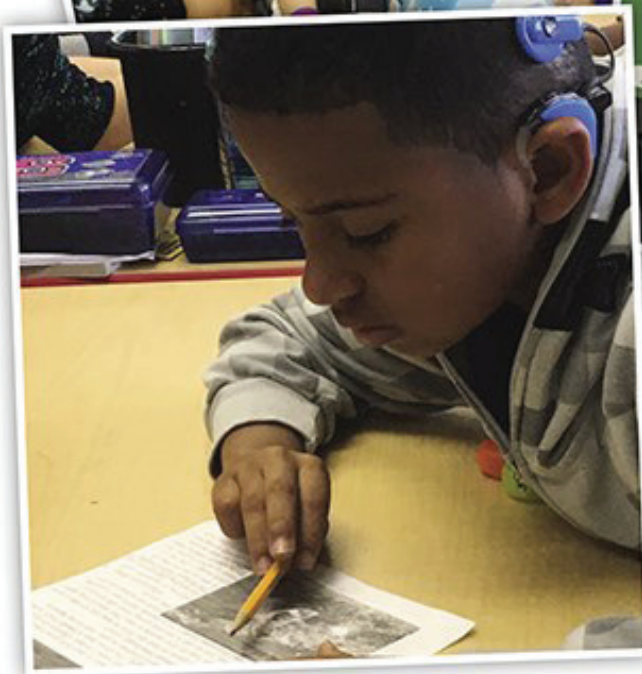# EXCEPTIONAL LIVES

## Practice, Progress, & Dignity in Today's Schools

### NINTH EDITION



Ann Turnbull | Rud Turnbull

Michael L. Wehmeyer | Karrie A. Shogren

# Exceptional Lives

## Practice, Progress, & Dignity in Today's Schools

**Ann Turnbull**
*University of Kansas, Beach Center on Disability*

**Rud Turnbull**
*University of Kansas, Beach Center on Disability*

**Michael L. Wehmeyer**
*University of Kansas, Beach Center on Disability*

**Karrie A. Shogren**
*University of Kansas, Beach Center on Disability*

**Pearson**

# Dedications

Ann and Rud Turnbull dedicate this book to their best professor, their son Jay ("J.T.") He was born in 1967 with intellectual disability; by the time he became an adult, he had acquired two more disabilities—autism and serious emotional behavior. Yet, when he died in 2009, he had attained a quality of life and a dignity in his community in Lawrence, Kansas, that few educators had ever thought possible. Those five people (named below) who believed Jay could have the life he and we wanted, and who supported him to have it, are the exception to the "few educators"; they are the exceptional people in Jay's life.

- Dick Schiefelbusch, founder, Schiefelbusch Life Span Institute, University of Kansas
- Steve and Carolyn Schroeder, friends and colleagues, University of North Carolina at Chapel Hill and University of Kansas
- Ed Zamarripa, friend and colleague, University of Kansas
- Mary Morningstar, Jay's teacher and, later, colleague, University of Kansas

Michael Wehmeyer dedicates this book to J.T., who taught him to celebrate each day, and also to his family—Kathy, Geoff, and Graham––who make each day worth celebrating.

Karrie Shogren dedicates this book to J.T. and the lessons he taught her about friendship and to all the advocates who strive every day to make the world a more inclusive place for all.

Jane Wegner and Russell Johnston dedicate their chapter to all the individuals with communication challenges from whom we have learned so much.

Heather Grantham dedicates her chapter to the graduate students in deaf education at Washington University in St. Louis. Heather says, "They humble me every day with their passion and commitment to children who are deaf or hard of hearing. Thanks to them, I have the best job in the world."

Sandy Lewis dedicates her chapter to the students with visual impairments and their families who were my best teachers; the lessons you taught have brought authenticity to what I've taught to the university students with whom I have worked for more than a quarter of a century.

# Brief Contents

# Contents

## 10 Students with Attention-Deficit Hyperactivity Disorder 267

## 11 Students with Intellectual Disability 284

## 12 Students with Autism 306

## 13 Students with Multiple Disabilities and Traumatic Brain Injury 330

# Special Features

## My Voice

## Into Practice Across Grade Levels

## Inclusion Tips

## Guidelines for Teaching

## Nondiscriminatory Evaluation Process

# Preface

Welcome to *Exceptional Lives: Practice, Progress, & Dignity in Today's Schools*. This is NOT a typical book introducing you to special education. Not at all. Yes, it explains who the students and professionals in special education are; yes, it describes the research-based practices you should use; and yes, it teaches by letting you meet students, teachers, and families who are like those you will meet wherever you teach.

## Two Unique Features

But this edition is unique for two reasons among other books introducing you to special education. First, it rests on an ethical principle and, second, it incorporates seven principles that are the foundations for effective teaching and learning.

### The Ethical Principle of Dignity

What distinguishes our book from all other similar books is that we believe, and we teach, that providing specially designed, research-based instruction in inclusive classrooms dignifies students with disabilities and those with exceptional talents and gifts.

Dignity has two aspects. First, it is the value inherent in every person, without regard to the nature or extent of the person's disability. It affirms that, though having a disability, the person is not less worthy. Second, dignity is what you confer by how you teach a student with a disability or extraordinary talent.

When you practice as we teach you to practice, you not only respect the student's inherent dignity, you also enlarge it. Think about your work this way: You carry out two functions. You teach—you are in the education enterprise. And, by teaching, you treat your students and their families with dignity.

### Seven Principles of Special Education: The Foundations of the Profession

You will read about dignity in each chapter. There are, however, principles that are the foundations of *special education.* They are

- *respect for your students' diversity and their rights to cultural justice,*
- *education that enables students to make progress,*
- *research-based practices,*
- *inclusion,*
- *self-determination,*
- *partnership with families,* and
- *high expectations.*

So, there are two unique features of this edition. They are the ethical principle of dignity and the seven foundational principles of special education. There's more.

## New Features—Ensuring Progress in School

It is timely that this edition aligns with a recent Supreme Court (2017) decision that says special educators must offer their students an education that enables them to make progress in school. When the Court interpreted the federal law of special education, it held that each student's right to an appropriate education is more than a right to an individualized education, preferably in the general curriculum (the curriculum for typically developing students). The Court interpreted "appropriate" education to mean an education that enables your students to make progress in school, year after year. Their education must be appropriately ambitious for them and offer them challenging objectives.

To honor this decision, we have made big changes to this text. They include:

- **A NEW Focus on Educational Progress**. In Chapter 1, we introduce you to Endrew, the young man whose right to an education that ensures his "progress" is the standard for all students receiving special education. Read about the Supreme Court decision and then, in Chapter 4, how that decision affects special education teaching and learning in new and exciting ways.

- **A NEW Chapter on Progress**. In Chapter 4, we describe the procedures for evaluating, offering an appropriate education to, including in the general curriculum, and monitoring student progress in the general curriculum. We describe how those procedures sometimes are the same as but sometimes differ from the procedures educators followed before the Supreme Court decision.

- **A NEW Chapter on School-Wide Supports**. In Chapter 5, we describe powerful school-wide programs that support all teachers in a school to use data-based decision making and teaming, reaching out to every student—not just students with disabilities—to provide the scaffolding required for educational progress and self-determination. This chapter teaches you about the most common and most research-based tiered systems—systems that individualize for all students. There are three of these systems: school-wide positive behavior

intervention and supports (SW-PBIS), response to intervention (RTI), and comprehensive, integrated three-tiered systems (Ci3T). Each is useful for implementing school-wide systems and promoting positive academic, social and emotional behavior.

- **A NEW Chapter on Cross-cutting Instructional Approaches**. New Chapter 6 focuses on designing learning environments that promote students' progress. The chapter begins with a discussion on research-based, high-leverage practices that benefit all students—that is, practices that enable inclusion. More than that, this chapter and the ones that follow guide you on how to individualize instruction, services, and assessment to respond to disability-related characteristics. Here, you will learn about the principles of universal design and how to create curriculum that is sufficiently flexible for all students. Alternatively stated, you will learn how to make learning more accessible for all students, reducing the barriers to general education classrooms and curriculum for those with disabilities. Specifically, you will learn about co-teaching arrangements, differentiated instruction, peer mediation, explicit instruction, and embedded instruction. These are the ways and means of universal design. What you learn here will stand you in good stead no matter who your students are. The instructional approaches—all in line with universal design—illustrate the wealth of research-based practices in special education and the promotion of inclusive classrooms.

- **A NEW Chapter on Diversity and Cultural Justice**. New to this edition is in-depth teaching on how you can respond to America's increasingly diverse student populations. Chapter 2 describes the progress of the civil rights movement in education, summarizes research findings about cultural bias related to disability and race, and teaches you about how disability intersects challenges of students from diverse populations. Here, you will learn about bias in classifying students into special education. You will learn how bias and misclassification relates—almost always negatively—to inclusion, bullying, restraint and seclusion, suspension and expulsion, and participation in the juvenile justice system. You will learn how to counteract these negative effects when you read about theories and practices of cultural justice and fairness, especially strategies for teaching restorative practices and being a culturally responsive teacher.

- **NEW Pedagogical Features**. Each chapter now includes two new features to help you apply what you are learning. *Guidelines for Teaching* features provide sequential steps for executing research-based practices, procedures, or processes. *Into Practice Across the Grade Levels* features describe the components of an intervention that are particularly appropriate for some students,

even as it describes cross-cutting strategies appropriate for all students. In addition, *Into Practice* features offer multiple, grade-level examples of applied practice.

## Three Truths About Special Education—Guidelines for You

It is bold of us to say this, but fortune favors the bold: There are three truths about special education. They are truths because they cannot be disputed successfully. They express

what we have learned in our years as teachers and professors, researchers and family members. They also are the guidelines that we hope you will follow when you, your colleagues, and your students and their families undertake the new world—the world of "progress through research-based practice."

## People First: Valued Lives and Dignifying Education

Dignity is all about valuing the lives and experiences of people. We value the lives of students with disabilities and see them as individuals first, individuals who laugh and cry, struggle and triumph like everyone else. Some of their struggles are monumental, and some of their triumphs are small; but, if you do your job as we are teaching you to do it, then each student can begin each day with new hope for making progress and achieving goals for greater independence. So can their families. And so can you and your colleagues.

Does this all seem too optimistic, too "frothy" and "light" and "syrupy"? It's not.

As you read earlier in this Preface, the Supreme Court declared that your students have a right to make progress in school. That means you must be appropriately ambitious for them, offer them challenging objectives and have high expectations for them. Your students and their families need to know that you know your business. They will know that if they know you use research-based practices. Those are the practices that also will provide them with hope and confidence for the future. When they have confidence and make progress, you and they will be justified in celebrating their success. So, put aside "frothy" and "light" and "syrupy"—they have no place next to research-based, inclusive practices to promote progress.

Also, bear in mind that your students are likely to make more progress when their families and you have trusting partnerships and collaborate to build on students' strengths, interests, and goals. Earn that trust. The relevance of a student's progress and a family's trust cannot be overstated.

Two features highlight the lives of students with disabilities, their families and their educators.

**VIGNETTES.** At or near the beginning of every chapter you will find a vignette—a short but true description of people in special education. For example, Chapter 1 features the student who was the center of the Supreme Court decision we described earlier; and Chapter 4 features a student in a school where inclusion occurs universally. The vignettes convey an important message. Special education is a lively enterprise. It is not an abstract enterprise. It is full of life. It involves real people.

So we begin each chapter by introducing you to a student, family, and teachers. We tell you about them, how they work together, and how their lives and work interact. We thread that story into the chapter so you can see how research-based practices affect and improve the lives of real people.

**VIDEOS.** We do more than that. We rely on videos that we commissioned especially for this book. You will come to know students and educators at CHIME, a Los Angeles elementary and middle school. CHIME's classrooms are filled with students of varying abilities and the professional aides and educators who illustrate inclusive teaching practices. Likewise, you will be introduced through videos to wonderful students, families, and educators featured by Dan Habib in award-winning documentaries. You will meet Kelsey, Samuel, Thaysa, and others whose lives have been changed through teaching practices that make a difference.

## Inclusive Practices: Equal Educational Opportunities for All

Special education is not separate from general education. No, indeed. It is part of general education. Approximately two thirds of students with disabilities spend 80% of their time in general education classes with the benefit of supplementary aides and services. So, whether you will be a general or a special education teacher, you will need to know about:

- The law governing special education—its requirement that your students' education must give them the opportunity to make progress.
- The differences among your students—differences that require you to use culturally appropriate responsiveness.
- Equal opportunity—the right to equality and equity in education, the chance to have the kind of opportunities that people without disabilities have, both in school and then after they leave school.
- Full inclusion—the right to participate fully in schools and communities, the right to be included, and the right not to be segregated.
- School-wide and classroom-based practices that benefit all students and that occur in typical, ordinary schools and settings.

A revised chapter about procedures to ensure progress (Chapter 4) and new chapters on school-wide systems of supports and cross-cutting instructional strategies (Chapters 5 and 6) teach you how to plan for and practice inclusion for all students. You will learn how to carry out this planning and practice in partnership with families (Chapter 3). Each chapter thereafter then identifies a specific disability or disabilities—the "categorical" chapters. Each describes the disability's characteristics and causes, the specific and appropriate assessments and procedures to qualify students for specially designed instruction, and the individualized supports and services the students should receive. Each offers detailed, state-of-the-art, research-based strategies to illustrate how to educate students with varying abilities and students who are gifted and talented. Each has two special kinds of pedagogical features: *Nondiscriminatory Evaluation Process* and *Inclusion Tips*.

## Nondiscriminatory Evaluation Process
### Discrepancy Model

To determine the presence of a learning disability, use the following process.

| | |
|---|---|
| Observation | **Teacher and parents observe:** Student appears frustrated with academic tasks and may have stopped trying. |
| Screening | **Assessment measures:** **Classroom work products:** Work is inconsistent or generally poor. Teacher feels student is capable of doing better. **Group intelligence tests:** Usually the tests indicate average or above-average intelligence. However, tests may not reveal true ability because of reading requirements. **Vision and hearing screening:** Results do not explain academic difficulties. |
| Prereferral | **Teacher implements suggestions from school-based team:** The student still experiences frustration and/or academic difficulty despite interventions. Ineffective instruction is eliminated as the cause for academic difficulty. |
| Referral | **Multidisciplinary team submits referral.** |
| Nondiscriminatory evaluation procedures and standards | **Assessment measures:** **Individualized intelligence test:** Student has average or above-average intelligence, so intellectual disability is ruled out. Student may also have peaks and valleys in subtests. The multidisciplinary team makes sure the test is culturally fair. **Individualized achievement test:** A significant discrepancy (difference) exists between what the student is capable of learning (as measured by the intelligence test) and what the student has actually learned (as measured by the achievement test). The difference exists in one or more of the following areas: listening, thinking, reading, written language, mathematics. The team makes sure the test is culturally fair. **Curriculum-based assessment:** The student is experiencing difficulty in one or more areas of the curriculum used by the local school district. **Behavior rating scale:** The student's learning problems cannot be explained by the presence of emotional or behavioral problems. **Anecdotal records:** The student's academic problems are not of short duration but have been apparent throughout time in school. **Direct observation:** The student is experiencing difficulty and/or frustration in the classroom. **Ecological assessment:** The student's environment does not cause the learning difficulty. **Portfolio assessment:** The student's work is inconsistent and/or poor in specific subjects. |
| Determination | The nondiscriminatory multidisciplinary evaluation team determines that the student has a learning disability and needs special education and related services. |

## Inclusion Tips for Students with ADHD

| | Behavior | Social Interactions | Educational Performance | Classroom Attitudes |
|---|---|---|---|---|
| **You Might See** | The student is inattentive, withdrawn, forgetful, a day-dreamer, and/or lethargic. | The student is constantly late in arriving at school and rarely turns in an assignment when it is due; the student has little conception for time. | The student's work is incomplete and full of errors. | The student's motivation is lacking. The student often lays head on the desk and falls asleep after lunch. |
| **What You Might Be Tempted to Do** | Overlook the student. | Have the student miss recess in order to catch up on class-work and previous homework. | Assign failing grades to the student. | Send frequent notes to parents about your disappointment in their child's lack of motivation. |
| **Alternate Teacher Response** | Provide Tier 2 and 3 interventions with the student to strengthen academic performance and motivation. | Set up a meeting with the student and parents to develop a time management plan; implement the same accommodations at school and home. | Break the student's larger assignment into smaller parts. Ensure the student understands instructions and adjust the length of the assignment to what is reasonable to complete in a specified time period. | Check out whether sleepiness could be tied to medication side effects by completing a rating scale and talking to the student's parents about the results. |
| **Ways to Include Peers in the Process** | Model acceptance and appreciation for the student. Then peers are more likely to do the same. | For projects, pair the student with another student who is conscientious about completing assignments on time. | Seat the student next to other students who are conscientious workers and who provide no distractions. | Be sensitive to any teasing or bullying that might occur from other students about afternoon naps and intervene immediately to curb it. |

# Educational Progress: Research-Based Approaches Toward Long-Term Outcomes

The title of this new edition clues you to one of its greatly strengthened features. The feature is the research-based practices that ensure your students' *progress*. As we noted above, each categorical chapter (Chapters 7 through 17) describes the most recent research-based practices even as they cite, to a limited degree, the pioneering research. The two pedagogical features in each chapter—*Guidelines for Teaching* and *Into Practice Across the Grade Levels*—teach you how to use research-based strategies toward educational and personal progress.

