or severity of their impairment, should be educated in general education classrooms at neighborhood schools. They argue further that students should be served on the basis of their chronological age rather than academic ability or mental age. This is truly an explosive proposal. The debate surrounding this issue is an emotionally charged one with great potential for polarizing the field of special education, as other professionals, advocates, and parents



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Federal law stipulates that, to the maximum extent appropriate, pupils with disabilities are to be educated with their typical classmates.

mainstreaming An early term for the practice of integrating students with special needs into a general education classroom for all or part of the school day.

Mainstreaming

The first potentially confusing term is **mainstreaming**, which first appeared on the educational scene more than forty years ago. It evolved from an argument put forth by Dunn (1968), who, in a classic essay, questioned the pedagogical wisdom of serving children with mild intellectual disability in self-contained classrooms, which was then common practice. Other professionals soon joined with Dunn in his call for a more integrated service delivery model, resulting in the beginning of a movement away from isolated special classes as the placement of choice.

We define mainstreaming—or, in contemporary language, integration—as the social and instructional integration of students with disabilities into educational programs whose primary purpose is to serve typically developing individuals. It represents a common interpretation of the principle of educating children with disabilities in the least restrictive environment. Interestingly, the term *mainstreaming* itself never appears in any piece of federal legislation.

Parents no longer have to prove that their son or daughter should be mainstreamed; rather, schools must justify their position to exclude. They must prove that they have made a good-faith effort at integration or present strong evidence that an inclusionary setting is unsatisfactory (Yell, 2019). PL 108–446 currently supports this thinking.

Mainstreaming must provide the student with an appropriate education based on the unique needs of the child. It is our opinion that policy makers never envisioned that mainstreaming would be interpreted to mean that *all* children with special needs must be placed in integrated placements; to do so would mean abandoning the idea of determining the most appropriate placement for a particular child. IDEA clearly stipulates that, to the maximum extent appropriate, children with disabilities are to be educated with their typical peers. We interpret this provision to mean that, for some individuals, an integrated setting, even with supplementary aids and services, might be an inappropriate placement in light of the child’s unique characteristics. A least restrictive environment does not automatically mean placement with typical learners. As educators, we need to make the distinction between appropriateness and restrictiveness.

Least Restrictive Environment

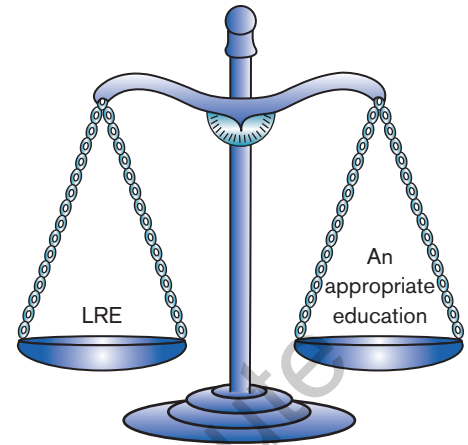
Least restrictive environment (LRE) is a legal term often interpreted to say individuals with disabilities are to be educated in environments as close as possible to the general education classroom setting. An LRE is not a place but a concept.

Determination of the LRE is made individually for each child. An appropriate placement for one student could quite easily be inappropriate for another. The LRE is based on the pupil’s educational needs, not on his or her disability. It applies equally to children of school age and to preschoolers. Even infants and toddlers with disabilities are required by law (PL 102–119) to have services delivered in normalized settings.

argue fervently against this thinking. According to Gargiulo and Kilgo (2020), supporters of this movement see it as the next great revolution in special education, whereas opponents consider it the start of a return to the “dark ages” of special education—the era before PL 94–142. We suspect that the truth lies somewhere between these two extremes.

The intensity of this debate is fueled by several factors, one of which is the inconsistent use of terminology. As frequently happens in arguments, people are often saying the same thing but using different words. Therefore, we offer the following interpretations of key terms frequently encountered in describing this movement.

