

# Special Education Law and Policy

FROM FOUNDATION TO APPLICATION

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# Foreword

I am pleased to provide a Foreword for this authoritative, comprehensive, and much-needed volume. I knew it would be impressive because of the scholarship and leadership of the editors. The fact that they have assembled such an august and diverse lineup of contributors is not a surprise, but it is a unique accomplishment. With chapters from legal experts, Special Education experts, and diversity experts in one volume, this book is destined to become essential reading for those entering the field of Special Education.

Being a special educator requires an understanding of IDEA and its genesis. But that is just the beginning. The authors guide us through related laws, including the Rehabilitation Act, the Americans with Disabilities Act, and the Every Student Succeeds Act. The web of intersection and divergence among these statutes is critical to understand. Students and educators do not live in a siloed world of IDEA, Section 504, ADA, or ESSA. They live in a world where these statutes overlap and form an implementation nexus. Knowing the individual statutes enables a foundation to understand the ecosystem of disability rights and Special Education, as well as a roadmap to navigate advocacy.

Examining the implementation issues of these laws over the years and bringing us to the challenges of today provides a path for the reader to travel toward a deeper knowledge base. Consideration of court decisions, established compliance procedures, discipline policies, evolving definitions of disability, the role of parents, research-based strategies, and outcomes for students reflect the rich texture of the field.

I began my career in Special Education in New York City in a trailer on the playground of an elementary school in the Bronx. I was a paraprofessional in a program that was intended to support students who had been in psychiatric hospitals while they transitioned back into general education. This was an experimental and groundbreaking program at the time—in 1972. This was also before the enactment of IDEA. There was no FAPE, no LRE, no federal requirement for access to education for students with disabilities at all. It was exciting to be on the frontier.

I was a great lover of poetry at the time, and with the support and guidance of my classroom teacher, I developed a series of lessons on poetry writing. The students were highly engaged and wrote some wonderful poetry. I was surprised and pleased with their enthusiasm, as poetry was an entirely new world for them. Shortly after we finished our poetry curriculum, the principal of the school announced a schoolwide poetry contest. I was elated! My students had many fine poems to enter into the contest. Excitedly, with poems in hand, I went to meet



with the principal. I explained that we had been working on these poems for weeks and how fortuitous it was that the contest came along now. The principal took the poems from me, looked them over hurriedly, returned them to me, and said, “There is no way those students wrote these poems.”

That hit me like a slap in the face. Just like that, the door slammed closed. Today we call that the bigotry of low expectations. In 1972, that was educational practice. I do not think that would happen today. But if it did, I would not be walking out of the office with my head hung low. I would be organizing to advocate—and federal law would be on my side.

We can never take the promise of IDEA and the ADA for granted. A reflection of our nation’s commitment to these laws is the fact that they are both civil rights laws, and, as such—in legislative parlance—they are “permanently authorized.” In other words, they never expire. While Congress can and has amended both laws, they do not come with an expiration date, like most laws do. Civil rights are not intended to expire.

With 7 million students with disabilities being served by Special Education services and millions more protected by Section 504 and the ADA, there is much to celebrate about the implementation of our nation’s education and disability rights laws. Today, 19% of undergraduates in higher education report having a disability. Almost three quarters of a million public school students utilize education plans developed under the auspices of Section 504.

Sophisticated research-based strategies, such as multitiered systems of support and universal design for learning, enable increased inclusion of students with disabilities. New programs, such as higher education programs for students with intellectual disabilities, continue to push boundaries and raise expectations. People with disabilities are more of a political voice than they have ever been—demanding and receiving disability plans from all of the 2020 Democratic presidential candidates.

I believe I can persuasively make the argument that there is no professional field in which the federal government has had a greater role to play than that of Special Education. The field infused its budding knowledge into the development of IDEA and its predecessor iterations. Provisions of law have stood the test of time and shaped the field markedly. Consider the definition of a free appropriate public education, least restrictive environment, and the Individualized Education Program. It is impossible to imagine the field of special education without these core tenets. And they have all been in federal law for 45 years.