## Guidelines for Teaching

### Implementing Peer-mediated Supports

**Craft a peer support plan with the educational team:**

- Identify opportunities to promote academic, social, and behavioral skills using peer-mediated supports
- Determine what instructional times and activities are appropriate for a peer-mediated support intervention
- Plan what IEP activities and goals can be incorporated into peer-mediated supports for individual students
- Discuss how to recruit peers: volunteer, nomination by teachers, and/or random assignment
- Set goals (jointly with participating students) related to the peer-mediated supports
- Develop data collection methods
- Define roles that teachers, paraprofessionals, family members, and other members of the IEP team can play in facilitating the peer support arrangements
- Plan for ways to create meaningful roles for students with and without exceptionalities in the arrangement (e.g., how can each student serve as the tutor and tutee; what contributions will students with exceptionalities make in peer partner programs?)
- Consider the supports needed by students with exceptionalities to participate
- Consider ways to build in-school and out-of-school relationships and supports in collaboration with families.

**Train the educational team:**

- Explain the purpose and a rationale for the peer support arrangements
- Describe supporting roles that educators, paraprofessionals, and related service professionals play for peers and students with exceptionalities
- Involve the family in learning about peer support arrangements
- Share peer support plans and explain specific examples for social and academic supports that members of team can facilitate

- Show how to collect data on student progress on outcomes included with the peer support plan
- Plan for regular meetings for problem solving and discussion on progress.

**Recruit and train peers:**

- Identify peers
- Provide initial training to peers to discuss roles, provide education on various exceptionalities, discuss specific strategies identified in the peer support plan, and adult support that will be available. If paraprofessionals are present in a classroom or during an activity in which a peer support arrangement takes place, include paraprofessionals during the initial meeting as well to clarify their role.
- Provide ongoing support: to update progress, success stories, and concerns. The type and intensity of support and guidance educators provide will depend on the characteristics of the student, the confidence and capabilities of peers, and the context of the class.

**Implement the peer-mediated support intervention:**

- Create the opportunities for the peer support arrangement to occur during planned activities and instructional times
- Collect data on the impact on students' targeted outcomes
- Share information with members of the team
- Adjust and modify as needed based on data and feedback from students and the team.

**SOURCE:** Adapted from Biggs, E. E., & Carter, E. W. (2017). Supporting the social lives of students with intellectual disability. In M. L. Wehmeyer & K. A. Shogren (Eds.), *Handbook of research-based practices for educating students with intellectual disability* (pp. 255–273). New York, NY: Routledge; Carter, E. W., Cushing, L. S., Clark, N. M., & Kennedy, C. H. (2005). Effects of peer support interventions on students' access to the general curriculum and social interactions. *Research and Practice for Persons with Severe Disabilities, 30,* 15–25.

Even as you learn those strategies, you will learn how they advance your students' self-determination. Your students will learn to set and pursue their own goals if they have the benefit of instruction in self-determination—knowing how to choose and what to do once they have chosen a course of action. Self-determination dignifies your students.

Together with the research-based practices and inclusion for progress, self-determination ensures that your students will be better able to achieve the nation's four disability outcomes. These are equal opportunity, full participation, independent living, and economic self-sufficiency. Every instructional strategy you use is a means for your students to achieve those outcomes. This edition of *Exceptional Lives* is unique in emphasizing that long-term outcomes, and with them the dignity that your students will have, are the ultimate goals of special education. Take a look at the two features below; you'll see what we mean.

## Into Practice Across Grade Levels

### Teaching Mindfulness

**Physical literacy lesson.** Students in the **4th grade** learn to breathe like animals. They breathe like dolphins by inhaling as they curve their arms and jump like a dolphin and then exhale when they bring their arms down. They try a crocodile breath by inhaling when they open their arms to mimic a crocodile's jaw and then exhale when they clap their arms together. Students can make up their own breathing patterns for their favorite animals, then write a story about their favorite animals and how they breathe.

**Mental literacy lesson.** In **kindergarten**, use different musical instruments to teach students to actively listen. Ask students to mindfully listen to the sound of the instrument for as long as any sound lasts and then to raise their hand at the instant when they no longer can hear the music. As students are able to focus their listening, use longer and longer musical selections to encourage students to extend their listening for a greater period of time.

**Emotional literacy lesson.** **7th graders** practice using their breathing to handle difficult emotions. Have students, one at a time, imagine the following scenarios: being teased by a classmate for a bad grade, having a pop-test in class without having done the assignment, and being reprimanded by the principal and told that they may not attend an overnight field trip because of disruptive behavior. The students are guided to pay attention to where they feel stress in their bodies and to use mindful breathing to release the tension and become relaxed. Then the students imagine the opposite situation. Again, they note carefully their body sensations and the emotions that they experience. The lesson ends when students write in their journal about how emotions feel inside their bodies.

**Social literacy lesson.** **11th graders** with externalizing behavioral disorders meet in a small group with a counselor on a weekly basis. In one session, the counselor invites the students to think of a situation when someone was really nice to them and that made them feel happy. Each student has an opportunity to share that experience with others in the group. They ask each other questions in terms of what emotions they felt; they come up with a number of 1 to 10 in terms of the strength of the emotion. Then the students are encouraged to think of someone whom they think would benefit from having nice things directed to them. They should identify things they could say and do that would bring similar emotions in terms of type and intensity that they had experienced in their own nice interaction. Afterward, all students in the group share what they could do. The counselor encourages the students to try out the nice interaction during the next week.

**Global literacy lesson.** Students in the **9th grade** focus their meditation on elements of the natural world. Ask students to sit in a relaxed position and do breathing for several minutes. Then ask them to imagine the image of a tall pine tree that is strong and towering. With each breath, they should feel the strength and sturdiness of the tree. Then ask them to imagine sitting outside around a fire while feeling the warmth of the fire and the chill of the wind. Finally, they should imagine floating in outer space, enveloped by galaxies. For each of these guided meditations, they should put themselves in nature and experience increasing levels of relaxation.

**SOURCE:** Adapted from Rechtschaffen, D. (2016). *The mindful education workbook: Lessons for teaching mindfulness to students.* New York, NY: W. W. Norton & Co.

## Prologue and Epilogue

This preface is a prologue—words in advance of the main text. It says "hello, here's a preview of your trip with us." A prologue demands an epilogue. It says, "Here's where we have been." Our epilogue features a young woman who struggles with an emotional behavior disorder, a disorder that likely would have kept her from graduating without dedicated educators who did not give up on her. It also features a man with an intellectual disability who now works with faculty at Syracuse University to instruct students such as yourselves. And, it features a young man who grows up before your eyes in this text. Even though he is limited by his various physical disabilities, he has enjoyed the advocacy, support, and inclusive education provided by his family, his educators, and administrators who believed in his worth as a human being and in his abilities to make as much educational progress as his peers.

These vignettes in the Epilogue should confirm what we have been teaching and you have been learning all along: The outcomes of special education are indeed special.

Come with us; be part of a special enterprise that can ensure remarkable results.

## Supplementary Materials

This edition of *Exceptional Lives* provides a comprehensive and integrated collection of supplements to assist students and professors in maximizing learning and instruction. The following resources are available for instructors to download from www.pearsonhighered.com/educator. Enter the author, title of the text, or the ISBN number, then select this text, and click on the "Resources" tab. Download the supplement you need. If you require assistance in downloading any resources, contact your Pearson representative.

**INSTRUCTOR'S RESOURCE MANUAL**   The Instructor's Resource Manual includes chapter overviews and outcomes, lists of available PowerPoint® slides, presentation outlines, teaching suggestions for each chapter, and questions for discussion and analysis along with feedback.

**POWERPOINT® SLIDES**   The PowerPoint® slides highlight key concepts and summarize text content. The slides also include questions and problems designed to stimulate discussion, encourage students to elaborate and deepen their understanding of the topics in each chapter, and apply the content of the chapter to both the real world of teaching and their daily lives. The slides are further designed to help instructors structure the content of each chapter to make it as meaningful as possible for students.

**TEST BANK**   The Test Bank provides a comprehensive and flexible assessment package. The Test Bank for this edition has been revised and expanded to make it more applicable to students. To provide complete coverage of the content in each chapter, all multiple-choice and essay items are grouped under the chapters' main headings and are balanced between knowledge/recall items and those that require analysis and application.

# Acknowledgments

# The Purposes, People, and Law of Special Education

---

## ⌄ Learning Outcomes

---

**1.1** Describe IDEA's four goals of disability policy and the seven core elements of special education; identify the two largest categories of disabilities.

**1.2** Define special education, supplementary aids and services, related services, and IDEA's six principles and two requirements of each principle.

**1.3** Identify and summarize the basic rules of five other federal laws and describe the principle of dignity, relating it to the *Endrew F*. case.

Welcome to special education! Welcome to the lives of students with disabilities and the lives of students with remarkable gifts and talents, to their families and educators, to our book, and to the essence of your career in special education.

## Goals and Core Elements of Special Education

What exactly is special education? Let's begin with the basics. It is a civil right. A student with a disability who is of school age has the same right to an education as a student who does not have a disability.

Now, let's expand on that basic message. Special education is more than a right. It is specially designed instruction and supports for students with disabilities. Its purpose is to enable them to make progress in school so that they will achieve valued goals and outcomes—goals and outcomes they can attain and enjoy in the same places as students and adults who do not have disabilities. Just what are those goals?

### Four Goals of Our Nation's Disability Policy

The federal special education law, **Individuals with Disabilities Education Act (IDEA)**, declares that the nation's goals for students with disabilities are *equal opportunity*, *full participation*, *independent living*, and *economic self-sufficiency* (see Figure 1.1). Here's what these goals mean for each student receiving special education:

- Equal opportunity refers to an equal chance to benefit from and make progress in school.
- Full participation means being in the general curriculum and participating in it.

**Figure 1.1** Four National Disability Policy Goals
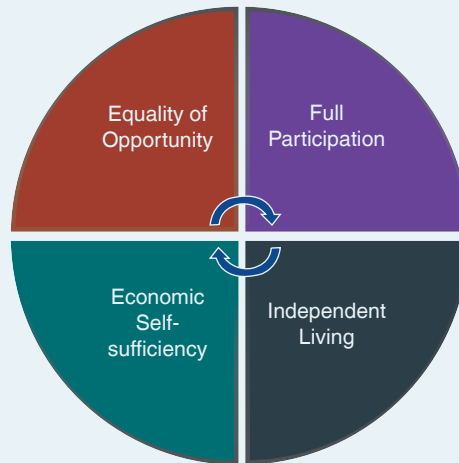


- Independent living refers to having a say about your education and choosing how to live (with whom, where, how).
- Economic self-sufficiency means being able to use your education to get a job, keep it, advance in it, and prove your worth as a productive and contributing person.

A "goal" is "the end toward which effort is directed" (Mish, 1990). So, the nation's policy goals are statements of what you and your colleagues should do, namely, to educate each student in such a way, and with such intensity, that it is likely all of your students will achieve each of these goals, in full or in part, on their own or with support. What you do and how you do it are the core elements of special education. They also are the ultimate lessons of our book.

## Seven Core Elements of Special Education

Remember what we said at the very beginning of this chapter: Special education is a civil right. Special education is also, and equally important, a means for teaching so that the right will be realized, not idealized, so that it will be a reality, not a dream, for your students. How can a student expect to participate in that civil right and have equal opportunity, full participation, independent living, and economic self-sufficiency? Seven core elements—elements that you as a teacher will use—work together to meet the goals of special education. They are the following:

- High expectations
- Diversity and cultural justice
- Progress
- Research-based practices
- Inclusion
- Self-determination
- Partnerships with families, based on trust.

The first two elements, high expectations and diversity, relate to hopes and aspirations for all students with disabilities, especially those from unserved or underserved populations. The next five—progress, research-based practices, inclusion, self-determination, and partnerships with families—are the means for achieving the nation's four disability goals; they are the ways, the strategies, you and your colleagues will use. Each element deserves a fuller explanation.

**HIGH EXPECTATIONS**    How, you might ask, can the goals be achieved if no teacher expects any student to be able to reach them? Low expectations express pessimism. High expectations entail a deep emotional commitment to being the best teacher you can be so your students will be the best they can be in reaching the four goals.

High expectations express hope and confidence that you and your colleagues will do your jobs effectively and that your students and their parents will aspire to become competent, despite a disability, to reach the goals. High expectations should always be your aspiration, a reminder never to give up, never to lose hope, never to abandon your high expectations for low ones. Don't shortchange the parents and students who have high expectations. Those expectations are the foundation on which you can, and should, build. Are you curious about why high expectations matter? If so, read *My Voice: Stel Achieves His Great Expectations*, which details the experiences of Stelios Gragoudas as a student with cerebral palsy in the Boston schools in the 1980s and 1990s and thereafter.

## My Voice

### Stel Achieves His Great Expectations

Education has always been an important part of my life. My parents always stressed the importance of having the best education you possibly could obtain. It wasn't only learning that excited me; it was also being with other students, playing kickball, and making friends that enriched my educational experience.

I began my school career at the same time that P.L. 94–142 (better known today as IDEA) was passed. Therefore, educating students with disabilities was a new experience for my school district. The faculty did not know how to include students with disabilities into a program for students without disabilities. My teachers did the best they could by including me in all the instances they thought were appropriate. For the subjects that I needed extra help in, I went to a resource room where I could receive the extra assistance I needed. Thinking back, I liked that system. Even though I was out of my homeroom for a couple of hours a week, I still felt as if that room was my base. It was where all my friends were and where I could do exactly what all the other students were doing.

All that changed when I went to middle school and high school. It was as if my education took a 360-degree turn. When a student moves up to middle school, academics are the focal point of the educational experience. Therefore, my educational team had to answer a very important question: Could I keep up with the academic program that was offered at the middle school? My teachers were not too optimistic. They believed that even though I had fared well in elementary school, middle school was going to be too challenging for me. My parents, however, insisted that I be included in the general curriculum as much as possible. So my IEP called for me to be placed in the general curriculum for some of my subjects and in a resource room for the others.

This program was similar to my elementary school experience, with one great distinction. In middle school, my base was not the place where I felt included. It was the place where I felt excluded. That base was my resource room, where I was excluded from most of the students who were in my academic classes. This did not allow me to form the kinds of friendships that I did in elementary school. I do not have many fond memories of that period of my educational career.