Inherent within the mandate of providing a special education and/or related services within the LRE is the notion of a continuum of service delivery possibilities. Figure 2.4 (page 65) reflects varying degrees of restrictiveness, or amount of available contact with typical learners. Being only with children with disabilities is considered restrictive; placement with peers without disabilities is viewed as least restrictive. As we ascend the continuum, the environments provide fewer and fewer opportunities for interaction with typically developing age-mates—hence the perception of greater restrictiveness. Despite a strong preference for association with students who are typical, this desire must be balanced by the requirement of providing an education appropriate to the unique needs of the individual. Consequently, an integrative environment may not always be the most appropriate placement option. Each situation must be individually assessed and decided on a case-by-case basis. The educational setting must meet the needs of the learner. The philosophy of the LRE guides rather than prescribes decision making (Meyen, 1995).



We recognize, as do many other special educators, that maximum integration with typically developing children is highly desirable and should be one of our major goals. The question is when, where, with whom, and to what extent individuals with disabilities are to be integrated.

Regular Education Initiative

The third concept that requires our attention is the **regular education initiative**, or, as it is commonly called, **REI**. REI is an important link in the evolution of the full inclusion movement. The term was introduced in 1986 by former assistant secretary of education (Office of Special Education and Rehabilitative Services) Madeleine Will, who questioned the legitimacy of special education as a separate system of education and called for a restructuring of the relationship between general (regular) and special education. She endorsed the idea of shared responsibility—a partnership between general and special education resulting in a coordinated delivery system (Will, 1986b). Will recommended that general educators assume greater responsibility for students with disabilities. She envisioned a meaningful partnership whereby general and special educators would “cooperatively assess the educational needs of students with learning problems and cooperatively develop effective educational strategies for meeting those needs” (Will, 1986a, p. 415). Will (1986b) also believes that educators must “visualize a system that will bring the program to the child rather than one that brings the child to the program” (p. 21). As special educators, most of us can embrace this idea. Few professionals would dispute that the delivery of special education services would be significantly enhanced if there were greater coordination, cooperation, and collaboration between general and special educators.

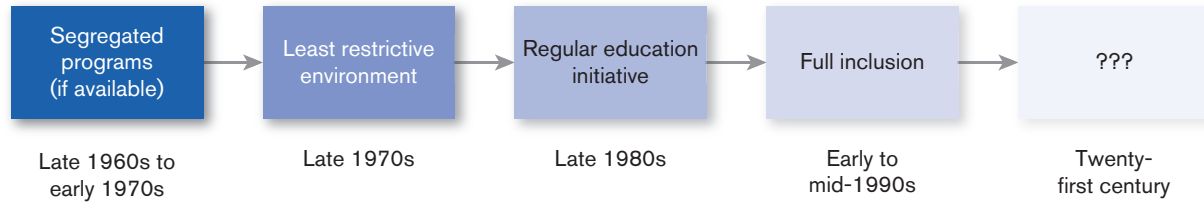
regular education initiative (REI) An approach that advocates that general educators assume greater responsibility for the education of students with disabilities.

Full Inclusion

We see the movement toward **full inclusion** as an extension of REI and earlier thinking about where children with disabilities should be educated. Full inclusion represents the latest trend in meeting the requirement of providing an education in the least restrictive environment (Bennett, DeLuca, & Bruns, 1997). Fox and Ysseldyke (1997) consider full inclusion as a further attempt at operationalizing the concept of LRE. Figure 2.5 illustrates the evolution of this thought process.

full inclusion An interpretation of the principle of least restrictive environment advocating that all pupils with disabilities be educated in the general education classroom.

Full inclusion is a potentially explosive issue, with vocal supporters as well as detractors. It has emerged as one of the most controversial and complex subjects in the field of special education. As with other controversial topics, an agreed-upon definition is difficult to develop. We offer the following succinct interpretation: Full inclusion is a belief that *all* children with disabilities should be taught exclusively (with appropriate supports) in general education classrooms at neighborhood schools—that is, in the same school and age-/grade-appropriate classrooms they would attend if they were not disabled. Successful implementation will require new thinking about curriculum design along with increased collaboration between general and special educators (Noonan & McCormick, 2014). Recall that Will (1986b) originally proposed this type of partnership in her regular education initiative.