Likewise, the investment of the federal government in the development of a Special Education workforce is remarkable. Congress acknowledged that without the workforce, the delivery of the promise of IDEA is unreachable. When surrounded by my Special Education colleagues at conferences, I often ask, “How many of you were supported through grants or stipends by IDEA funds to complete your Special



Education degree—be it BA, MA, PhD, or some combination?” Inevitably almost every hand is raised. In what other field would such a direct federal investment in the profession be found?

But there is much to be done. The outcomes for students with disabilities leave much to be desired. Most notably, high school graduation rates and employment rates remain low. Lack of access to health care and continued societal discrimination disproportionately impact students with disabilities. The COVID-19 epidemic has shown us that people with disabilities are still considered expendable. Systemic racism and ableism collide to generate unacceptable practices, including the overrepresentation of black and brown students in Special Education, disparities in school discipline practices, and the all too common use of seclusion and restraint in schools. Too many students with disabilities continue to face a lack of accessibility in higher education.

Threats to IDEA are ever present, as is well documented in the court cases reviewed in this book. Significant challenges are not new to our field. In fact, they are an integral aspect of it.

Advocacy is at the heart of our nation’s disability rights laws. Without advocacy—initially and continuing daily—there would be no ADA; there would be no IDEA; there would be no Section 504 of the Rehabilitation Act. Every special educator must be an advocate first. Access to education and to society for people with disabilities was not easily given—it was won by people with disabilities, parents and families of children with disabilities, and their allies. And it must be renewed every day—in schools, in courts, in the workplace, in our political processes, and in society at large.

Those who absorb this book will be well prepared to take their place as advocates. Knowledge is a precursor to successful advocacy. Knowing the goals and requirements of law and policy provides a special educator with the knowledge to act, to raise questions, to partner in dialogue with colleagues and policy makers, and to get involved with what (the late) civil rights icon Rep. John Lewis (D-GA) called “good trouble.”

The history of disability rights and Special Education is replete with examples of how one act of advocacy can change the law and the course of history. I was fortunate to have witnessed one such act, as well as its far-reaching impact. In the early 1980s, during the first decade of the implementation of IDEA, I had the life-changing opportunity to work on the staff of the U.S. Senate. I served under Sen. Lowell Weicker from Connecticut who was the chairman of what was then the “Subcommittee on the Handicapped.” The staff director of our subcommittee was invited to visit with a group of parents of students with disabilities in Connecticut. In the course of that meeting with parents, he was told over and over that the school district where they were located had informed them that IDEA allowed only 2 hours of speech therapy per week. Thus, that was all their children were entitled

to. They were enormously frustrated, as the needs of their children were not being met.

Of course, the parents were being misinformed. But they did not know that. They were astounded to learn that this was not a provision of IDEA. The staff director returned to the Senate determined to find a way whereby parents could directly access information about IDEA and Special Education, as well as support in navigating its implementation. He worked for over a year to educate other congressional staff and stakeholders and to develop a winning political coalition. He was tenacious and persistent. Eventually, a new program was created—one that would provide parents access to accurate information and support related to the provisions of IDEA. That program, now the \$27 million Parent Training and Information Centers, was generated from that one meeting with parents in Connecticut. For over 30 years, parents and families in every state have utilized this resource daily for information, training, and technical assistance. With knowledge about the law and how it works, parents can be more effective as partners with educators and as advocates for their children.

Without the advocacy of those parents in Connecticut, the parent training and information centers may never have come to be. The fact that those parents knew to engage with policymakers and reached out to do that made all the difference. There are multiple issues we confront today where ongoing advocacy is required. This book provides the foundational knowledge needed to begin the advocacy journey.