High school was a similar situation. Even though I had good grades in all of my academic classes, my teachers still recommended that academics should not be the focal point of my education and that I should focus on vocational goals. My parents did not agree with this plan. They always believed that I should be pushed to my limit.

The school agreed with hesitation and opted to place me in a collaborative program within the high school. I would be able to participate in the high school classes, and the collaborative program would provide me with a tutor and other supports that I needed to succeed in high school. As I look back, the program was not all that bad. It provided me with additional services that I needed to succeed in my high school, such as speech therapy and adapted gym.

However, the same thing that had happened in middle school was happening all over again. Instead of feeling like a student at my high school, I felt like a guest. Even though I had my classes with students in the high school, when class was over, they would go in one direction and I would go back to the collaborative program. Even though I was free to eat lunch with them, I chose not to because I felt like an outsider who was only a guest in the high school and I felt at home eating lunch with my fellow classmates in the collaborative program.

I always knew that I wanted to go to college. It was what everyone else in my class was thinking about, so I caught the bug as well. Once again, however, I met opposition from my special education teachers. The teachers from my high school classes were more supportive because they knew the work I had done in their classes and felt that I was ready for college-level academics.

The process of applying to school was very exciting. The experience of going to visit schools, meeting students with

disabilities who were already in college, writing essays, and finding out how colleges supported people with disabilities was extremely informative.

It also provided me with a new idea of what it meant to be independent. To that point, independence to me meant going to the mall by myself or going on a trip with my friend instead of my family. In college, independence meant making sure I had all of the supports that I needed to live independently or talking with professors about accommodations that I needed in class. College gave me two things. It gave me the academic background that I needed to begin the career that I am still in today. Equally

important, it gave me the skills I needed to live independently and to direct my own future.

I have earned my Ph.D. and am working in higher education in Massachusetts. Sometimes I think it would be amusing to go back to my high school and show some of my old teachers what I have accomplished since I started postsecondary education, but then I think it would be a better idea to focus my attention on improving special education and education as a whole so that every student with a disability can receive the most appropriate education alongside classmates without disabilities.

—Reprinted with permission from Stelios Gragoudas

**DIVERSITY AND CULTURAL JUSTICE**   When you start teaching, you will learn that your students differ from each other. They will differ in abilities and disabilities and, by reason, race, ethnicity, language, and social and economic status. Those are "cultural" differences. And they are the reasons why you will be involved in one civil rights movement—the disability rights movement—and in yet another, the rights movement based on cultural justice.

Indeed, you will learn in Chapter 2 that IDEA arose out of the discrimination that kept students with disabilities out of school or found them to have disabilities or certain kinds of disabilities when they did not. Don't think for a moment that cultural justice is a matter of the past. It is not. As we make clear in Chapter 2, students from diverse backgrounds continue to be those who experience the most discrimination.

What does all that mean? It means that disability itself is a type of diversity. Many students with disabilities have other characteristics: race, ethnicity, language. Broadly conceived, special education is a civil right because it addresses discrimination based on these characteristics. In your work, you will encounter "double diversity," perhaps triple and quadruple diversity. This pile-up of diversity occurs when disability intersects with other minority traits. That intersectionality means you will be engaged in two multiple civil rights causes—one based on disability and others based on additional traits. It also means you will have to master culturally appropriate methods of teaching.

**PROGRESS**   Students have a right to an appropriate education, one that ensures progress toward the four goals. Why do we emphasize "progress?" We do so because the Supreme Court of the United States said, in 2017, that progress is the essence of an appropriate education. That case involved a young man named Endrew. You will "meet" him soon. His education, and the education of all students receiving special education, must ensure progress. Progress toward what? The Court did not say. But IDEA does: progress toward the four national goals.

**RESEARCH-BASED PRACTICES**   If you want your students to attain the four national goals and to make progress toward them in school, you will need to know and use what works. IDEA is clear about that. It declares that the goals of IDEA "have been impeded by . . . an insufficient focus on applying replicable research on proven methods of teaching and learning for students with disabilities." Today, the words "replicable research" are expressed as "research-based practices."

One of IDEA's messages is that you must make sure that what you do, and when and how and where you do it, is based on the research for how to teach effectively so your students will learn. IDEA gives you another message: You should not rest on what you already know; throughout your career, you should pursue professional development to keep learning about what works.

**INCLUSION**   One of the big four goals of IDEA is "full participation." It should not surprise you that IDEA takes the position that education will be more effective for all students with disabilities when they have specially designed instruction and support that occur in "the general curriculum in the regular classroom."

We are writing and you are learning about rights. So a word or two about language are in order. Lawyers think about "full participation" in terms of integration. Educators like you will use the word "inclusion" to express the right of integration and the goal of full participation.

Let's step back a bit from that last sentence. In it, we reminded you about what we said at the very beginning of this chapter—special education is a civil right. Special education is also, and equally important, a means for teaching so that the right will be realized, not idealized, and so that it will become a reality, not a dream, for your students. How can a student expect to have equal opportunity, full participation, independent living, and economic self-sufficiency without education in the least restrictive, most integrated settings in academic, extracurricular, and other school activities? The short answer is that the student can't. You will find evidence for that statement in each of the chapters beginning in Part III.

**SELF-DETERMINATION**   Self-determination is about enabling students with disabilities to make things happen in their lives, to set and go after their future goals. These goals can relate to their education or other domains of their lives. In pursuing their goals, students take three important actions. First, they act volitionally; their goals are based on their own choices and preferences and are self-directed. Second, they can develop and implement plans, with appropriate support, to achieve their goals. Third, they learn that a link exists between their actions and the outcomes. This learning leads them to believe they can use their self-awareness and self-knowledge to make progress toward their goals.

Specific skills, beliefs, and attitudes enable students to become self-determined. These include making choices, making decisions, solving problems, planning, setting goals, choosing how to attain the goals, managing oneself, advocating for oneself, and being aware of and knowing oneself. Self-determination links to all four of IDEA's policy goals because it enables students to make progress toward each of those goals.

**FAMILIES AS PARTNERS**   Families are the foundation for children and youth. No other entity plays such an important role in a student's life as the family. That's why IDEA declares that one way of making the education of students with disabilities "more effective" is to strengthen parents' roles and responsibilities and to ensure that they have "meaningful opportunities to participate in the education of their children at school and at home." Those "meaningful opportunities" are rights, including the right to participate in many decisions related to a student's education. That participation, that partnership between parents/students and professionals/educators, is based on trust. Yes, trust is key, for parent-professional trust, as you will learn in Chapter 3, is the foundation for progress in education.

## Connecting the Four Goals to the Core Elements

It may seem that the four goals and the core elements are only loosely connected to each other. That simply is not so.

Equal opportunity involves the core elements of progress, research-based practices, inclusion, and self-determination. Each of these elements advances a student's right to equal opportunity in school and in life after school.

Full participation involves the same core elements, especially inclusion.

Independent living also involves the same core elements as equal opportunity, especially self-determination.

Economic self-sufficiency involves all of the core elements, as well, but it anticipates the time when the student will work. The phrase "economic self-sufficiency" expresses

the idea that special education should be so effective that all students will make progress in school so they will be able to work or otherwise contribute to their communities and families. The key in that sentence is the word "progress."

Progress toward equal opportunity, full participation, and inclusion is the promise of special education; it forms the core of the right to special education; and it is the expression of high expectations for the students and for you, their teachers.

## Real Lives and the Dignity of Your Students

We've put a lot of big ideas before you, and you might well think, "How am I going to learn all that?" You will start by learning about the students and professionals with whom you will work. Then you will learn about the law you will follow. In this entire book, you will continue to meet students, families, and educators from whom you will learn.

As you learn from them, you will also learn something you probably do not expect, and that is that special education is not just about teaching and learning. It is much more than that. It is a profession that recognizes students' dignity and then increases it. Yes, you are in the education business. But you also are in the dignity business. Expect to learn about dignity in the last section of this chapter. And then expect to meet those four goals and seven core elements as you read our entire book.

Who will teach you? We will, but so will the students, families, and teachers whom you will meet. The first of these is Endrew.

### Meet Endrew, a Winner in the Supreme Court of the United States

"We Won!"

The year is 2017. Who won what? Endrew won his right to an education. An education that will make all the difference for him and for other students with disabilities. Why does that matter to you? It matters because Endrew's victory profoundly affects what educators like you will do for students with disabilities.



Why, you should ask, does a single student's "win" affect you as an educator? The reason is simple: Ever since 1975, Endrew and all students with disabilities have had a federal right to a free appropriate public education. But for him and many other students with disabilities, his right meant little. Why? It was because many educators had failed to carry out their duty to provide him an appropriate education. Only when educators make a difference to their students is the federal right worthwhile.

So, only when the U.S. Supreme Court interpreted Endrew's right to mean that educators must ensure that he makes progress in school did Endrew's right become real. That's when his parents and lawyer, Jack Robinson, could shout, "We won!"

There was never any question about whether Endrew had a federal right to a free appropriate public education. Never. When he was only 2 years old, he was diagnosed as having autism. Later, he was also diagnosed as having attention-deficit hyperactivity disorder (ADHD). The legal result of both of those conditions is that Endrew had a right under federal law to a free appropriate public education—commonly called FAPE.

But actually having the right and ensuring that it will make a difference in his life was, and still is, much different than having the right as a matter of law. There is a difference between law on the books and law on the streets—between law as written and law as carried out. This chapter is about the role of law in Endrew's life and thereby in the lives of all students with disabilities.

Endrew entered an early intervention program when he was 2 years old, in 2001. He stayed there for 3 years, having rights under federal law to an individualized education program. When he was 6, he entered a kindergarten program and, later, he continued in public school for his 1st- through 4th-grade years. By the time he finished his 4th-grade year, in spring 2010, Endrew's parents
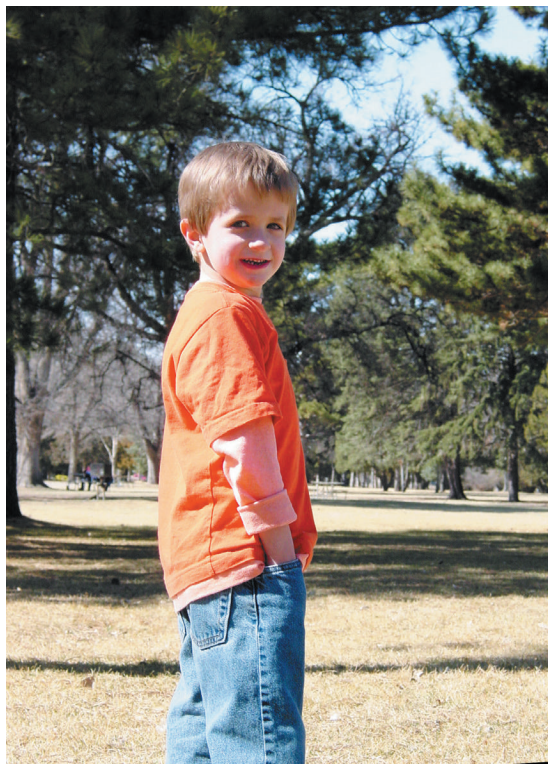
Endrew at age 6.

concluded that his school district had consistently failed to provide him an appropriate education. From fall 2001 through late spring 2010, his academics, speech, and behaviors had changed imperceptibly.

To obtain a meaningful education, Endrew's parents withdrew him from the neighborhood public school and enrolled him in a private school, named Firefly, in Denver, Colorado. He entered the 5th grade in his private school in July 2010 and will remain there until he is 21 years old, when he will "age out" of his rights to a free appropriate public education (FAPE). He has made significant progress there—progress that did not occur throughout his years in public school.

Shortly after enrolling Endrew at Firefly, Endrew's parents exercised their rights against the public school under the federal special education law. They did so by seeking to be reimbursed for the tuition they were paying to the private school. They lost at the first hearing of their case, a hearing before an "administrative judge" in 2012. They lost again when they took their case to a federal trial court in 2014. They appealed and lost again when a federal court of appeal held that a school complies with IDEA if it offers an education that is "merely more than a *de minimis*" education.

Then Endrew's parents took the last step available to them. They appealed to the Supreme Court in a case titled *Endrew F.* They won. So much for *de minimis*, said the Court. Endrew has a right to more than that. How much more? Let's answer that after learning what the lower courts thought he had—only a right to some education, "merely more than *de minimis*."

The term *de minimis* is Latin. It means too trivial or minor to merit consideration; lacking in significance or importance; so minor as to merit disregard. For Endrew himself, a standard of *de minimis* meant that his education was simply so trivial or minor that it consisted of barely any education at all. In his parents' judgment, his education had "stalled."

The Supreme Court agreed. It was clear about its view of the *de minimis* standard: "The IDEA demands more (than a *de minimis* benefit). It requires an educational program reasonably calculated to enable a student to make progress appropriate in light of the student's circumstances."

When the Supreme Court in *Endrew F.* agreed with them that Endrew had a right that ensured his progress, they not only won their case but also changed your role as an educator. This book is about students like Endrew who have a disability, educators such as yourselves, the federal special education law, the meaning of the right to a free appropriate public education, and the Court's essential message that Endrew and all students in special education have a right to an education that ensures progress and thus to an education that signifies they have dignity that no one, especially you as their teacher, can or should try to deny.



Endrew in 4th grade

The name of the case is *Endrew F. v. Douglas County School District RE-1*. We italicize the name of the case and refer to it as "*Endrew F.*" When we write about the student—the Endrew you are meeting now—we do not italicize, and we do not use the initial of his last name.

# Students and Professionals

It's time for you to hold on to IDEA's four goals and seven core elements and put alongside of them what you now will learn about the students and professionals in special education.

## The Students

IDEA has separate provisions for students. Some provisions relate to their age. Some relate to their different types of disabilities.

**THE STUDENTS AND THEIR EDUCATION ACCORDING TO THEIR AGES**   You have met only one student in special education—Endrew. There are thousands upon thousands more students who, like him, have rights under IDEA, the fundamental one being a free appropriate public education that ensures they make progress toward the four national goals.

The phrase "free appropriate public education" (FAPE) contains a lot of hidden meaning. One hidden meaning relates to the students and their ages. IDEA recognizes that, for the purposes of special education, there is a significant difference between very

young children and youth/young adults. That is why IDEA has separate provisions for students' education according to age. It is best to understand the "separate provisions" by learning about IDEA's four parts.

Part A declares our national policy regarding the education of students with disabilities. Part A declares the four major goals and states what has impeded special education and what can make it more effective in advancing toward the four goals. Part D describes how the federal government will support state and local education agencies to carry out IDEA. Parts B and C describe the ages and rights of the students eligible for IDEA services.

Part B benefits students of ages 3 through 21. For many years, IDEA granted the right to an education to only those students of ages 6 through 21. Over time, however, Congress expanded Part B to also educate children who are between the ages of 3 and 6.

Later, Congress added new provisions, now in Part C, that authorize early intervention services for infants and toddlers from birth to 3 who have a developmental delay or who are at risk for a developmental delay, ages zero through 2. Endrew, the "We Won!" student, entered a Part C program when he was 2 years old; he then entered a Part B program when he was 3 years old. He was in the Part B program when his parents began their long struggle to secure his right to a meaningful—not a *de minimis*—education.

Why should the federal government assist states to educate infants and toddlers who have not yet reached school age (typically, 5 years of age for kindergarten)? It is because early intervention and preschool help prevent later delays and disabilities in the student's development. Does the same reason apply to education for older students? Yes, it definitely does. So, IDEA reflects our nation's concerns with prevention, intervention, and education for children and youth from birth through 21.

In the most current report, 354,081 infants and toddlers, ages birth to 3 (3 percent of the resident population), received early intervention services, and 746,765 preschool students, ages 3 through 5 (6.2 percent), received early childhood services (U.S. Department of Education, 2018). Approximately 6 million students ages 6 through 21 (8.9 percent) received some form of special education. The total number of students, youth, and young adults served by special education was approximately 7 million.