FIGURE 2.5 ■ The Evolution of Placement Options for Children With Disabilities

Source: From R. Gargiulo and J. Kilgo, *An Introduction to Young Children With Special Needs*, 3rd ed. (Belmont, CA: Wadsworth/Cengage Learning, 2011), p. 144.



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Full inclusion results in students with disabilities being seen as full-fledged members of the general education classroom.

Although the trend in judicial interpretations is toward inclusionary placement (Yell, 2019), the LRE mandate does *not* require that all pupils be educated in general education classrooms or in their neighborhood schools. The framers of IDEA never pictured, according to Kauffman (1995), that the general education classroom located in the neighborhood school would be the least restrictive setting for all pupils. In fact, policy makers believed that a cascade of placement options would be required in order to provide an appropriate education for students with disabilities.

Advocates of full inclusion (Downing, 2008; Kennedy & Horn, 2004; Peterson & Hittie, 2010) argue that the present pullout system of serving students with special needs is ineffective. They contend that “the diagnostic and instructional models, practices, and tools associated with the EHA [PL 94–142] and mainstreaming are fundamentally flawed, particularly for students considered to have mild to moderate disabilities” (Skrtric, 1995, p. 625). Children are labeled and stigmatized, their programming is frequently fragmented, and general educators often assume little or no ownership for students in special education (a “your” kids versus “my” kids attitude). Placement in a general education classroom, with a working partnership between special education teachers and general educators, would result in a better education for all pupils, not just those with special needs, and would occur within the context of the least restrictive environment.

When correctly instituted, full inclusion is characterized by its virtual invisibility. Students with disabilities are not segregated but dispersed into classrooms they would normally attend if they were not disabled. They are seen as full-fledged members of, not merely visitors to, the general education classroom. Special educators provide an array of services and supports in the general education classroom alongside their general education colleagues, often using strategies such as cooperative teaching in an effort to meet the needs of the pupils. Table 2.8 summarizes the key components of most models of full inclusion.

Full inclusion is definitely a controversial topic; even professional organizations have opposing viewpoints. For instance, TASH (formerly The Association for Persons with Severe Handicaps) has issued a statement fully supporting inclusion, which it considers to be a national moral imperative. However, the desirability of full inclusion is questioned in some professional circles. The Council

TABLE 2.8 ■ Representative Components of Full Inclusion Models

Component	Description
“Home school” attendance	Defined as the local school the child would attend if he or she did not have a disability.
Natural proportion at the school site	The percentage of children with special needs enrolled in a particular school is in proportion to the percentage of pupils with exceptionalities in the entire school district; in general education classes, this would mean approximately two to three students with disabilities.
Zero rejection	All students are accepted at the local school, including those with severe impairments; pupils are not screened out or grouped separately because of their disability.
Age-/grade-appropriate placement	A full inclusion model calls for serving children with special needs in general education classrooms according to their chronological age rather than basing services on the child’s academic ability or mental age.

for Learning Disabilities, for example, endorses the continuation of service delivery options. The Council for Exceptional Children (CEC), the premier professional organization in the field of special education, has also taken a stand on this issue. Its policy statement on full inclusion reads as follows:

The Council for Exceptional Children believes that all children, youth, and young adults with disabilities are entitled to a free and appropriate education and/or services that lead to an adult life characterized by satisfying relations with others, independent living, productive engagement in the community, and participation in society at large. To achieve such outcomes, there must exist for all children, youth, and young adults with disabilities a rich variety of early intervention, educational, and vocational program options with experiences. Access to these programs and experiences should be based on individual educational need and desired outcomes. Furthermore, students and their families or guardians, as members of the planning team, may recommend the placement, curriculum option, and the exit document to be pursued.