In our era, we are presented with a far-reaching set of broad societal challenges that will impact our field. Calls to privatize public education have considerable traction, with many spokespersons in persuasive positions. In an era of economic downturn and budget cuts, the decades of severe underfunding of IDEA are made more prominent. With a shortage of fully prepared and diverse special educators at a crisis point prior to the pandemic and its resulting economic fallout, the shortage will likely be exacerbated. We know that the path of lowering standards for Special Education teachers in response to the shortage will only lead to the shortchanging of students—which will not lead us to improved outcomes for them. The outrage over the long-standing systemic racism in our education system and its impact on students with disabilities of color is at a precipice.

These challenges amplify the clarion call for advocacy—a call that has always been the heartbeat of Special Education. These events are destined to reshape our society and our schooling, but we do not yet know how. The unanswered questions are many and they continue to unfold. How they will intersect with Special Education policy and practice is not yet known. As advocates, our vigilance and engagement will be required. Our legacy informs us that we are up to the task.

As in the past, the advocacy of people with disabilities, parents, and families of children with disabilities and allies will be required to meet the unfolding challenges of the day. We must, and we will, demand our place at the table for the

dialogue, the debate, and the problem solving. This book offers a solid foundation for the development of the mind-set and the skillset needed to continue our progress in delivering the promise of our nation's magnificent Special Education and disability rights laws.

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Education Policy Consultant



# Preface

In working with pre-service and in-service educators, families, and attorneys, we've found every person involved in the education of a student with an identified Special Educational need, or the potential for identification, reflects on their actions by prefacing with the following statement, "This is in the best interest of the child." While all parties involved often believe what they are doing is indeed in the best interest of the child, subjectivity is one of the more obvious reasons we hold in high esteem the objectivity of a legislative system that proposes new law, a judicial system that identifies the legitimacy of the law, and regulatory bodies that navigate how to put the law into force.

As special educators, we know the importance and significance of Special Education and disability history. In order to combat the discrimination our students, their families, our friends, and colleagues have faced due to a disability, we developed a text that ensures future educators and advocates recognize and face the prejudices experienced by students with disabilities. It is in knowing our shared history that we are afforded the opportunity to change our future. Our aim in writing this text is to provide the reader with a solid foundation of disability law that you may deftly apply the law in your own situation—whether you are an individual with a disability or the friend, sibling, parent, teacher, attorney, or advocate of one.

We want readers to be comfortable with the law and not to be intimidated by it. It is with this in mind that the first chapter of our book explains the legal system in the United States, focusing on how the law is developed, passed, and implemented. Likewise, our second chapter aims at providing the reader with context and a background of Special Education law. We take a deep dive into the history of Special Education and disability policy, juxtaposing the early history of the 18th and 19th centuries with our recent 20th and 21st centuries. Educators and advocates can be guided in their practice by these foundational chapters.

The next several chapters make up the *Foundation* section of the book. First, we introduce the seminal Special Education law, the Education for All Handicapped Children Act of 1975 (the precursor to the most recent and important Individuals with Disabilities Education Improvement Act, otherwise known as IDEA). While this law was not the first time the federal government included disability or Special Education in legislation, IDEA is the foundation for all Special Education services in publicly funded schools across the United States. The next chapter explores the Rehabilitation Act of 1973, followed by The Americans with Disabilities Act of 1980. The Foundation section of the book culminates with the pivotal Every

Student Succeeds Act, which affords every student a quality education in our public schools, including students with disabilities.

The *Application* section of the book takes principles of IDEA and other disability laws and demonstrates how you, the reader, can put in place the protections afforded to the students in our schools. From exploring how a student is first identified as having a disability to how that student transitions from high school to post-secondary opportunities, the law guides the practices each step of the way. Readers interested in particular topics such as what is involved in the Individualized Education Program (IEP), what Least Restrictive Environment (LRE) or Free Appropriate Public Education (FAPE) entail, or the discipline practices assured for students with disabilities are all included in depth in the *Application* section of the text.