### STUDENTS AND THEIR EDUCATION ACCORDING TO DISABILITY CATEGORIES

You now have information about the students' ages and how many students there are. Perhaps you are curious about their disabilities. You should be. You will learn about these students, chapter by chapter, beginning with Chapter 7 and ending with chapter 16. In Chapter 17, you will learn about students with extraordinary gifts and talents. Recall that Endrew has been classified as having autism and ADHD (Chapters 12 and 10, respectively). Figure 1.2 depicts the percentages of students served under each category (U.S. Department of Education, 2017). You should pay particular attention to some aspects of these data.

Not every student who needs supports to learn fits into one or more of the categories. Some students may need simple, basic accommodations, such as a specially assigned seat in class so they will be able to be closer to their teacher and pay better attention. Others will need specially designed instruction and supports to enable them to access and progress in the general education curriculum. So, IDEA adds one other qualifier to the definition: The student's disability must create a need for special education and related services. The law adopts a "functional" definition of disability. The functional approach takes into account how the students function in school. In doing so, it addresses the unique learning needs of students, considering their disability, and what you, a teacher, must do to educate them. Over half of all students with disabilities are classified into two disability categories: specific learning disabilities (35 percent) and speech or language impairments (20 percent).

**Figure 1.2**  Percentage Distribution of Students Ages 3–21 Served Under the Individuals with Disabilities Education Act (IDEA), Part B, by Disability Type: School Year 2015–16

**Disability type**

| Disability type | Percent |
|---|---|
| Specific learning disability | 34 |
| Speech or language impairment | 20 |
| Other health impairment[1] | 14 |
| Autism | 9 |
| Developmental delay | 6 |
| Intellectual disability | 6 |
| Emotional disturbance | 5 |
| Multiple disabilities | 2 |
| Hearing impairment | 1 |
| Orthopedic impairment | 1 |

**Percent**
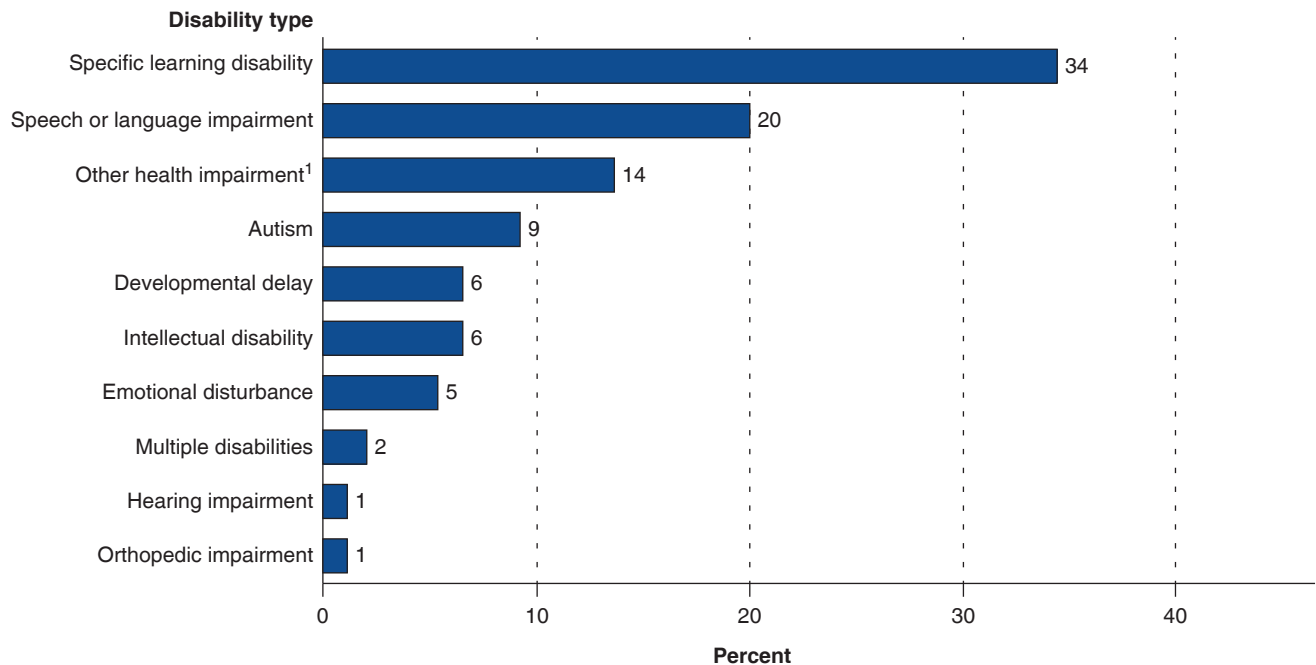
[1]Other health impairments include having limited strength, vitality, or alertness due to chronic or acute health problems such as a heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead poisoning, leukemia, or diabetes.

**NOTE:** Deaf-blindness, traumatic brain injury, and visual impairment are not shown because they each account for less than 0.5 percent of students served under IDEA. Due to categories not shown, detail does not sum to 100 percent. Although rounded numbers are displayed, the figures are based on unrounded estimates.

**SOURCE:** U.S. Department of Education. (2017). *39th Annual Report to Congress on the Implementation of the Individuals with Disabilities Education Act.* Retrieved from: https://www2.ed.gov/about/reports/annual/osep/2017/parts-b-c/39th-arc-for-idea.pdf/. See Digest of Education Statistics 2017, table 204.30.

**GIFTED STUDENTS**   The federal special education law, IDEA, applies only to those students with disabilities whom we have described above. What about gifted and talented students? Aren't they also "exceptional?" Yes, they are indeed. But a separate federal law, the **Jacob K. Javits Gifted and Talented Students Education Act**, provides federal support for gifted and talented students, including a focus on identifying and serving students who over time have been underrepresented in gifted and talented education. The underrepresented group includes students who are diverse in terms of disability and race/ethnicity, as well as those learning English. Gifted education is governed by state law. The National Center for Education Statistics reports that 6.4 percent of public school students are participating in gifted education programs—a total of 3.2 million students (Snyder, de Brey, & Dillow, 2016). Female students slightly outnumber male students.

## Professionals

Now that you know about the students, what about the educators? The teachers include general and special educators. They have earned the right to teach by satisfying state "teacher certification" standards.

In addition, some students receive direct support from paraprofessionals. Paraprofessionals usually do not have teaching certificates. But that does not mean they are insignificant. They assist teachers, usually by working directly and more intensively with one or more students. They thereby enable the teachers to use their abilities and knowledge more effectively. Paraprofessionals serve under teachers' direction and supervision. They may help a student with academic skills; more likely, they assist the student in self-help (for example, cleanliness and behavior). Approximately the same number of special education teachers and paraprofessionals serve students with disabilities throughout the United States.

Zurijeta/Shutterstock

To be a teacher is to be in the center of students' lives—those with and those without disabilities.

You now know that educational roles have a broad range. What you may not know is how rewarding it can be to educate students with exceptional needs.

The most recent data indicate that 339,833 special education teachers were employed to teach students ages 6 through 21 (U.S. Department of Education, 2018). If you are considering a career in special education, your job prospects are good. To understand your opportunities completely, you should know that a study of supply and demand for 62 education fields identified 14 as having a considerable shortage, 9 of which were in areas related to special education (American Association for Employment in Education, 2008). The four areas with the most critical shortages were teachers trained to support students with emotional or behavioral disorders, visual impairments, and severe disabilities, as well as those who specialize in early childhood. The regions of the country with the most severe shortages were the Northwest and the Southeast. It is encouraging that the number of new teachers hired in public schools is projected to increase by 28 percent from 2010 to 2021 (Hussar & Bailey, 2013). This 28 percent increase refers to general and special education teachers; separate data were not provided for special education teachers alone.

# The Law of Special Education: Individuals with Disabilities Education Act (IDEA)

We have already emphasized that special education is a right. It's your duty as an educator to make that right a "real right"—the kind of right Endrew did not have until his parents sued to enforce it. The question you may ask is this: Why is it a right? The answer lies in a shameful part of our nation's recent history. During the early and middle decades of the 20th century, schools generally discriminated against students

IDEA's purpose is to ensure that every student with a disability, such as the young boy here, benefits from an education, no matter what the student's age or type of disability.

with disabilities in two ways. First, they totally excluded some students from school or did not provide an appropriate education when they did allow these students to attend school. Second, they often classified students as having a disability when in fact the students did not, or they classified them as having a particular type of disability when, in fact, they did not.

In Chapter 2, you will learn more about the history of discrimination, which students experienced it more than others, and how discrimination in special education eventually met the powerful counterforce of the federal courts and Congress. Now, however, it's time to learn about the right to education and the law that grants that right, Individuals with Disabilities Education Act (IDEA).

## Defining Special Education

We've put a lot of ideas in front of you—the nation's four goals and the seven core elements of our book. We even briefly defined special education and told you that you are in the dignity business. At this point in the chapter, you may well seek some very concrete information, and you may ask: "What exactly is special education?"

The answer lies in the *Individual Disabilities and Education Act (IDEA)*. IDEA defines "special education" as specially designed instruction, at no cost to a student's parents, that meets the student's unique needs in school. Two phrases are key: "specially designed instruction" and "unique needs." Congress said that special education is a service for students rather than a place to which they are sent. Endrew's specially designed instruction supports him to achieve goals related to speech and language, reading, and behavior. Those are his major unique needs, and they are areas in which he has made progress in his private school.

IDEA also provides that special education includes more than "specially designed instruction." It consists of **related services** and **supplementary aids and services**.

**RELATED SERVICES**    Because special education is individualized to meet each student's unique needs, it is often necessary to provide more than specialized instruction. Professionals, in addition to educators, do this by supplementing instruction with what are known as *related services*. These are services that are necessary to assist the student in benefiting from special education. Figure 1.3 identifies and defines related services.

**Figure 1.3** Related Services as Required and Defined by IDEA

1. ***Audiology***: identifying students with hearing loss; determining the range, nature, and degree of hearing loss; referring for medical or other professional attention; providing habilitative activities; operating programs for treatment and prevention of hearing loss; counseling and guiding students, parents, and teachers regarding hearing loss

2. ***Counseling services***: counseling by social workers, psychologists, guidance counselors, or other qualified professionals

3. ***Early identification and assessment***: implementing a formal plan for identifying a disability as early as possible in a student's life

4. ***Interpreting services***: providing means for communication by and with students who are deaf or hard of hearing, or who are deaf-blind, including by oral transliteration, cued language transliteration, sign language transliteration and interpreting services, and transcription services (CART, C-Print, and TypeWell)

5. ***Medical services***: providing services by a licensed physician to determine a student's medically related disability that results in the student's need for special education and related services

6. ***Occupational therapy***: improving, developing, or restoring functions impaired or lost through illness, injury, or deprivation; improving independent functioning; and preventing through early intervention initial or further impairment or loss of function

7. ***Orientation and mobility services***: assisting a student who is blind or has a visual impairment to attain systematic orientation to and safe movement within school, home, and community environments, including by teaching spatial and environmental concepts, use of cane or service animal, and use of low-vision aids

8. ***Parent counseling and training***: assisting parents to understand their student's special needs, providing them with information about student development, and helping them to acquire the necessary skills that will allow them to support the implementation of their student's IEP or IFSP

9. ***Physical therapy***: providing services by a physical therapist

10. ***Psychological services***: administering and interpreting psychological and educational tests and other assessment procedures; obtaining, integrating, and interpreting information about student behavior and conditions related to learning; planning and managing a program of psychological services, including psychological counseling for students and parents; and assisting in developing positive behavioral intervention strategies

11. ***Recreation and therapeutic recreation***: assessing leisure function; operating recreation programs in schools and community agencies, and providing leisure education

12. ***Rehabilitative counseling services***: planning for career development, employment preparation, achieving independence, and integration in the workplace and community; offering vocational rehabilitation services

13. ***School health services and school nurse services***: enabling a student to receive a free appropriate public education per the student's IEP; includes services provided by a school nurse or other qualified person

14. ***Social work services in schools***: preparing a social or developmental history on a student; operating counseling groups and counseling for individuals; working with parents and others on those problems in a student's living situation (home, school, community) that affect the student's adjustment in school; mobilizing school and community resources; and assisting in developing positive behavioral intervention strategies

15. ***Speech pathology and speech-language pathology***: identifying students with speech or language impairments; diagnosing specific speech or language impairments; referring for medical or other professional attention; providing speech and language services; and counseling parents, students, and teachers regarding speech and language impairments

16. ***Transportation:*** providing travel to and from schools and between schools, travel in and around school buildings, and specialized equipment (e.g., special or adapted buses, lifts, and ramps)

**SUPPLEMENTARY AIDS AND SERVICES**  Because both special and general educators provide services to students with disabilities and because they often provide those services in general education settings, IDEA acknowledges that these teachers and related service professionals may need extra support to do their work. Accordingly, it authorizes schools to provide "supplementary aids and services." These are "aids, services, and other supports . . . provided in regular education classes or other education-related settings to enable students with disabilities to be educated with nondisabled students."

Note that "supplementary aids and services" are to be provided in general education classes and in "other" education-related settings (that is, other than classes such as in extracurricular activities) and, importantly, are for the purpose of promoting education of students with and without disabilities together. Why, you may ask, is that "together" important? You'll find the answer later in this chapter. You see, IDEA is not just about supporting students; it is also about supporting educators—all of them, general and special alike.

It is not enough for IDEA simply to identify the eligible students and to specify that they have a right to specialized instruction, related services, and supplementary aids and services. Doing that much is just a start. That is why IDEA also establishes

**Figure 1.4**  IDEA's Six Principles

- *Zero reject*: a rule against excluding any student.
- *Nondiscriminatory evaluation*: a rule requiring schools to evaluate students fairly to determine if they have a disability and, if so, what kind and how extensive.
- *Appropriate education*: a rule requiring schools to provide individually tailored education for each student based on evaluation and augmented by related services and supplementary aids and services.
- *Least restrictive environment*: a rule requiring schools to educate students with disabilities alongside students without disabilities to the maximum extent appropriate for the students with disabilities.
- *Procedural due process*: a rule providing safeguards for students against schools' actions, including a right to sue schools in court.
- *Parent and student participation*: a rule requiring schools to collaborate with parents and adolescent students in designing and carrying out special education programs.

six principles that govern students' education (Turnbull, Stowe, & Huerta, 2007)—*zero reject*, *nondiscriminatory evaluation*, *appropriate education*, *least restrictive environment*, *procedural due process*, and *parent and student participation*. Figure 1.4 describes those six principles.

## Zero Reject: All Means All

What do you understand about the word "zero"? What do you understand about the word "all"? Those are good questions to ask before you learn about the zero-reject principle, the first of IDEA's six principles.

The zero-reject principle prohibits schools from excluding **any** student with a disability (as defined by IDEA) from a free appropriate public education. Its purpose is to ensure that *all* children and youth (ages 3 through 21), no matter how severe their disabilities, will receive a free appropriate public education—four words captured simply as FAPE. Like Endrew, **every** student with a disability has a right to an IDEA-based education.

Accordingly, the principle applies to the state and all of its school districts and schools, including charter schools and other state-operated programs. Those include schools for students with visual or hearing impairments, psychiatric and other hospitals, and residential institutions for people with various disabilities. As you will learn later, the zero-reject principle also applies to some students in private schools.

**EDUCABILITY AND CONTAGIOUS DISEASES**   To carry out the zero-reject rule, courts have ordered state and local education agencies to provide services to students who traditionally (but unjustly) have been regarded as not able to learn because of the significant extent of their disabilities (educability). Similarly, courts have ordered these agencies to use health precautions (to safeguard educators and other students) so that they may comply with IDEA and provide services to students who have contagious diseases such as tuberculosis or human immunodeficiency virus/acquired immunodeficiency syndrome (HIV/AIDS). The courts say that "all" means "all."