CEC believes that a continuum of services must be available for all children, youth, and young adults. CEC also believes that the concept of inclusion is a meaningful goal to be pursued in our schools and communities. In addition, CEC believes children, youth, and young adults with disabilities should be served whenever possible in general education classrooms in inclusive neighborhood schools and community settings. Such settings should be strengthened and supported by an infusion of specially trained personnel and other appropriate supportive practices according to the individual needs of the child. (Council for Exceptional Children, 2014, p. H-6)

The argument, as we see it, is not about *what* is taught or the kinds of services to be provided to students with disabilities, but about *where* services are to be provided. We ought to be primarily concerned with how best to achieve the desired educational outcomes appropriate to the needs of the individual learner, rather than with the specific setting in which this occurs. Finally, there is one perplexing issue that still must be resolved. If we have accurately portrayed and interpreted full inclusion, then we believe it represents a radical departure from the concept of a cascade of placement options and, therefore, may well be a violation of current federal law. We suspect that, unfortunately, the resolution of this debate will rest with the courts.

CHAPTER IN REVIEW

Litigation and Legislation Affecting Special Education (Learning Objective 2.1)

- National and state laws, along with their subsequent interpretation by the courts, have certainly helped shape and define contemporary special education policy and procedures.

Educational Reform: Standards-Based Education (Learning Objective 2.2)

- The No Child Left Behind Act is an example of federal legislation that focuses on educational accountability. All students, including those with a disability, are expected to demonstrate proficiency in key academic subjects.
- The reauthorization of the Individuals with Disabilities Education Act in 2004 (PL 108–446) aligns this legislation with some of the provisions of the No Child Left Behind Act. In addition, substantial changes occurred in the following areas of the law: the IEP process, the identification of an individual for a possible learning disability, teacher qualifications, student discipline, due process procedures, the evaluation of pupils, and participation of individuals with disabilities in state- and districtwide assessments.

Civil Rights Legislation (Learning Objective 2.3)

- Section 504 of PL 93–112 is the first federal law specifically aimed at protecting children and adults against discrimination due to a disability.
- The Americans with Disabilities Act (PL 101–336), which parallels Section 504 of PL 93–112, forbids discrimination against individuals with disabilities in both the public and private sectors of society.

Identification and Assessment of Individual Differences (Learning Objective 2.4)

- Interindividual differences are those characteristics that distinguish each student from his or her classmates. Interindividual differences might include distinctions based on height, intelligence, or gross motor skills.
- Intraindividual differences are differences within a particular student—that child's unique profile of strengths and needs.

Referral and Assessment for Special Education (Learning Objectives 2.5 and 2.6)

- When properly conducted, educational assessments lead to the development of meaningful individualized

education programs (IEPs) and individualized family service plans (IFSPs).

- Multidisciplinary teams use norm- and criterion-referenced tests to determine if a student is eligible to receive a special education and/or related services.

Designing Individualized Instructional Programs (Learning Objective 2.7)

- An IEP is essentially a management tool that stipulates who will be involved in providing a special education, what services and instruction will be provided, where they will be delivered, and for how long. In addition, the IEP is designed to gauge whether or not goals are successfully achieved.
- An IFSP is the driving force behind the delivery of early intervention services to infants and toddlers and their families.
- The IFSP is family focused and is designed to preserve the parent's role of primary caregiver and principal decision maker. It must address the concerns and priorities of the family while also acknowledging the resources and strengths of the family.

Service Delivery Options: Where a Special Education Is Provided (Learning Objective 2.8)

- According to the principle of least restrictive environment (LRE), services are to be provided in the setting that most closely approximates the general education classroom while still meeting the unique needs and requirements of the learner.
- Mainstreaming represents a popular interpretation of the principle of LRE.
- Implicit in the mandate of LRE is the notion of a continuum or cascade of service delivery options—a hierarchy of educational environments that allows for customized placement possibilities based on the needs of the individual pupil.
- Full inclusion seeks to place all students with disabilities, regardless of the type or severity of their impairment, in age-/grade-appropriate classrooms at neighborhood schools.
- The concept of full inclusion evolved from the regular education initiative, which sought a shared responsibility or partnership between general and special educators, resulting in greater collaboration and cooperation in meeting the needs of pupils with disabilities.