Each chapter in this book includes several points of reflection and practice for the reader. Resources such as *check your understanding* allow for review of major concepts within each section throughout the chapter. *Key concepts* are bolded and provided within easy to find boxes. We've included authentic case studies of students our authors have experienced in their careers within the *Putting it in Practice* and *Application in Action* sections. As you begin developing your advocacy toolkit, the *Advocacy Matters* sections address how to communicate to elected officials, communities, and families about the needs of students with disabilities. *Case studies* at the close of each chapter in this section provide an in-depth analysis of the practical application of disability laws in schools. Special Education attorneys and other law experts developed the case studies based on scenarios their clients found themselves navigating. The experts describe different outcomes for each case had the situation been handled differently.

These embedded resources are intended for you to pause, reflect, and consider how the law and policy that you are learning can be implemented in your field of practice. Additional tools are provided at the close of each chapter. Reflection questions, resources to review, and additional case law are provided to extend your learning.

Finally, the *Plural Plus Companion Website* provided to you when you purchase this book includes test questions and PowerPoint slides for each of the sixteen chapters.

The law can be perceived as inaccessible. We genuinely hope that this text demystifies Special Education law and, more importantly, helps readers recognize how the law and advocacy efforts can be used to bolster the rights and experiences for students with disabilities. Our field has come a long way but there is still much to be done to ensure that our actions really are indeed “in the best interest of the child.”

—Jacqueline A. Rodriguez and Wendy W. Murawski



# Contributors



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*Chapters 12 and 13*



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*Chapter 8*



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*Chapters 4 and 11 and Case Studies*



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*Chapter 11*



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*Chapter 1*



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*Chapter 4*



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*Chapter 15*



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*Chapter 7*



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*Chapter 7*



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*Chapter 14*





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*Chapter 14*



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*Chapter 9*



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*Chapter 9*



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*Chapter 3*



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*Chapters 12 and 13*



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*Chapter 14*



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*Chapter 7*



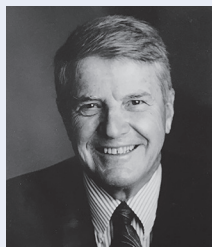
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*Chapters 1 and 16*



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*Chapter 6*



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*Chapters 2 and 16*





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*Case Studies*



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*Chapter 11*



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*Case Studies*



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*Chapters 12 and 13*



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*Chapter 10*



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*Advocacy Matters*



## CHAPTER 9

# WHO'S AT THE TABLE? ROLE, RESPONSIBILITIES, EXPERTISE, AND AUTHORITY

*Patricia Ann Popp, Sabrina J. Gross, and Laura Hackett*

### Chapter Objectives

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**Objective 1:** Identify who meets the definition of “parent” under the Individuals with Disabilities Education Act (IDEA) and recognize the valuable participation of a parent in the Special Education process.

**Objective 2:** Explain why students need agency and identify at least three resources and/or strategies to ensure student participation in the Special Education process.

**Objective 3:** Discuss the important complementary roles general education and Special Education teachers play in the Special Education process.

**Objective 4:** Describe the roles of related service providers in the Special Education process.

**Objective 5:** Identify additional school personnel who may need to be included in the Special Education process for specific subgroups of students protected by other federal education laws.

stability of children and youth in foster care. At the time of this writing, a national list of these contacts was not available online; each state department of education will have this information.



### Application in Action

**In addition to federal and state resources, the Legal Center for Foster Care and Education (formed by the American Bar Association Center on Children and the Law, the Education Law Center, and the Juvenile Law Center) has developed a variety of useful briefs, research reports, and trainings accessible at <http://www.fostercareandeducation.org/>**

Children in foster care may have several adults in their lives who meet the definition of parent under IDEA (e.g., biological parent or foster parent). If the biological parent's educational rights have not been terminated and that parent is attempting to act as a parent, this should be the person to fulfill the parent role in making Special Education decisions. Students placed in residential facilities or group homes whose parents' educational rights have been terminated or whose parents cannot be found or whose parents are not able or willing to act as parents will need to have a surrogate appointed. In some cases, the courts may determine who will act as the educational decision maker. While child welfare has custody, the caseworker does not meet the definition of parent. States determine who can sign official documents for Special Education purposes, and this should be in the state's Special Education regulations; therefore, knowledge of state law and Special Education regulations is needed to determine who is the educational decision maker for students with disabilities in foster care.