**DISCIPLINE**   To ensure that all students with a disability receive an appropriate education and that the schools are safe places for teaching and learning, IDEA regulates how schools may discipline students who qualify for IDEA's protections. IDEA's protections are especially important for students from racially/ethnically diverse backgrounds, as you will learn in Chapter 2; that is so because schools' discipline related to suspensions and expulsions have been applied to them substantially more often than to other students. The principles of the IDEA discipline amendments are simple, but their details are complex. You can learn about these principles in *Guidelines for Teaching: Implementing IDEA's Discipline Requirements*.

# Guidelines for Teaching

## Implementing IDEA's Discipline Requirements

In these Guidelines, we state only IDEA's general rules governing student discipline. The rules are complex, and you should confer with your school administrators about the rules and how to implement them.

**Bear in mind these fundamental propositions.**
- School safety is a major concern for all students and educators.
- School safety sometimes requires educators to discipline special education students.
- When disciplining their special education students, educators may not, as a general rule, discipline them differently than students who do not have disabilities. This is a rule of equal treatment. There are exceptions; the exceptions take into account students' disabilities and their IDEA right to a free appropriate public education. We explain the exceptions immediately below, beginning with "Apply short-term . . . "

**Apply short-term discipline for violation of school code of conduct.**
- Short-term discipline is for a period of not more than 10 consecutive school days or for 10 days altogether.
- The discipline may consist of in-school suspension, out-of-school suspension, or change of placement.
- During the short-term period of discipline, educators may—but are not required to—provide services to the student.

**Apply long-term discipline for other behavior or when there is a pattern of short-term discipline.**
- Long-term discipline occurs when the discipline is for more than 10 consecutive school days.
- Long-term discipline also occurs when educators impose short-term discipline that constitutes a pattern of discipline for the same behavior for more than 10 school days altogether. The "pattern" exists because the educators impose short-term discipline, for exactly or substantially the same behavior, for more than 10 school days. In effect, the educators "tack" one short-term discipline to another; they attach one to another. So, long-term discipline occurs when the short-term discipline cumulates into more than 10 days.
- Long-term discipline is not limited to violations of school codes of conduct.
- Discipline becomes long-term on the 11th day of the discipline.

**Take action to change the student's behavior.**
- Address the behavior by conducting a **functional behavioral assessment** (FBA). The FBA identifies why the student behaved as they did and what interventions and services the student should receive so the behavior is likely not to recur.
- The services are set out in a **behavior intervention plan** (BIP).

**Determine if the student's conduct is a manifestation of the student's disability.**
- Remember the first rule about discipline: Educators may not discipline a student with a disability in any way or for any reason that is not the same as—equal to—how they discipline a student who does not have a disability. This is the rule of equal treatment. But it has an exception.
- To determine whether they may treat the student with a disability the same as a student who does not have a disability, educators must determine whether the student's behavior is a manifestation of the student's disability. If the student's behavior is a manifestation of disability, the equal treatment rule does not apply; educators should not punish a student because of the student's disability. If the student's behavior is not a manifestation of disability, then the equal treatment rule does apply; educators may punish a student as they may punish a student who does not have a disability because the student's disability basically is irrelevant to the student's behavior.
- To determine manifestation, educators must conduct an FBA and then develop a BIP.
- When developing a BIP, educators must consider using **positive behavior support**.
- A manifestation exists if the student's behavior is caused by the student's disability or by educators' failure to implement the student's IEP.
- If the behavior is a manifestation of disability, educators may place the student into an alternate educational setting, but there, they must continue to educate the student consistent with the student's IEP. This is how students with disabilities are treated differently than students without a disability; they continue to receive their education during the time they are have long-term discipline.
- If the behavior is NOT a manifestation, educators may discipline the student in the same way they would discipline students who do not have disabilities for the same behavior.

**Discipline immediately for weapons, drugs, and serious bodily injury.**
- Educators may immediately remove a student with a disability from the student's current educational placement and put the student into an alternate educational setting if the student violates the weapons/drugs/injury rules.
- The rules are that no student may bring weapons to school, may not possess any drugs (other than those prescribed for the student), and may not cause serious bodily injury to any person while at school.

**Comply with the rules about notice.**
- Educators must notify the student's parents about any discipline and about their rights to appeal.

## Nondiscriminatory Evaluation

The effect of the zero-reject rule is to guarantee all students with a disability access to an appropriate education—it opens the school doors. That is not enough, however; mere access never is. To ensure an appropriate education, IDEA requires educators to conduct a **nondiscriminatory evaluation** of the student.

**TWO PURPOSES**   The nondiscriminatory evaluation has two purposes. The first is to determine whether a student has a disability as defined by IDEA. If the student does not have a disability, then the student has no right to receive special education under IDEA or any further evaluation related to special education under IDEA.

   If, however, the evaluation reveals that the student has a disability, the evaluation process must then accomplish its second purpose: to define whether the student needs special education and related services. That information is necessary to plan an appropriate education for the student and determine where the student will be educated—the "what," "by whom," and "where" of individualized education. In Endrew's case, the "what" is the specific educational program he receives; the "by whom" is the professionals who educate him; and the "where" is the general and special education setting in which he receives it, whether in the public school that Endrew once attended or in the private school that he now attends.

**NONDISCRIMINATORY EVALUATION REQUIREMENTS**   Because evaluation has such a significant effect on students and their families, IDEA surrounds the evaluation process with evaluation safeguards. Figure 1.5 highlights IDEA's evaluation safeguards and its additional provisions. Those additional provisions relate to the right of parents to consent or not consent to the evaluation.

   Once the evaluation team has determined that a student has a disability and has identified the special education and related services that the student needs, then educators must provide the student with that kind of education and those services, describing them in the student's individualized education program (IEP), as you will learn in the next section. In short, the nondiscriminatory evaluation leads to, and is the very foundation of, the student's appropriate education.

---

**Figure 1.5** Nondiscriminatory Evaluation Safeguards

**Assessment Procedures**
- They use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information, including information provided by the student's parent that may enable the team to determine if the student has a disability and the nature of specially designed instruction needed.
- They should include more than one assessment because no single procedure may be used as the sole basis of evaluation.
- They may be requested by a parent, the state education agency, another state agency, or the local education agency (initial evaluations).
- They are selected and administered so as to not be discriminatory on a racial or cultural basis.
- They are administered in the language and form most likely to produce accurate information about the student's current levels of academic, developmental, and functional performance.
- They must be used for the purposes for which the assessments are valid and reliable.
- They are administered by trained and knowledgeable personnel and in conformance with instructions by the producer of the tests or material.

**Parental Notice and Consent**
- Inform the parents fully and secure their written consent before the initial evaluation and each reevaluation.
- If the parents do not consent to the initial evaluation, the school may use dispute resolution (due process) procedures to secure approval to proceed with the evaluation or reevaluation.
- Obtain parents' consent before any reevaluation unless the school can demonstrate that it has taken reasonable measures to obtain their consent and parents have failed to respond.
- Provide to the parents a full explanation of all due process rights, a description of what the school proposes or refuses to do, a description of each evaluation procedure that was used, a statement of how the parents may obtain a copy of their procedural safeguards and sources that they can contact to obtain assistance in understanding the provisions of the notice, a description of any other options considered, and an explanation of any other factors that influenced the educators' decisions.
- Do not treat the parents' consent for evaluation as their consent for placement into or withdrawal from a special education program; secure separate parental consent for these changes.

IDEA does not specify who the members of the evaluation team must be. It simply says that a local educational agency must ensure that qualified personnel and the student's parents are part of the evaluation team. But because one of the members of the team that develops the student's IEP must be a person qualified to interpret the evaluation results, usually at least one member of the evaluation team will be a member of the IEP team. To the greatest extent possible, it is helpful to have overlap between members of the evaluation team and members of the IEP team. Regardless of the precise team membership, however, the result is the same: The evaluation leads to IEP decisions about program (appropriate education) and placement (least restrictive environment).

## Appropriate Education

IDEA defines "appropriate education" in two different but mutually compatible ways. First, IDEA defines "appropriate education" according to how educators, a student's parents, and sometimes the student plan what services the student has a right to receive and where the services will be provided. Second, IDEA defines "appropriate education" according to the results the process will achieve; those results are the "standards" the educators must meet.

**PROCESS DEFINITION OF APPROPRIATE EDUCATION**   Even by enrolling students (zero reject) and evaluating their strengths and needs (nondiscriminatory evaluation), schools still do not ensure that each student's education will be appropriate for that student. That is why IDEA guarantees the right to FAPE—a free "appropriate" public education. Remember that special education consists of specially designed instruction to meet a student's unique needs; it also may consist of related services and supplementary aids and services, depending on the student's needs.

How might a school ensure those rights for each student? IDEA answers the question by requiring professionals to follow a detailed process for deciding what is appropriate for the student. This approach is the process approach. Why, you may ask, does IDEA focus on process? That is a good question.

It is a maxim of law that fair procedures tend to produce fair and acceptable results. IDEA exemplifies that maxim. It does so by specifying exactly who will develop a student's IEP, what they must put into the IEP, the timelines they must meet, the types of meetings they must hold to develop the IEP, and the action they must take to measure a student's progress.

As we have already noted, the key to an appropriate special education is *individualization*, such as tailoring a student's education to build on strengths and meet learning needs. Educators individualize by developing an **individualized education program (IEP)** for each student ages 3 through 21. Similarly, children from birth through age 2 and their families receive an **individualized family services plan (IFSP)**.

Each student's IEP/IFSP is based on the student's evaluation and is planned to improve the student's educational outcomes; that is, it is outcome-oriented.

The IEP is the foundation for the student's appropriate education; it is the assurance that a student will benefit from special education and make progress in school—essentially, that the student will have real access to education that aligns with the four goals of equality of opportunity, full participation, independent living, and economic self-sufficiency.

**IEP Team Participants.**   You have already learned that the IEP team must include at least one person who can link the evaluation to the student's nondiscriminatory evaluation. But the team must include others as well:

- The student's parents
- At least one general education teacher with expertise related to the student's educational level
- At least one special education teacher

- A representative of the school system who is qualified to provide or supervise special education and is also knowledgeable about the general education curriculum and the availability of school resources
- An individual who can interpret the evaluation results
- At the discretion of the parent or agency, other individuals with expertise regarding the student's educational needs, including related service personnel
- The student, when appropriate, and especially when the student has reached the age of majority, usually 18 (the age is set by state law).

Other people may be included in the IEP meeting. For example, a parent might wish to bring another family member or a friend who knows about the special education process.

**Components of the IEP.**  IDEA requires the IEP to include eight components, shown in Figure 1.6. To comply with IDEA and ensure that the student will benefit from special education, a student's IEP team *must* include every component in each IEP.

**Five Special Factors.**  In addition to addressing each of these eight required components, the IEP team must also carefully consider five special factors when developing a student's IEP.

- If the student's behavior impedes learning, including that of other students, the IEP team must consider whether to use positive behavioral interventions and supports or other strategies to address the student's behavior.
- If the student has limited English proficiency, the IEP team must consider language needs in the IEP.
- If the student is blind or visually impaired, the IEP team must provide (not merely consider providing) instruction in braille and the use of braille. The team may determine that such instruction is not appropriate for the student, but only after it evaluates the student's reading and writing skills, needs, and appropriate reading and writing media, including an evaluation of future needs for instruction in braille or the use of braille.
- For every student, the IEP must consider the student's communication needs. If the student is deaf or hard of hearing, the team must consider language and communication needs, opportunities for direct communication with peers and professional personnel in the appropriate language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in language and communication mode.
- Also, for every student, the IEP team must consider the need for assistive technology devices and services.

**Timelines.**  IDEA requires an IEP to be in effect at the beginning of each school year. Educators and parents may make changes in the IEP either through a team meeting or by developing a written document that amends or changes the current IEP. Also, the team must review and, if appropriate, revise the student's IEP at least once a year.

The purpose of the required IEP review meeting is to determine whether the student is making progress toward achieving annual goals. Accordingly, IDEA requires the IEP team to review the student's IEP and revise it as appropriate to secure that kind of progress. A review may cause a re-evaluation and even a change of placement.

**Ages Birth to 3: IFSP Considerations.**  As you know, Congress amended IDEA by adding Part C, providing services for infants and toddlers (birth to 3) and their families. In doing so, Congress transported the IEP requirements (for children and youth ages 3 through 21) into Part C and renamed the IEP as the "individualized

**Figure 1.6** Required Components of Every IEP

The IEP is a written statement for each student ages three through twenty-one. Whenever it is developed or revised, it must contain the following statements:

1. The student's present levels of academic achievement and functional performance, including
   - How the student's disability affects the student's involvement and progress in the general curriculum (for students ages six through twenty-one)
   - How a preschooler's disability affects the child's participation in appropriate activities (for children ages three through five)
   - A description of the benchmarks or short-term objectives for students who take alternate assessments that are aligned to alternate achievement standards

2. Measurable annual goals, including academic and functional goals, designed to
   - Meet each of the student's needs resulting from the disability in order to enable the student to be involved in and make progress in the general curriculum
   - Meet each of the student's other educational needs that result from the disability

3. How the student's progress toward annual goals will be measured and when periodic reports on the student's progress and meeting annual goals will be provided

4. The special education and related services and supplementary aids and services, based on peer reviewed research, to the extent practicable that will be provided to the student or on the student's behalf and the program modifications or supports for school personnel that will be provided for the student to
   - Advance appropriately toward attaining the annual goals
   - Be involved in and make progress in the general curriculum and participate in extracurricular and other nonacademic activities
   - Be educated and participate in those three types of activities with other students with disabilities and with students who do not have disabilities

5. An explanation of the extent, if any, to which the student will not participate with students who do not have disabilities in the regular classroom and in extracurricular and other nonacademic activities

6. Any individual appropriate accommodations that are necessary to measure the student's academic and functional performance on state- and district-wide assessments; if the IEP team determines that the student will not participate in a regular state- or district-wide assessment or any part of an assessment, an explanation of why the student cannot participate and the particular alternate assessment that the team selects as appropriate for the student

7. The projected date for beginning the special education, related services, supplemental aids and services, and modifications, as well as the anticipated frequency, location, and duration of each

8. Beginning no later than the first IEP that will be in effect after the student turns sixteen, and then updated annually, a transition plan that must include
   - Measurable postsecondary goals based on transition assessments related to training, education, employment, and, where appropriate, independent living skills
   - A statement of transition services, including courses of study, needed to assist the student to reach those postsecondary goals
   - Beginning no later than one year before the student reaches the age of majority under state law (usually age eighteen), a statement that the student has been informed of those rights under IDEA that will transfer to the student from the parents when the student comes of age

family services plan"—the IFSP—to reflect the central role of the family in the lives of young children.

The IFSP describes the services that both the infant (or toddler) and the family will receive. Like the IEP, the IFSP is based on the student's development and needs; it specifies outcomes for the student. Unlike the IEP, however, the IFSP also provides the option for families to identify their resources, priorities, and concerns related to enhancing their student's development. Furthermore, the IFSP must include outcomes and services for the student's family if the family wants to achieve specific outcomes related to the student's development.

**SUBSTANTIVE DEFINITION OF APPROPRIATE** It was not until the Supreme Court took one case, and then a second one, that the process definition was expanded to

include a substantive definition of appropriate education. A substantive definition tells what students have a right to receive; the definition relates to the content of a student's curriculum. By contrast, the "process" definition tells how a student's IEP team and teachers satisfy the substantive right. As you learn about these cases, imagine that you are the student with a disability; your right to an appropriate education depends on how the Court values you and your right under IDEA.

**Case Example: *"Benefit"—The Case of Amy Rowley.***    The first case, *Board of Education v. Rowley* (1982), involved a student, Amy Rowley, who had significant hearing loss. Her school provided her with a special tutor, hearing aids, and speech therapy, complying, it thought, with IDEA. Her parents, who also were deaf, asked the school to provide her with an interpreter, a related service. The school refused to provide the interpreter and Amy's parents sued. The Court upheld the school's decision; Amy did not have a right to the interpreter. Why?