STUDY QUESTIONS

- How have litigation and legislation influenced the field of special education?
- What is the significance of the following cases?
 - Brown v. Board of Education of Topeka, Kansas*
 - Pennsylvania Association for Retarded Children v. Commonwealth of Pennsylvania*
 - Larry P. v. Riles*
 - Board of Education of the Hendrick Hudson Central School District v. Rowley*
 - Daniel R.R. v. State Board of Education*
- Name and describe the six major components and guarantees contained in PL 94–142.
- What was the purpose of the Americans with Disabilities Act? List four areas where this law affects the lives of individuals who are disabled.
- How did PL 108–446 modify PL 105–17?
- Distinguish between interindividual and intraindividual differences.
- How do prereferral interventions benefit the student suspected of requiring a special education?
- How do norm-referenced and criterion-referenced tests differ?
- List the key elements required of a meaningful IEP. Who is responsible for developing this document?
- Compare the provisions and purpose of an IFSP with those of an IEP.
- Define the following terms: *mainstreaming*, *least restrictive environment*, and *regular education initiative*. How are these terms related to the mandate of providing services in the LRE?
- Distinguish between a cascade of services delivery model and the philosophy of full inclusion. What do you see as the advantages and disadvantages of full inclusion?

KEY TERMS

interindividual differences, 53	assessment, 56	mainstreaming, 66
intraindividual differences, 53	multidisciplinary team, 56	regular education initiative (REI), 67
prereferral intervention, 54	norm-referenced assessments, 57	full inclusion, 67
referral, 55	criterion-referenced assessments, 57	
child-find, 55	least restrictive environment (LRE), 63	

LEARNING ACTIVITIES

- Interview an administrator of special education programs for your local school district. Find out how court decisions and legislative requirements have affected the delivery of special education services. Here are some suggested topics for discussion:
 - How has special education changed over the past several years as a result of judicial and legislative mandates?
 - What does the school district do to protect the rights of the students, involve parents, ensure due process, and assess in a nondiscriminatory manner?
 - How is the school district meeting the requirement of educating pupils with disabilities in the least restrictive environment?
 - What are the perceived advantages and disadvantages of IDEA at the local level?
- Obtain a copy of your state's special education law. How do the requirements and provisions of the law compare with IDEA?
- Obtain samples of several IEPs and IFSPs from different school districts in your vicinity. In what ways do the forms differ? How are they the same? Do they fulfill the requirements of the law as outlined in your textbook?
- Visit several elementary and high schools in your area. What service delivery options are available for students with disabilities? Are children with different exceptionalities served in similar settings? Ask the teachers what they believe are the advantages and disadvantages of their particular environment.

REFLECTING ON STANDARDS

The following exercises are designed to help you learn to apply the Council for Exceptional Children (CEC) standards to your teaching practice. Each of the reflection exercises that follow correlates with knowledge or a skill within the CEC standards. For the full text of each of the related CEC standards, please refer to the standards integration grid located in Appendix B.

Focus on Professional Learning and Ethical Practice (CEC Initial Preparation Standard 6.2)

Reflect on what you have learned in this chapter about the rights of individuals with disabilities. What measures would

you take in your classroom to make sure that your students were educated in the least restrictive environment possible?

Focus on Learner Development and Individual Learning Differences (CEC Initial Preparation Standard 1.2)

Reflect on what you have learned in this chapter about understanding the uniqueness of each of your students. Pair up with another student and assess his or her intraindividual differences (unique patterns of strengths and needs). If you were to create an individualized education program for this “student,” what unique needs would he or she have?

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