The Legal Center for Foster Care and Education has a series of information briefs on Special Education decision making that guide the reader through the complexity of determining the appropriate person. These briefs can be accessed at <http://www.fostercareandeducation.org/AreasofFocus/SpecialEducation.aspx>. Additional adults may be at the table when a student is in foster care; for example, there may be a court-appointed special advocate (CASA) worker or guardian ad litem (GAL) acting as an advocate. These individuals receive special training and are appointed by the court. A GAL or CASA worker may participate in Special Education meetings. They do not meet the definition of a parent. The role of advocates is addressed in a later section of this chapter.

## Military-Connected Families

The Military Child Education Coalition (MCEC) defines a military-connected student as anyone between the ages of birth and 21 who has one degree of separation from a service member (MCEC, 2016). This can be a biological child or a child



related through adoption or foster care or when the adult is acting *in loco parentis* (in the place of the parent). Approximately two million military-connected students have parents who are active duty, members of the National Guard or Reserves, or Veterans of the United States Military. More than 80% of the 1.2 million school-aged children in military families attend public schools and nearly all school districts educate these students (USED, n.d.). Approximately 10% to 12% of military-connected students receive Special Education services; military-connected students move every 2 to 3 years, which is about three times the rate of mobility for their civilian counterparts (MCEC, n.d.).

Until ESSA, there were no federal requirements for schools to collect information about military-connected students. Since 2017–2018, a military student identifier is required in the student record collection systems to allow the disaggregation of achievement and graduation rates for these students (MCEC, 2019). The ESSA mandates for immediate enrollment and educational stability in place for students experiencing homelessness and those placed in foster care also are in place for military-connected students. However, there is an Interstate Compact on Educational Opportunity for Military Children (MIC3) that addresses such issues as how states will accept coursework when students move between states, credit accrual challenges, and enrollment questions. All 50 states have agreed to participate to increase educational equity for these students; many states are appointing state-level student liaison coordinators to coordinate state policies as military-connected families move across the country and the world (Kurilla, 2019).

Communities with large numbers of military families may have a local liaison who coordinates with local military installations. Families with children who have more significant disabilities and health concerns may be given priority to be assigned to localities with stronger Special Education programs and children's hospitals. The school systems in such localities may serve greater proportions of students with special needs than most LEAs.

The voice of military-connected families is needed at the state and local levels, including representation on Special Education advisory committees. Another support in which military families can enroll is the Exceptional Family Member Program (EFMP) that works with military and civilian agencies to provide community support, housing, medical, and educational and personnel services to military families with special needs (Norman, 2019). Enrollment in EFMP is mandatory for active duty service members when a family member is identified with special medical and/or educational needs. Members of the National Guard or Reserves may enroll under certain circumstance (EFMP, 2016).

### Special Challenges for Students with Disabilities Who Are Highly Mobile

As discussed in the previous sections, migrant students, students experiencing homelessness, students placed in foster care, and military-connected students have

high rates of residential mobility. This can affect the Special Education process in a variety of ways from initial identification through eligibility and provision of services.

It can be difficult to determine whether residential and school mobility or a disability is the underlying cause for a student's academic difficulties. When students move frequently, there may be insufficient time to implement response to intervention (RTI) strategies before the student changes school again. Care must be taken to ensure mobility alone or lack of RTI data does not prevent evaluation and eligibility discussions (Musgrove, 2011; OSEP, 2013). Highly mobile students were a consideration when IDEA was reauthorized in 2004; advocacy for highly mobile students led to IDEA's requirement that the timeline continue (and not start over) in the new LEA when a student changes LEAs in the middle of an eligibility evaluation unless the school and parent agree to an extension. Without the requirement to "keep the clock ticking," students who move frequently might never receive a proper evaluation, eligibility, and services.