Amy did not qualify for an interpreter because, as the Court interpreted IDEA, Congress intended the law to provide nothing more than "equal access" to education and that such access must be "sufficient to confer some educational benefit" on Amy and other students covered by IDEA. Because Amy was fully included in the general education curriculum and classroom, was already receiving three different services, was earning passing grades, and was being promoted from grade to grade, she was receiving precisely the "access" that Congress intended. Indeed, she was making progress, as IDEA intended. The Supreme Court determined that she had no right to the interpreter.

**Case Example: *"Progress" —The Case of Endrew F.***    The *Rowley* decision prevailed as the law of appropriate education until, 35 years later, in early 2017, the Court decided *Endrew F.* The facts in that case were substantially different from those in *Rowley*, and the Court's interpretation of IDEA's appropriate education principle was, predictably, different.

As you read earlier in the chapter, Endrew was diagnosed with autism when he was 2 years old. He enrolled in public school for the 1st grade but, with IEPs that were substantially the same during his 1st through 4th grades, his academic and functional progress "essentially stalled."

If, however, you have had the privilege of visiting Endrew at his home and having dinner with his parents, as we have had, you would hear more about Endrew's education. That "more" was scattered throughout our dinner conversation with his parents. We summarize it here, with his parents' approval.

> Endrew's behaviors became so difficult for his teachers to handle. They escalated during his $3^{rd}$- and $4^{th}$-grade years, so much so that his teachers often called me (his mother) for assistance or to take him home from school. They baby-sat him, treating him as if he were a 2-year old student. It seemed they didn't know what to do for him or lacked the resources to do what he needed. Sometimes they blamed us for his behaviors. They offered the same IEP over and over again, year after year, with only five or so words changed from one IEP to another. They basically had the attitude that "we are the experts," and were interested only in checking the boxes on their IEP form. They were combative when we met with them, laid down the rules, talked down to us, and interrupted us when we offered ideas or made comments.

You already know that Endrew won his case in the Supreme Court. Now, let's learn exactly what he won and why. In *Endrew F.*, Chief Justice Roberts, writing for a unanimous Court (that is, on behalf of all of the Justices on the Court), rejected the lower courts' interpretation of IDEA. Under that interpretation, a school complies with IDEA if it offers an education that is "merely more than a *de minimis*" education.

To meet the "make progress" standard, the Court ruled that a school must abide by IDEA's premise that the "focus on the particular student is at the core of IDEA" and that "the IEP is the centerpiece of the statute's delivery system." Accordingly, "Crafting an appropriate education" is a "fact-intensive exercise" that results in a "plan" focused on "student progress."

In creating the student's IEP, the Court said that the IEP team must give "careful consideration" to the student's "potential for growth" and thereby the student's capacity for progress. "A substantive standard (of appropriate education) not focused on student progress would do little to remedy the pervasive and tragic stagnation that prompted Congress to act" when it created the law in 1975.

If, said the Court, earning passing grades that justify grade-to-grade advancement "is not a reasonable prospect for a student, his IEP need not aim for grade-to-grade advancement. But his educational program must be appropriately ambitious in light of his circumstances, just as advancement from grade to grade is appropriately ambitious for most students in the regular classroom."

The Court then continued to justify its "progress" standard:

> It cannot be the case that (IDEA) typically aims for grade level advancement for students with disabilities who cannot be educated in the regular classroom but is satisfied with barely more than *de minimis* for those who cannot. When all is said and done, a student offered an educational program providing 'merely more than *de minimis*' progress from year to year cannot be said to have been offered an education at all. For students with disabilities, receiving instruction that aims so low would be tantamount to "sitting idly . . . awaiting the time when they were old enough to 'drop out.'"

Next, the Court added that "all" students with disabilities "should have the chance to meet challenging objectives." The Court's "all" applies without regard to where the student receives special instruction and supports. The Court is more concerned with "what" the student receives than with where the student receives services and supports. That is a proper concern. Why?

It is proper because modification of the content of a curriculum typically can occur without regard to where the student receives instruction and supports. As you will learn, IDEA prefers the student to be in the general education curriculum, to be integrated and included. But not all students are integrated and included, as you will learn later in this chapter. Their placement, however, does not make a difference with respect to "challenging objectives." What does matter is that the student—wherever placed—has challenging objectives, and those are possible by modifying the content of the curriculum, especially the curriculum in general education.

In a nutshell, *Endrew F.*

- converts the Rowley standard of "benefit" to "progress" and states that the IEP must be reasonably calculated to ensure progress
- requires the IEP team to take into account the student's circumstances, including, importantly, the "potential for growth"
- requires an "appropriately ambitious" program for students who, unlike Amy Rowley, are not progressing from grade to grade
- declares that every student should have the chance to meet "challenging objectives"
- considers the student's "circumstances," including those related to his "educational needs" in school, including his needs for related services.

The challenge for you, as a general or special educator, is to have the competence, including that based on research of how students learn and how teachers should educate them, and the attitude, to meet the Court's *Endrew F.* standard. If you pay close attention to each of the following chapters in this book, you will have the necessary competence.

What about Endrew? What's his future, now that the Court has defined his right to an appropriate education? The answer lies in what his parents have told us, for they speak for him and themselves.

One of their goals, and his, is "to be happy, before anything else." That goal reflects the fact that Endrew obviously was not happy in the public school programs, but he could be. Indeed, the Supreme Court quoted his teachers as saying that he has a "sweet

disposition" and "show(ed)" concern" for friends. Yet his teachers said he still "exhibited multiple behaviors that inhibited his ability to access learning in the classroom." In particular, he would, in the Court's words, "scream in class, climb over furniture and other students, and occasionally run away from school."

For Endrew, progress, both before and after the Court's decision, has consisted of extinguishing those behaviors and restoring his sweet disposition. Those two goals have been largely accomplished. That is one reason why Endrew has continued to learn to read and speak clearly, but only one reason. Another is that he has had intensive instruction in reading and speaking. All of this amounts to one result: Endrew, in his parents' words, will be a "productive member of society."



Endrew at age 16

They acknowledge he will need support, probably for a lifetime. But they foresee various possibilities. He might choose one or more of several options about the work he will do. He might want to work in a restaurant or in an office filing documents and doing other clerical work, or he could own his own company, supporting other businesses by shredding documents, servicing vending machines, or providing janitorial services. He might choose to work as an assistant to a veterinarian, for there are horses on ranches near his home; or to work as a paraprofessional in a student-care center or in a school.

Whatever he does, his parents are keen for him to be happy, and that means he should choose what makes him happy. For them, having the "fantastic" support of family and friends during their years of dispute with the public schools was an essential part of the past and is a key to Endrew's future. Yes, specialized instruction and support make a great difference for him, and always will. But support—whether "formal" support from various professionals or "informal" support from family and friends—will always be necessary and available.

Is it realistic to think that Endrew might choose what he wants to do? Might he choose the kind of support he gets, and from whom? Yes. He's already shown he has plenty of self-determination and wants to make his own choices, with support.

The next question is whether the choices that lie ahead are simply too unrealistic. Are they far beyond the "high expectations" that IDEA promotes? No, not at all. The expectations are quite realistic. People with significant disabilities can and do lead productive lives and contribute to society.

Indeed, Endrew's parents have already taken action to make those expectations a reality, having bought a condo suitable for him to live in, by himself or with support, or to use as an office if he operates his own business. As much as any family in America, Endrew's family has taken IDEA's opening paragraph to heart: Endrew has a right, and they sued to enforce it; and his right is the means by which he will be the productive member of society that IDEA expects.

## Least Restrictive Environment

Once the schools have enrolled a student (zero-reject principle), fairly evaluated the student (nondiscriminatory evaluation principle), and provided an IEP/IFSP (appropriate education principle), they must contribute one more element to the student's education—namely, education alongside students who do not have disabilities. This is the fourth IDEA principle—the principle of the **least restrictive environment (LRE)**.

IDEA provides that students with disabilities will be in classes, extracurricular activities, and other school events with students who do not have disabilities, like the children in this classroom.

You will hear that phrase when you teach; you also will hear another, with a similar meaning. That phrase is "inclusion." Educators use this term when speaking about the place in which students ages 3 through 21 receive some of their services. They also use the term to refer to the fact that the student will participate with other students in that place. Thus, "inclusion" is about both place and participation. In early intervention (ages birth through 2), however, IDEA prefers services in the student's "natural environment," which can be home or an out-of-home student-care or education center. Without regard to a student's age, "inclusion" refers to place and participation.

A few more comments are in order about the phrase "least restrictive environment." Lawyers have used the word "integration" when talking about students from racially/ethnically diverse backgrounds being educated in the same place as students not from those same backgrounds. "Integration" comes from the civil rights movements, and, as you will learn in Chapter 2, disability rights as a movement emerged from the civil right movements; indeed, disability rights is a civil rights movement of its own. So, you may use "least restrictive environment" (as IDEA does) or "inclusion" or "integration," as many educators and lawyers do, or, for infants and toddlers, "natural environment," as IDEA and many early-childhood educators do. Whatever word or phrase you use, you will be correct if you mean, broadly, IDEA's goal of "full participation."

**THE RULE: A PREFERENCE FOR INCLUSION**   IDEA prefers that students with disabilities be educated with those who do not have disabilities. It does this by requiring that (1) a school must educate a student with a disability with students who do not have disabilities to the maximum extent appropriate for the student and (2) a school may not remove the student from the regular education environment unless, because of the nature or severity of the student's disability, he or she cannot be educated there successfully (appropriately, in the sense that the student will benefit and make progress), even after the school provides supplementary aids and services for the student.

**SETTING ASIDE THE PREFERENCE**   The school may set aside this preference of inclusion only if the student cannot benefit from being educated with students who do not have disabilities and only after the school has provided the student with supplementary aids and services in general education settings. In that event, the IEP team may place the student in a less typical, more specialized, less inclusive program. Generally, the most typical and inclusive setting is general education, followed by resource rooms, special classes, special schools, homebound services, and hospitals and institutions (also called residential or long-term-care facilities). You will learn more about these different settings in Chapter 4.

**ACCESS TO GENERAL EDUCATION CURRICULUM**   IDEA defines the general curriculum as not only the academic curriculum but also the extracurricular and other school activities. Accordingly, schools have to ensure that students with disabilities may participate in extracurricular (athletics, special interest groups or clubs) and other nonacademic activities (recess periods, school dances, school field trips). In short, when providing academic, extracurricular, and other nonacademic activities to students who do not have disabilities, schools must include students with disabilities in all those activities to the maximum extent appropriate for each student with a disability.

**Figure 1.7** Mix and Match

**Degree of Participation**

|  | Full | Partial |
|---|---|---|
| Academic Programs | | |
| Extracurricular Programs | | |
| Other School Activities | | |

*Three Domains of General Curriculum*

SOURCE: Turnbull, H. R., Stowe, M. J., & Huerta, N. E. (2007). *Free appropriate public education: The law and children with disabilities* (7th ed.). Denver, CO: Love Publishing, p. 216. Used with permission.

**THE "MIX AND MATCH" RULE**   By stating its preference for inclusion, identifying the three components of the general curriculum, and requiring that the student's IEP must specify the extent, if any, to which the student will NOT be with students who do not have disabilities in each of those components, IDEA creates a "mix and match" rule. In a nutshell, IDEA requires the IEP team to specify whether the student will be included full-time or part-time in each of the three components of the general curriculum. Figure 1.7 illustrates the "mix and match" rule.

## Procedural Due Process

**RULE OF FAIRNESS**   Schools do not always carry out IDEA's first four principles: zero reject, nondiscriminatory evaluation, appropriate education, and least restrictive environment. What's a parent to do? That was the question facing the parents of Amy Rowley and Endrew, too. Or what if a school believes that one type of special education is appropriate, but a parent disagrees and believes that the proposed placement will not benefit the student? The answer lies in the **procedural due process** principle, which basically seeks to make schools and parents accountable to each other for carrying out the student's IDEA rights.

**PROCEDURES FOR RESOLVING DIFFERENCES**   When parents and educators disagree, IDEA provides each with three different ways to resolve their disagreements.

- First, they may meet face-to-face in a **resolution session**. There, they try to hammer out their differences, without any "external" person helping them or ruling in favor of one or the other of them.

- Second, they may resort to **mediation**. Mediation occurs when the parents and school agree to submit their dispute to an independent, disinterested, trained person. That person listens to both the school personnel and parents and tries to find common ground on which they will agree and resolve their dispute. IDEA does not require mediation, and it may not be used to deny or delay the right to a due process hearing (see below). But IDEA strongly encourages mediation.

- Third, if the parties still cannot resolve their disagreements, each has a right to a **due process hearing** (a mini-trial) before an impartial hearing officer. The due process hearing is similar to a regular courtroom trial. At the hearing, the parents and schools are entitled to be represented by lawyers, present evidence, and cross-examine each other's witnesses. If the school or the parent is dissatisfied with the decision of the hearing officer, either may appeal to state or federal courts.

What would you have done if you had been Endrew's parents and had no idea how the Supreme Court would decide your case? Just how much would "appropriate" mean to you if you were the parents? If you were the student? That's a question you will want to ask and answer as you teach students with disabilities: Just how can you satisfy IDEA so their parents will not have to go even to a resolution session, mediation, or due process hearing, much less to a court and especially the Supreme Court? You should be able to answer that question as you read the rest of our book. Now, let's return to IDEA and its last principle—the principle that asks you to imagine being a parent of a student with a disability.

## Parent and Student Participation

Although due process hearings and other procedural safeguards provide a system of checks and balances for schools and parents, IDEA also offers another, less adversarial accountability technique: the parent-student participation principle. You have already read that parents have many rights. They have the right to be members of the IEP team, to receive notice before the school does anything about the student's right to a free appropriate public education, and to use three techniques for resolving disputes (due process). In addition, parents have the right to receive notices, provide consent, review their child's records, control who has access to personally identifiable information on their student and family, and serve on advisory committees, as highlighted in *Guidelines for Teaching: Implementing IDEA's Parent Participation Requirements.*

---

# Guidelines for Teaching

## Implementing IDEA's Parent Participation Requirements

**Give written notice to parents.**

- Educators must provide written notice to parents before proposing or refusing to initiate or change the student's identification, evaluation, placement, and/or provision of services.
- The notices must contain
  - The action being proposed or refused
  - The reason for the action
  - A description of the due process safeguards available to parents.

**Obtain written parental consent.**

- Educators must fully inform the student's parents in the parents' native language or other communication mode unless it is clearly not feasible to do so.
- Parents must be able to understand the proposal and agree or not in writing.
- Parents must understand that their consent is voluntary and that they may revoke it at any time.
- Parents must provide their consent
  - Before an evaluation or re-evaluation of their child
  - Before educators provide special education and related services
  - Before educators disclose personally identifiable information.

**Provide parental access to records.**

- Parents have the right to inspect and review all educational records about their student and family.
- Parents have the right to request educators to explain the records and to receive a response to their request.
- Parents who believe that the information is inaccurate or violates their privacy or other rights may request educators to amend the information.
- If educators refuse to honor the parents' requests, they must advise the parents of their right to initiate a due process hearing.

**Protect student and family personally identifiable information.**

- Educators must ensure that procedures are in place to protect the confidentiality of the students' and parents' personally identifiable information.
- Educators must obtain parents' written consent before disclosing personally identifiable information to anyone other than authorized representatives, officials, or employees of agencies participating in the student's education.

**Serve on special education advisory committees.**

- All local and state special education advisory committees should have parent representatives to ensure that parents' perspectives are considered.

Finally, one year before a student reaches the age of majority (usually age 18), the school must advise him or her that all of the IDEA rights that belonged to parents will transfer to the student when he or she attains the age of majority. The only exception to this transfer-of-rights rule is that the parents' rights will not transfer to the student if the student has been determined, under state law, to be incompetent.

A state court determines whether or not the student is competent. If the court determines that the student is not competent, then the student's rights, even as an adult, transfer to the student's legally appointed guardian, usually one or both parents.

