

Legal Aspects of Special Education

► **1974** - The Education of All Handicapped Children (PL 94-142) provided the right for children with disabilities to receive an appropriate public education.

► **2004** - The Individuals with Disabilities Improvement Act (IDEIA) reaffirmed these rights. IDEIA continues to guarantee four basic rights to all children with disabilities. In order to guarantee these rights, the Law also includes two protections:

Student Rights under IDEA

1. **Free Appropriate Public Education (FAPE)** – Children with disabilities (3-21 years) are entitled to a public education, appropriate to their needs, at no cost to their families.
2. **Least Restrictive Environment (LRE)** – Children with disabilities must be educated with students who do not have disabilities as much as possible and as close to the home as possible with appropriate support and services.
3. **Supplementary Aids and Services (Related Services)** – Children with disabilities must be provided the services they need in order to benefit from their educational program. Some examples are: physical therapy, occupational therapy, speech therapy, counseling, classroom aide, sign language interpreter, etc.
4. **Assessment** – An assessment must be completed to determine the needs of the child in all areas related to his or her suspected disabilities. This may be done only with the parent's/guardian's informed consent.

Protections under IDEA

1. **Due Process** – Due process rights ensure that no changes can be made in a child's program without prior notice to the parents/guardians or if the parents/guardians disagree. Further, due process provides a mechanism for the resolution of disagreements.
2. **Individualized Education Program (IEP)** – The IEP must be prepared at least annually for all children with disabilities. It is developed by a team comprised of those people who assessed the child, appropriate school district personnel who are knowledgeable about general curriculum and the availability of resources, general education teacher if appropriate, special education teacher, and the parents/guardians. Other appropriate persons who have an interest in the child's education may also attend by district or parent/guardian invitation.
3. **Part C of IDEA (Amended in 1997 as PL 105-17)** Part C authorizes assistance to address the needs of infants and toddlers with disabilities and their families. These grants support coordination across agencies and disciplines to ensure that comprehensive, multidisciplinary, and family-focused early intervention services are available on a statewide basis. These services are designed for children below the age of 3 who meet the state's eligibility criteria for "developmental delay," and their families.

On October 7, 1991, Part C was amended as PL 102-119 to promote a coordinated system of early intervention services for children with disabilities and their families. Also, Section 619 of Part B was amended to provide services to children 3-5 years. Changes included:

4. The transition process at age 2.9 years
5. Provisions for using Part C and Part B Funds (Section 619)
6. Usage of Individual Family Service Plans (IFSPs) in preschool settings

Other Legal Protections for Students:

Section 504 of the Rehabilitation Act (PL 93-112) Section 504 guarantees that people with disabilities may not be discriminated against because of their disability. While IDEA protects children in the area of education, Section 504 protects those with disabilities for life and encompasses the right to vote, accessibility, and employment, in addition to education.

Americans with Disabilities Act (ADA) of 1990 The ADA guarantees equal opportunity for individuals with disabilities in employment, public accommodations, transportation, state and local government services, and telecommunications. **Corresponding state laws regarding special education can be found in the California Education Code, Part 30, California Code of Regulations – Title 5. Under California law, as required by IDEA (Part B), children with disabilities are eligible for education from ages 3-21.**