Trauma and toxic stress are additional confounding factors in identification and eligibility decisions. Trauma is a common experience for students placed in foster care; homelessness is also a trauma and is frequently related to other traumas such as domestic violence, mental illness, and serious physical illness. Military-connected students face stressors when parents are deployed and when the parent returns home, whether or not that parent was wounded while serving the country. For students with disabilities, educators need to determine if the learning and behavior challenges observed in the classroom are the result of a disability or the result of trauma. Have early traumatic events in the student's life resulted in changes in the child's neurobiology leading to diagnosable disabilities? Harvard University's Center for the Developing Child (<https://developingchild.harvard.edu/>) has a variety of resources that explain the impact of toxic stress on brain architecture and they offer ways to counter those effects.

An additional concern is balancing the mandates for providing the least restrictive environment (LRE) and the need for school stability. Consider the issues that may arise if the school of origin has provided the student a more restrictive placement than can be provided in the new locality. Since both mandates are in federal education law, it will be necessary to include the homeless or foster care liaison or a designee to ensure compliance with both ESSA and IDEA processes. Recommendations for navigating McKinney-Vento and IDEA exist in the literature, including the importance of team-based processes; these practices also could be applied to students in foster care (Sullivan-Walker et al., 2017).

Balancing immediate enrollment and school stability between IDEA and homeless or foster care provisions in ESSA poses challenges in their implementation. Because of their mobility, delays in enrollment add to missed instruction for highly mobile students when records are missing. The issue of missing records led to the mandates for immediate enrollment addressed in McKinney-Vento and Title I, Part A, for students in foster care. When students have a disability, how does the

school ensure an IEP that provides FAPE is implemented immediately? It may not be possible to convene an IEP team immediately. How is proper notice provided? What happens when a student has more significant needs and an alternative placement, possibly a private placement, must be found? These are very serious, and very real, issues that many educators and schools face regularly.

There are some practices that have been identified to minimize delays. Whenever possible, the student should remain in the school of origin while the transition to a new LEA is pursued and LEAs should expedite record transfer to the new LEA. Having representation from both the previous and new LEA may be required for best interest determinations and can provide valuable information for an IEP meeting if held concurrently. If such challenges lead to delays, there should be a plan to expedite the Special Education process, such as providing interim services immediately, and a system to expedite all processes.

Mobility can confound determining which LEA is responsible for FAPE when a student is residing in a different LEA while continuing to attend a school of origin in another locality. According to OSERS (2008), states are responsible for deciding which locality is responsible for FAPE. A state's Special Education regulations may address this issue. The state coordinator for homeless education and the USDOE State Point of Contact for Foster Care should collaborate with state Special Education staff to ensure mutual understanding of how to navigate the federal and state laws and regulations that can be communicated to LEA staff for homeless, foster, and military-affiliated education and Special Education.

## LGBTQ+ Families

A healthy, welcoming school climate is one of the elements that forms the foundation for any student's success. To do this, schools should reflect their communities. Much has been written about honoring the cultures of the students being served. Added to this conversation in the past few decades is the acknowledgment and recognition of people who identify as LGBTQ+ (lesbian, gay, bisexual, transsexual, queer, and other). The "+" recognizes the wide spectrum of sexual identities and expressions. Treating individuals with respect and creating those welcoming environments require a willingness of organizations to learn about people who identify as LGBTQ+ and how norms many take for granted may be barriers to feeling welcomed for members of this community. For example, schools can make efforts to be inclusive. These can include offering all-gender restrooms, using visuals that reflect different family structures, engaging in antibullying work that acknowledges the negative connotation given to terms that are not part of the dominant heterosexual, cisgender (sex at birth aligns with one's identity) society, and honoring a person's pronouns (e.g., his, her, their, zir). Parents who identify as LGBTQ+ must feel they belong in their children's schools and are needed to fulfill the critical role parents play in the Special Education process.