We caution you: Please do not urge parents to seek to be their student's guardian. You may tell them, if they ask, that you are not qualified to give that advice because you are not a lawyer. You may say that you are available to provide facts about the student's abilities. But resist any pressure you might feel from your school administrators to push the parents toward guardianship, as many alternatives are available that enable the student to take on adult roles and responsibilities, with the support of their parents or other people.

## Bringing the Six Principles Together

How do the six principles ensure an appropriate education for students with disabilities? Figure 1.8 illustrates and describes the fact that the first four principles—zero reject, nondiscriminatory evaluation, appropriate education, and least restrictive environment—are the *inputs* into a student's education. The other two principles, procedural due process and parent–student participation, are *accountability techniques*, ways to make sure that the other four principles are implemented correctly.

**Figure 1.8** Relationship Among IDEA's Six Principles
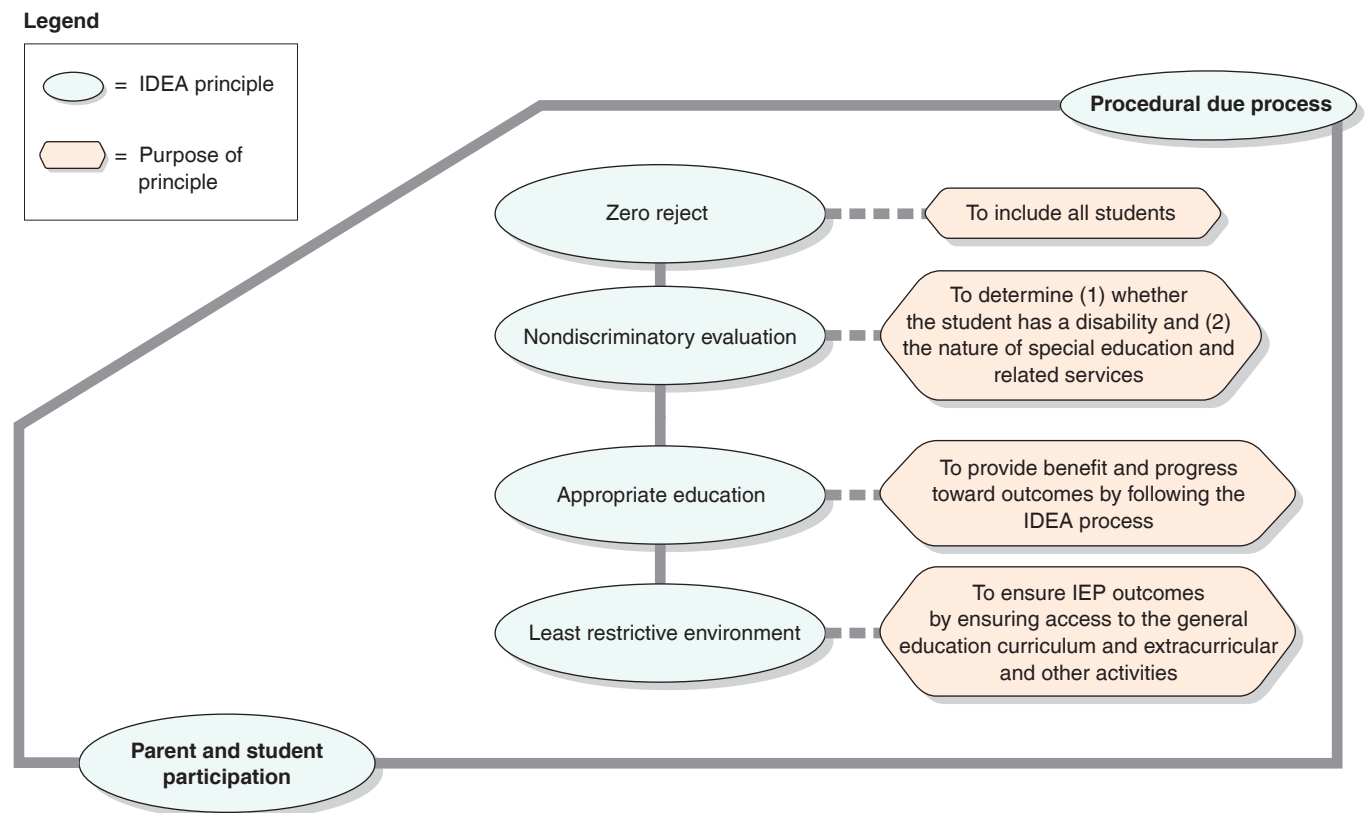
# Other Federal Laws

Up to now, you have been learning about IDEA. However, other laws affect you and your students. One of them relates to the education of students who do not have disabilities. Think of it as a combined general and special education law. By contrast, IDEA is a special education law only.

In addition, four federal laws benefit only students with disabilities. Two of them authorize services for the students. By contrast, two protect students and adults with disabilities against discrimination based solely on their disability.

## A Combined General and Special Education Law: The Elementary and Secondary Education Act and Every Student Succeeds Act

The principal federal law affecting both general and special education is the **Elementary and Secondary Education Act (ESEA)**. Congress enacted it in 1965 as part of President Johnson's "War on Poverty." ESEA authorizes federal funding for states to operate elementary and secondary education programs, especially those that benefit students from low-income families. ESEA also applies to students with disabilities, including those who receive IDEA services.

In 2015, Congress amended ESEA by enacting the **Every Student Succeeds Act (ESSA)**. (Figure 1.9 highlights ESSA's major requirements.) ESSA's key provisions intend to improve the results of all education programs, special and general alike. They do so by requirements to ensure that:

- All students are held to high standards
- Results of statewide assessments are broadly shared
- Lowest-performing schools are accountable for improvement.

IDEA and ESSA complement each other. This is so for two reasons. IDEA requires state and local agencies to assess all students under ESSA to determine whether they are benefiting from or making progress in school. In turn, ESSA permits state and local agencies to adjust the general education assessment standards to take into account that IDEA students have disabilities. You will learn in Chapter 4 about the accommodations that are available for students with disabilities. Now, four other laws affect you and apply only to your students with disabilities.

## Rehabilitation Act

Like ESEA/ESSA, the **Rehabilitation Act** authorizes services for people with disabilities. If a person has a severe disability but, with rehabilitation, is able to maintain employment, the person is entitled to two types of vocational rehabilitation services. First, at the age of 16, the person may receive work evaluations, financial aid to pursue job training, and job locator services, all from the state rehabilitation agency.

Second, a person with severe disabilities, including a student, may enroll in a supported employment program. There, the student will work with the assistance of a job coach whose duties are to teach the person how to do a job and then help the person do it independently. The supported worker must be paid at least the minimum wage, work at least 20 hours a week in a typical work setting, and be able, after 18 months of supported employment, to do the job alone without support.

## Tech Act

The **Technology-Related Assistance to Individuals with Disabilities Act**, often called the Tech Act, grants federal funds to the states so that they can help create

**Figure 1.9** Key Requirements of Every Student Succeeds Act (ESSA)

---

**ASSESSMENTS.** States must continue to test all students on statewide assessments.

- **Areas**. Reading/language arts and math, every year in grades 3-8 and once in high school; and science once in each grade span (3-5, 6-9, and 10-12).
- **Alignments**. These assessments must be aligned to the state's challenging academic standards.

**ALTERNATE STANDARDS.** States must use the same challenging academic content for all students except that a state may use **alternate achievement standards for students with the most significant cognitive disabilities**.

- **Standards**. These alternate standards must be aligned with existing standards, promote access to the general education curriculum, and ensure the student remains on track to pursue postsecondary education or employment.
- **States may not include more than 1 percent** of all students in alternate achievement standards.
- **Parent notifications**. States must notify parents how their child's achievement is being measured against alternate achievement standards. The IEP team determines when/if a child takes part in alternate assessments.

**UNIVERSAL DESIGN FOR LEARNING and ACCOMMODATIONS.** States must use the principles of **Universal Design for Learning** when developing assessments.

States must provide appropriate **accommodations** for students with disabilities.  Because students have had accommodations in their learning, they should receive them during assessments. Using new accommodations has a negative impact on student performance.

**GOALS AND MEASURES OF INTERIM PROGRESS.** States must establish ambitious long-term **goals**, with measures of **interim progress**, for all students and separately for each subgroup, including students with disabilities. The long-term goals include improved academic achievement in the aggregate and improved high school graduation rates.

**STATE-DEFINED ALTERNATE DIPLOMA.** States may choose to award a state-defined alternate diploma to students with the most significant cognitive disabilities who are assessed using alternate achievement standards.  States may count the diplomas only if the requirements for the diploma are standards-based, aligned with state requirements for a standard diploma, and obtained within the time period for which the state ensures the availability of a free appropriate public education.

**TEACHER AND LEADER QUALITY.** States may use ESEA funds to train and recruit high quality teachers and support staff, including principals and other school leaders.

**IMPROVING CONDITIONS FOR LEARNING AND TEACHING.** SEAs must develop plans on how they will support LEAs to **improve conditions for learning and teaching**.

- **Bullying and harassment**. States may undertake to reduce bullying and harassment.
- **Overuse of discipline**.
- States may undertake to reduce discipline practices such as suspensions and expulsions and to decrease the use of aversive behavioral interventions such as restraints and seclusions — all issues that disproportionately affect students with disabilities.

---

statewide systems for delivering assistive technology devices and services to people with disabilities, including students with disabilities. The Tech Act creates a statewide capacity to serve people with disabilities. Instead of directly benefiting the people themselves, it helps the states meet the people's needs. In Chapters 5 through 16, we describe how technology benefits students.

## Two Antidiscrimination Laws—Section 504 and Americans with Disabilities Act

Education and rehabilitation are, of course, necessary to address the need for support created by a student's disability. But they are not sufficient by themselves. IDEA, for example, does not prohibit public or private agencies from discriminating against the student on the basis of the student's disability. Yes, a student such as Endrew may receive special education, but that service might not create opportunities for him to use the skills in the workplace that he has acquired through special education. Prejudice against people with disabilities may still limit opportunities

Students with disabilities can greatly benefit from assistive technology. IDEA requires that assistive technology be considered when developing the IEP for all students with disabilities.

for students to show that, although they have a disability, they are nonetheless still able to work.

How can society attack the prejudice? One answer is to use antidiscrimination laws such as those that prohibit discrimination based on race or gender. The first such law, enacted in 1975 as an amendment to the Rehabilitation Act, is known as **Section 504**. The second, enacted in 1990, is the **Americans with Disabilities Act (ADA)**. These are similar laws. They provide that no otherwise qualified individual with a disability shall, solely by reason of the disability, be discriminated against in certain realms of American life.

Section 504 applies to any program or activity receiving federal financial assistance. Because state and local education agencies receive federal funds, they may not discriminate against students or other persons with disabilities on the basis of their disabilities. Figure 1.10 highlights Section 504 requirements that are important for you to know in your teaching role.

Clearly, Section 504 is limited in scope. What if a student attends a private school that receives absolutely no federal funds? What if an individual seeks employment from a company that does not receive any federal funds, wants to participate in state and local government programs that are not federally aided, or wishes to have access to telecommunications systems such as closed captioning for people with hearing impairments? In none of those cases will the person receive any protection from Section 504. Here, ADA comes to the person's rescue.

ADA extends civil rights/nondiscrimination protection to people with disabilities in the following sectors of American life: private-sector employment, transportation, state and local government activities and programs, privately operated businesses that are open to the public ("public accommodations"), and telecommunications. When Endrew leaves school and goes to work, ADA will protect him against discrimination in employment and allow access to those elements of life that people without disabilities take for granted.

Basically, IDEA and the Rehabilitation Act authorize federal, state, and local educational agencies to undertake programs in education and employment, respectively. Both laws provide funds for state and local agencies to pay for those programs. By contrast, Section 504 and ADA prohibit discrimination solely on the basis of disability in education, employment, and other sectors of American life. But these two laws do not provide federal aid.

Together, these five laws—the one combined general and special education law, two service-provision laws, and two antidiscrimination civil rights laws—support students' transition from school to post-school activities, including work. That is why the transition components of a student's IEP anticipate outcomes largely consistent with those that any student, with or without a disability, typically will want: equal opportunity in all aspects of life, full participation in their communities, independent living in the sense of choosing how to live, and economic self-sufficiency in the sense of having an unbiased opportunity to work. Those results cannot be achieved so long

**Figure 1.10**  Section 504 Requirements Pertaining to the Education of Students with Disabilities

**Two Elements of Disability**

The term "disability" has two elements:

- It is a physical or mental impairment.
- It must substantially limit a major life activity, including learning.

A physical or mental impairment is

- A physiological disorder or condition,
- Cosmetic disfigurement,
- Anatomical loss affecting one or more of the following body systems such as neurological or respiratory, or
- Mental or psychological disorder such as an emotional disorder or specific learning disabilities.

**Major Life Activity**

The major life activities include:

- Caring for oneself
- Performing manual tasks
- Walking
- Seeing
- Hearing
- Speaking
- Breathing
- Learning
- Working.

**Age Irrelevant**

Sec. 504 applies to services across the lifespan; if a "covered" public agency provides services for people without a disability (for example, a local government agency providing services for elderly/aged people), it may not discriminate against people with disabilities of the same age. Likewise, if a state or local education agency or institution of higher education provides services to students who do not have a disability, it may not discriminate against students who have a disability.

**Prohibited School Actions**

Sec. 504 prohibits a state or local education agency (basically, a school district or state-operated school) from discriminating solely on the basis of the student's disability. The agency may not

- Deny the student the opportunity to participate in or benefit from its services
- Afford the student an opportunity to participate that is not equal to that which it affords to students without disabilities
- Provide the student an aid, benefit, or service that is not as effective as that which it provides to students without disabilities
- Deny the student the opportunity to be a member of a planning or advisory board
- Otherwise limit the student's enjoyment of any right, privilege, advantage, or opportunity enjoyed by students without disabilities.

**Disability in School: Sec. 504 and IDEA**

Sec. 504 does not authorize special education. Instead, it prohibits discrimination. In effect, however, the regulations under Sec. 504 and IDEA are nearly identical; the Sec. 504 regulations ensure against discrimination in evaluation, basically create a right to an appropriate education, and guarantee a right to education in the least restrictive environment.

**Distinguishing Sec. 504 and IDEA Students**

Given Sec. 504's prohibitions and required opportunities, it may seem that there is no distinction between students who are protected by Sec. 504 and students who qualify for IDEA benefits. That is not so. There is a distinction between these two types of students. The distinction lies in IDEA's definition of "special education." IDEA defines special education as specially designed instruction to meet the unique needs of a student with a disability.

By definition, not every student who has Sec. 504 rights needs specially designed instruction. For example, if a student has asthma that limits the student's participation in school activities during asthma attacks but does not require specially designed instruction (the student can learn the same curriculum as other students without disabilities), then the student is covered by Sec. 504 but not IDEA.

as discrimination exists. And that is the message the Court gives in *Endrew F.* and that his parents give:

> *We could not believe that the law was that Endrew had a right to nothing more than a* de minimis *education. We did not want to be in the national spotlight. It made us sick to our stomachs to know that the school thinks we are in this fight for the money (tuition reimbursement). We're not. We are in it so the next family won't have to go through all this that we endured. It was the right thing to do—to sue for Endrew's education. It was so humbling to be the guests of the Supreme Court and to hear the arguments in our son's case. It was a surreal experience. We were confident even though we had lost in other courts. The cost and emotional stress were worth it. Parenting is hard.*

# The Core Principle of Dignity

In the very first pages of this chapter, before you met Endrew, we identified and explained the four goals of IDEA and the seven core elements of special education. We also wrote that these seven elements connect with the essence of our book and the work you do in special education. That essence is expressed by the word *dignity*. Whatever you do that is consistent with any of the four goals and seven core elements, you will acknowledge and enlarge the dignity of your students; in doing that, you will honor an ethical principle of education.