Students who are LGBTQ+ may not be accepted by their peers or their families. Chapin Hall at the University of Chicago (Morton et al., 2017) found that LGBTQ youth had a 120% higher risk of reporting being homeless compared to their heterosexual, cisgender peers. While LGBTQ youth are about 7% to 10% of the population, they represent about 20% to 40% of youth experiencing homelessness (True Colors United, 2019). These youth may be among the unaccompanied homeless youth discussed above. True Colors United, a nonprofit organization founded by singer Cyndi Lauper, has the mission to end homelessness for LGBTQ youth (see <http://truecolorsunited.org>).

Resources are available for schools and parents who want to support their children who are LGBTQ+. The Human Rights Campaign has developed resources for parents to help them support their children in the education environment (see <https://www.hrc.org/resources/school-resources-for-parents>). The National PTA has resources to address increased inclusivity in schools (<https://www.pta.org/home/run-your-pta/Diversity-Inclusion-Toolkit/supporting-multicultural-membership-growth/Lesbian-Gay-Bisexual-Transgender-and-Queer-Questioning-LGBTQ-Children-and-Families>). True Colors United has an online course, *Common Ground: LGBT Youth Homelessness 101* (available at <https://learn.truecolorsunited.org/courses/lgbt-youth-homelessness-101/>), that is



### For Understanding

**What are some ways to ensure families considered nontraditional feel welcome in the school and are able to engage meaningfully in the Special Education process? Who else needs to be included at the table to support these efforts?**

interactive and easy to access. For students with disabilities who identify as LGBTQ+, the potential to experience bullying and stigmatization is exacerbated (Duke, 2011). Stories of bullying exist for both populations, and the intersectionality puts these students at high risk. Organizations such as GLSEN (<http://glsen.org>) offer climate surveys and curricula to increase inclusivity in schools, including discussions of youth with disabilities who are LGBTQ+.

## Concluding Thoughts

Schools serve a variety of families who have children with disabilities. Given the great diversity in our communities, appropriate support for these students and their families to fulfill the Special Education process will require basic knowledge of additional laws that provide educational protections. Staff who ensure these additional protections are in place should have a voice in reviewing policies and practices. Special Education staff and other federal program administrators must collaborate to navigate the intersection of various laws by creating communication channels and processes to coordinate the requirements of laws needed by students

and their families. The National Center for Homeless Education (see NCHE, 2015, for a comprehensive list) offers examples of collaborative processes and strategies to coordinate across McKinney-Vento and IDEA that could be a framework to approach other legislation.

## Including Students in the Special Education Process

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Discussion of Special Education processes often focuses on the responsibilities of adults who must comply with laws and regulations. However, the process exists to meet the needs of a student. Students are at the center of the entire process and are the sole reason for its existence. Student participation results in beneficial outcomes (Barnard-Brak & Lechtenberger, 2010; Danneker & Bottge, 2009). Engaged students are more likely to take the steps needed for continued success (Reschly & Christenson, 2006). Such students learn valuable skills to communicate and advocate for themselves that will be helpful throughout their lives.

## The Power of Self-Efficacy

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Self-efficacy is a person's belief in their own competence (Bandura, 1997). What a person believes he can do influences the amount of effort put forth and the likelihood of success. Helping students with disabilities increase their self-efficacy and be realistic about their abilities can improve academic outcomes (Bergen, 2013). Students with disabilities need to understand their strengths and challenges and must be taught the skills of self-advocacy and how to communicate their needs. When students see that their voice is being heard, they are more likely to feel they are a part of the process and follow through. Think about it. What if you are part of team and have a strong opinion about a next step? You advocate for that step, and ultimately, the team agrees to go with your idea. Most likely, you will work diligently to make sure that step in the plan is successful. Students need the same agency.

Self-determination is a related theoretical construct. Self-determination theory assumes that inherent in human nature is the propensity to be curious about one's environment and interested in learning and developing one's knowledge. Students whose motivation is more innate than externally controlled are more likely to thrive in classrooms and in adulthood. Teachers can be supportive, and specific actions of such teachers have been identified (Reeve, 2002). The "I'm Determined" project (see <https://www.imdetermined.org/>) is funded by the Virginia Department of Education; it incorporates direct instruction, models, and opportunities to practice skills associated with self-determined behavior. The program can be used with any youth, especially youth with disabilities, and it includes resources for parents.



## The Importance of Student Voice

Ensuring the student is a valued member in the process requires intentional actions. Even elementary students can be given information about their strengths and challenges. Evaluators and teachers can ask students to explain their observations about their own learning. While attending an eligibility or IEP meeting may not be appropriate for a young child depending on the conversation, a teacher or parent can explain the purpose for an upcoming meeting and ask the child what the adults at the table need to know. For example, the child can be asked, “What do you want to be able to do better? What do your teachers need to do to help you even more?” Elementary and secondary schools have begun teaching their students how to conduct their student-parent-teacher (s-p-t) meetings (Berger, 2014). Whether or not students are ready to participate in Special Education meetings, a premeeting with a smaller number of participants (similar to a regular s-p-t meeting) could be a bridge to prepare students for their increased role in high school when transition planning requires student participation.

The adults at the table can learn a lot by listening to the student. Students can share their interests, what they find is important in their lives, and what their hopes and dreams are. Many students, with a little guidance and practice, can describe what they need from the adults at the table. Similarly, and for the same reasons, teachers should be open to student voice and agency in classroom management and instruction.



### For Understanding

**How does including student voice in the Special Education process benefit the student? How might it benefit the process and the adults at the table?**

IDEA requires that students participate in the IEP process, when appropriate, and requires participation of older youth in their transition planning. Research supports direct instruction and strategy training to prepare students with disabilities to participate in their IEPs. Table 9–1 highlights several instructional practices that support this participation.

Though transition planning will be addressed in detail in Chapter 14, the role of the student and the importance of student voice during the IEP or ITP (Individualized Transition Plan) meetings is emphasized here. Transition services must be included in all IEPs when a student reaches the age of 16; transition can be addressed earlier if the IEP team determines it is appropriate to do so. The purpose of transition planning is to ensure students with disabilities become independent young adults; clearly, then, their voice is critical to the process. Whether the future holds a college degree, a workforce certification, or ongoing adult agency support, the student should participate in the IEP meeting to ensure her or his needs, preferences, and interests are addressed. The National Clearinghouse of Rehabilitation



**Table 9-1.** Examples of Practices/Strategies to Include Students in the IEP Process

Practice/Strategies	Citation
<b>Self-advocacy strategy—IPLAN</b> 1. Inventory your strengths, areas to improve or learn, goals, choices for learning or accommodations 2. Provide your inventory information 3. Listen and respond 4. Ask questions 5. Name your goals	Hammer, 2004
Self-directed IEP meeting	Martin et al., 2006
Computer-assisted instruction for self-directed IEP meetings	Kelley et al., 2011
IRIS module on student-centered transition planning	<a href="https://iris.peabody.vanderbilt.edu/module/tran-scp/#content">https://iris.peabody.vanderbilt.edu/module/tran-scp/#content</a>
Engage in self-determination interventions	Shogren et al., 2015

Training Materials (NCRTM) sponsored by the Rehabilitation Services Administration (RSA) (see <https://ncrtm.ed.gov/>) has a variety of resources to assist with transition planning.

## Teachers

With the exception of parents, teachers have the most consistent and direct interaction with students. Special Education teachers may support students who have not yet been determined eligible for Special Education and even students without identified disabilities through consultation and coteaching in general education classrooms (Murawski & Lochner, 2011). The expertise of Special Education teachers includes knowledge of disabilities and how that may affect learning, the ability to translate psychological reports into educational plans and explain those results to parents and general education teachers, as well as the ability to ensure compliance with IDEA.