Remember what Endrew's parents said about the lawsuit they brought: "It was the right thing to do." Why? It was done in part to secure his rights under IDEA; in part to convince the Supreme Court that he had rights to something more than a *de minimis* education; in part to put Endrew onto a road to full participation, independent living, and economic self-sufficiency; in part to set a precedent for other parents; and in part to persuade the Court to see Endrew as inherently worthy of a right beyond *de minimis*, to regard him as having inherent worth, and then to ascribe to him a right larger than the lower courts gave him and thereby to give him greater dignity than the lower courts gave him.

## The Principle of Dignity

*Dignity* is the state of being worthy, honored, or esteemed (Mish, 1990). Let's put those words into your work as an educator.

- "Worthy" refers to the worth your students have—their worthiness to be educated. Their worth lies within them; it is inherent; it belongs to them from birth.
- "Honored" and "esteemed" refers to how you respect them by treating them as having not just a right to an education but also having your respect for their willingness to learn, their desire to overcome the challenges their strengths and needs present, and their achievements, however modest or robust they may be.

We not only are special education professors but also were the parents of a son with several disabilities. His name was Jay. And they and he are now in the past tense— "were" and "was"—because Jay died suddenly, unexpectedly, and, painlessly when he was 41 years old. These facts relate to the principle of dignity, not just because Rud and Ann have written about dignity but most of all because they tried—and succeeded, against many odds—to be sure that Jay had a life of dignity. He was in the first cohort of students who benefitted from IDEA; he entered school at the age of 8, in 1976. He did not have an inclusive education, much less an *Endrew F.* appropriately ambitious one, until he was in his last year of school, at age 21. He did not have a life of dignity until Ann and Rud, with their friends and colleagues, created it for him, in their hometown of Lawrence, Kansas.

They wanted that kind of life for him. He wanted it for himself. Like them, he—instinctively, because his mental capacity was limited indeed— "knew" he was worthy: "I am a man, not a boy," he often said; "I have a home, not a house; I have a job; I have friends; I go to church; I ride the bus; I make choices about my life."

So, too, did the other two authors of this book want Jay to have a dignified life. Mike Wehmeyer and Karrie Shogren became his friends when they started their work at The University of Kansas. They went to lunch with him; they made sure he had accommodations at work; they came to his parties; they supported him to prosper in his job and community.

Jay insisted on being worthy, even though he was more than a bit unable in many ways. Ann, Rud, Mike, and Karrie were equally insistent. All five knew that, for students with disabilities, less able is not less worthy. And for students who are exceptionally gifted and talented, more able does not mean more worthy. That is the point Mike made as he eulogized Jay.

## IDEA and the Principle of Dignity

By adhering to the seven core elements of special education and the instructional strategies you will learn in our book, you will be prepared to demonstrate respect for and to your students. You will do something about them—respect *for* them—and you will do something they will recognize—respect *to* them. You will implicitly acknowledge that they deserve your respect, not just your skills. By respecting them, you will affirm that they have dignity no one can take away from them. It's a dignity you can enhance; it's one you must try to ensure.

Why does dignity relate to special education? It is because of what Congress said at the very beginning of IDEA:

> Disability is natural part of the human experience and in no way diminishes the right of individuals to participate in or contribute to society.

Think about the words "natural part." They mean that there is nothing unnatural about disability. Think about the words "human experience." They refer to the basic fact of being part of humankind.

Now, let's "translate" those words. Let's understand them to say, "We who are educators welcome you who have disabilities into our schools and profession. The fact that you have a disability is simply a natural part of your experience as a human being—indeed, it's a natural part of our experience, too, as we are all human beings together." Let's say, in unity, to students with disabilities, "Welcome to our schools." "Welcome to the general education settings of our schools."

There's more to IDEA's very first sentence. After proclaiming the "natural part of the human experience," IDEA says that disability "in no way diminishes the right of individuals to participate in or contribute to society." So, you should understand this much, already: Dignity, rights, and especially rights to education go hand in hand.

## The Supreme Court and *Endrew F.*

You know that the Supreme Court interpreted IDEA's "appropriate education" requirement, in *Endrew F.*, by holding that his right is one to progress. In doing so, the Court told us something about dignity.

> When all is said and done, a student offered an educational program providing "merely more than de minimis" progress from year to year can hardly be said to have been offered an education at all. For students with disabilities, receiving instruction that aims so low would be tantamount to "sitting idly . . . awaiting the time when they were old enough to 'drop out.'" . . . The IDEA demands more: It requires an educational program reasonably calculated to enable a student to make progress appropriate in light of the student's circumstances.

With this decision comes no more barely minimum education, no more "sitting idly" and waiting to "drop out" or become 21 and "age out" of IDEA. Now, progress in education is the key. "Appropriately ambitious," "challenging objectives," and "potential for growth" consistent with the student's "circumstances" are the ingredients of your students' education.

Now, take IDEA's "natural consequence of the human experience." Add to it the Court's language in *Endrew F.* Then consider the meaning of dignity as encompassing students' inherent worth and educators' respectful work on their behalf. Do you get the sense that Congress and the Court are going beyond "rights" and their meaning? You should. There really is no other way of understanding the deeper meaning of IDEA as interpreted by the Supreme Court.

We are going beyond "rights," but to what? We are now saying that these students with disabilities—your students—have inherent worth: Less able is not less worthy. And it is your duty to affirm their worth in all you do for and with them and their families.

## Professional Principles as Sources

You might say, "Well, I'm not likely to be held to account at law for whether I treat my students respectfully. All I have to do is teach effectively." You may be right. You personally may never have to defend, in court, what you do as a teacher; the odds are against that.

But as a professional, you also will be expected to comply with the Code of Ethics of the Council for Exceptional Children, the nation's special education professional association. Look at Figure 1.11, the CEC Code of Ethics. CEC's very first statement of "Special Education Professional Ethical Principles" commands special educators to "maintain challenging expectations" for their students to "develop the highest possible learning outcomes and quality of life potential in ways that respect

**Figure 1.11** Council for Exceptional Children Special Education Professional Ethical Principles

Professional special educators are guided by the Council for Exceptional Children (CEC) professional ethical principles, practice standards, and professional policies in ways that respect the diverse characteristics and needs of individuals with exceptionalities and their families.

They are committed to upholding and advancing the following principles:

1. Maintaining challenging expectations for individuals with exceptionalities to develop the highest possible learning outcomes and quality of life potential in ways that respect their dignity, culture, language, and background.
2. Maintaining a high level of professional competence and integrity and exercising professional judgment to benefit individuals with exceptionalities and their families.
3. Promoting meaningful and inclusive participation of individuals with exceptionalities in their schools and communities.
4. Practicing collegially with others who are providing services to individuals with exceptionalities.
5. Developing relationships with families based on mutual respect and actively involving families and individuals with exceptionalities in educational decision making.
6. Using evidence, instructional data, research, and professional knowledge to inform practice.
7. Protecting and supporting the physical and psychological safety of individuals with exceptionalities.
8. Neither engaging in nor tolerating any practice that harms individuals with exceptionalities.
9. Practicing within the professional ethics, standards, and policies of CEC; upholding laws, regulations, and policies that influence professional practice; and advocating improvements in the laws, regulations, and policies.
10. Advocating for professional conditions and resources that will improve learning outcomes of individuals with exceptionalities.
11. Engaging in the improvement of the profession through active participation in professional organizations.
12. Participating in the growth and dissemination of professional knowledge and skills.

Approved, January 2010

their dignity, culture, language, and background." There it is again—the connection between dignity and outcomes.

We acknowledge that seven core elements and the principle of dignity are a lot to grasp. How do they apply to your students? The answer lies in how they apply to Endrew. Here is what his parents told us as we had dinner with them and Endrew, in their home, 6 months after the Supreme Court decided in their favor:

> *There was no guaranteed outcome. We were right. We knew it. It was worth it to fight for what we believed in.*

This was a matter of Endrew's parents being right all along, through 7 years of losing before finally being able to say, "We Won!" That kind of being right was not just about the law. It was a different kind of "right." It was a "rightness" that proclaimed "Our son is worthy." The word "dignity" captures that kind of worthiness. Just as the Court dignified Endrew, so, too, did his parents, from the moment he was born. Will you join them and the Court?

# Summary

## Goals and Core Elements of Special Education

National disability policy has four goals: equal opportunity, full participation, independent living, and economic self-sufficiency. Also, special education has seven core elements: high expectations, diversity and cultural justice, progress, research-based practice, inclusion, self-determination, and partnerships based on trust.

## Students and Professionals

Approximately 13 percent of the nation's entire school population has a disability. By contrast, students who are gifted and talented represent 6.7 percent of the nation's school population. Approximately two thirds of students with disabilities have learning disabilities or language impairments. The professionals are general educators, special educators, paraprofessionals, and the professionals who deliver related services and supplementary aids and services.

## The Law of Special Education: Individuals with Disability Education Act (IDEA)

There are six principles of IDEA. The first four principles are inputs into a student's education. The last two are accountability techniques. The principles are as follows:

- Zero reject, a rule against exclusion
- Nondiscriminatory evaluation, a rule of fair assessments
- Appropriate education, a rule of individualized benefit
- Least restrictive placement, a rule of presuming placement in general education programs
- Procedural due process, a rule of fair dealing and accountability
- Parent and student participation, a rule of shared decision making.

## Other Federal Laws

Other federal laws affect students' education. The Educating Students for Success Act seeks to improve the education of all students (general and special alike) by requiring states to be accountable for the education they offer. The Rehabilitation Act addresses the employment needs of students and adults with disabilities. The Tech Act supports states to make assistive technology available to students with disabilities. Section 504 and the Americans with Disabilities Act protect students and adults with disabilities from discrimination based solely on their disability.

## The Core Principle of Dignity

Less able is not less worthy (Turnbull, 1976). What about students with special gifts and talents? Let's reverse our thinking and say, "Being exceptionally gifted and talented, being so much more able does not make a person more worthy."

We have said that dignity is the state of being worthy, honored, or esteemed. So, dignity has two aspects: It is inherent in your students and it is a matter of how you regard them, of what "worth" you attribute to them.

The word "inherent" refers to that which is in the constitution or essential character of something or someone (Mish, 1990). A synonym of "inherent" is "intrinsic," meaning "belonging to the essential nature or constitution of a thing or person" (Mish, 1990).

Worthiness comes from the simple fact that the person is human, possessing capacities—and needs for supports—for thinking and feeling. "People have dignity because the essence of who they are cannot be replaced (Evans & Vaandering, 2016, p. 32).

If "worthy" refers to inherent humanness, then "honored" or "esteemed" refers to how some individuals regard a person. You may say, for example, that you are honored to be admitted to a certain college or university or that you have been esteemed by colleagues who chose you for a leadership position. Dignity, then, is a matter of "standing" among others; a student who has a disability and who receives a varsity letter for playing or being a manager of a varsity sport is "honored" and "esteemed" by his colleagues; he has been dignified by them (Turnbull, 2011).

# Addressing the Professional Standards

In Chapter 1, The Purposes, People, and Law of Special Education, we have covered the following Council for Exceptional Children (CEC) Initial Level Special Educator Preparation Standards: Chapter 1—2.0, 4.0, 4.3, 4.4, 5.1, 5.2, 5.5, 6.0, 6.1, 6.2, 6.3, 6.4, 6.5, 7.0, 7.3. Refer to the Appendix for a full listing of the CEC Standards with description and supporting explanations.

# Chapter 2
# Disability and Cultural Justice

## Learning Outcomes

**2.1** Distinguish between macrocultures and microcultures; describe the progress of the disability rights movement in education; and explain the current outcomes of education for students with disabilities.

**2.2** Summarize research findings about cultural bias related to disability and race, and characterize the themes of intersectionality and disproportionality across six key educational considerations.

**2.3** Describe implementation of the Watch, Think, and Act process and identify three of the five strategies for teaching restorative practices and three examples of culturally responsive teaching.

## Meet McKyla and Mr. Ortega—Restoring Justice to a School and a Community, One Circle at a Time

**Students' progress in special education can occur because of a Supreme Court decision, as you learned when reading Chapter 1.** Students' progress also can occur because entire systems of education apply research-based practices in their programs, as you will learn in Chapters 4, 5, and 6.

There is, however, a system-wide change that rests explicitly on justice. It is the change that is occurring within the Oakland, California, Unified School District (OUSD)—not just there, but elsewhere as well. That change derives from a research-based practice called restorative justice.

Meet McKyla Woods, a student at Oakland's Madison Park Business and Art Academy, who receives special education support, and Emilio Ortega, the school's Restorative Practice Facilitator/Leader. Then read about the significance of restorative justice as it occurs in their school and in Oakland at large.

Like so many other students in schools across America, McKyla uses social media. She's also a victim of it. She texts her friends and receives texts from them. She also gets texts from peers who are not her friends, texts that tease and bully her. It's not just social media that offend her—it's face-to-face comments from her peers (those in upper and lower grades alike), rumors about her, verbal attacks about her mother, and sometimes teachers' comments to her.

Agnes Marcelo


Agnes Marcelo

McKyla admits she has a hard time keeping "cool," especially when she believes that her peers or teachers misunderstand or misinterpret what she has intended to say. Of course, her angry responses don't cool down a situation; they escalate it. What should she and Mr. Ortega do to avoid school discipline, head off confrontations that can get out of hand, and satisfy her deep need to find a place of her own? How can they find a place that is safe for her, her peers, and her teachers?

The answer is to use the restorative practice program that operates throughout the Oakland, California, school district. Mr. Ortega directs the program at McKyla's school. He's also McKyla's one-on-one confidant and supporter.

To engage in restorative practice—to learn how to relate, repair, and restore their relationships—Mr. Ortega convenes the students or faculty with whom McKyla has issues; they sit in a circle and commit to listening to each other with no interruptions. Mr. Ortega's insistence on that commitment is not just a matter of teaching good manners for life; it's also the way he, McKyla, and her peers and teachers have of being able to say, with or without emotion, what they want to say, what they need to explain, in their own words, and with respect for the process and each other. McKyla puts it this way: "I have a 100 percent chance to speak my mind. No one shuts me up or cuts me off. I can talk about anything with Mr. Ortega, he keeps confidential what I say, but he also encourages me to speak my mind in the circle."

As the circlers speak their minds, they begin to apologize for offending each other. They learn how to resolve conflict without fights or other violence. Mr. Ortega emphasizes that restorative practices are an integral part of school discipline. That is so because the practice incorporates positive activities that use conflict and harm as a way to build positive relationships while also helping to "correct" and transform students' behavior.

He also makes another important point: Restorative practices are alternatives to the harmful punishment that students inflict on each other by fighting, aggression, and verbal abuse. The practices also are alternatives to the punishment that teachers impose on students by suspending them from school or removing them from classes.

In a nutshell, the students are learning two curricula at Madison Park Academy. One is the state-prescribed curriculum. The other is the civic virtue of being members of the same community, whether it is Madison Park Academy or greater Oakland. Justice comes to Madison Park, one student at a time, one circle at a time, slowly and deliberately. Civic virtue—too often lost—is being restored; justice is returning to a place where it had vanished.

As of 2018, Oakland's population of 410,000 is multiethnic. Public notices are printed in English, Spanish, Chinese, and Vietnamese. The city is a hub for education: Early education, adult education, and postgraduate education occur city-wide. Activities for older adults are widespread; accessibility and accommodations for persons with disabilities are, too. Centers for the arts and culture flourish. Affordable housing exists. Minority-owned businesses benefit from targeted public initiatives. Minimum wage increases have been approved by voters. But the city council's Number 1 priority is public safety. *Forbes* Magazine has rated Oakland as having the third-highest crime rate among all American cities. Remember these two facts: priorities and rate. Each relates to the Oakland schools and to its program on restorative justice.

As of the 2017–2018 school year, the Oakland system served just over 50,000 students in 87 district-operated and 35 charter schools—a total of 122 schools. Within