

3rd  
edition

# A Principal's Guide

## to Special Education

David F. Bateman and C. Fred Bateman



504

intervention

success

co-teaching

CCSS

inclusion

services

FAPE

accountability

training

leadership

IEP

vision

disabilities

disorders

# A Principal's Guide to Special Education

**Third Edition**

David F. Bateman and C. Fred Bateman

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Council for Exceptional Children  
2900 Crystal Drive, Suite 1000  
Arlington, VA 22202  
[www.cec.sped.org](http://www.cec.sped.org)

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# Introduction

This is a book for school principals. We are well aware of the complexities that you face in your jobs. In many ways you are the focal point of today's discussions about public education: You are judged on the achievement of your students, the quality of your teachers, the level of decorum in your building, the dropout rate of your students, and even the success of your athletic teams.

To handle the close scrutiny of reporters, families, local politicians, and central office bosses, principals need to have effective management techniques, extraordinary patience, and strong problem-solving skills. In addition, you must be familiar with the various subjects that are taught in your school, and must keep abreast of the latest research regarding the best ways to measure student progress and teacher effectiveness. You must be ready to speak—without sounding defensive—when an incident occurs in or around the school, and what you plan to do about it, all the while evaluating whether or not the superintendent needs to know everything (or just the things that might show up on the six o'clock news).

One thread that runs throughout all these issues is how to provide special education services to children who come to school with learning, mental, social and emotional, or physical disabilities. Both teachers and parents will naturally look to you, as the leader of the school, to guide them in their meetings regarding these matters. Yet, it is doubtful that you have had the time to keep up with the ever-changing laws and regulations—to say nothing about the volumes of court decisions—that guide providing special education services.

This book was prepared for you with all of that in mind and is based on the type of problems principals face daily, and the type of questions they have asked us regarding these matters. We have pulled together a guide specifically for you, to help steer you through the maze of issues that you may face as you coordinate the daily work in your school, especially with regards to the education of children with disabilities.

As you will see, this guide encompasses a wide variety of topics, from the basic legal framework to issues regarding staffing, curriculum, student education plans, placement decisions, classroom management, assessment, and discipline. We have organized this guide so that you can use it as a reference for whatever type of situation you encounter. The appendices provide tools to help you manage your special education services and informational resources in the event that you need to dig a little deeper into any of the topics discussed.

## A Principal's Primary Responsibilities

This book is organized around nine very important themes:

1. The principal is responsible for the education of all students in the school.
2. The principal needs to be familiar with the concept and practice of special education.
3. The principal needs to ensure that staff members know what is necessary for providing special education services.
4. The principal needs to verify that staff members are appropriately implementing services for students with disabilities.
5. The principal should lead efforts for data collection.
6. The principal should ensure that all staff members are aware of the process for identifying students with disabilities.
7. The principal must be prepared to lead meetings related to services for students with disabilities.
8. The principal needs to know all students in the building and be ready to talk about them.
9. The principal needs to know how to prevent discipline problems.

These themes underlie our concept of the principal as instructional leader, and they are integrated into every chapter of this guide.

### *The Principal Is Responsible for the Education of All Students in the School*

From the first day children are assigned to a school, their education becomes the responsibility of the principal. Many parents of students with disabilities may not know the special education director for their school district, but they know the name of and how to contact the principal at their child's school. Along with being this point of contact for parents comes the responsibility of making sure all students in the school receive an appropriate education. With this expectation, the principal needs to make sure staff include adequately trained special education teachers and related services personnel, and that the education team meets the specific timelines and requirements for providing special education services. The principal needs to be able to explain to all—staff, families, and outside evaluators—the procedures used to comply with special education regulations. This is a very important part of the process.

### ***The Principal Needs to Be Familiar With the Concept and Practice of Special Education***

Most principals are not trained in special education. However, the principal needs to know about special education services and the different types of special education staff. Principals should be prepared to participate in special education evaluation meetings, individualized education program (IEP) meetings, and discipline meetings, and should periodically observe special education classroom instruction—just like they observe general education classroom instruction. Appendix A provides some helpful Internet resources to enhance your understanding of special education topics.

### ***The Principal Needs to Ensure That Staff Members Know What Is Necessary for Providing Special Education Services***

For families, each school representative is a very important part of their child's education. For some parents, the main point of contact is the only school employee they see, the school bus driver. Because families see every school representative as a very important part of their child's education, every staff member in the school must understand the need to look out for children with disabilities and report to others when they see problems. It is also vitally important that principals train staff so that children with disabilities are included—not only for academic instruction, but also in the extracurricular components of a school. A principal should continually communicate with staff to make sure these students' needs are being met and that they know their responsibilities towards students with disabilities—and ensure that all staff members are carrying out those responsibilities.

### ***The Principal Needs to Verify That Staff Members Are Appropriately Implementing Services for Students With Disabilities***

Even if your district is lucky enough to have a hands-on special education director who is in your building frequently monitoring services, that director is responsible for multiple buildings and generally is not involved in day-to-day interaction with and education of students. The principal needs to ensure that students with disabilities are receiving the services they need, and that regulations and guidelines are being followed.

If you find that a student is not receiving the type of services required and delineated, you must respond in a timely manner. You may need to arrange a meeting to reevaluate the student or the student's education plan, or may have



to consider corrective action plans for teachers who are not complying with students' special education plans.

### ***The Principal Should Lead Efforts for Data Collection***

In special education's infancy (1970s–1980s), there was no real expectation for keeping data on whether a student with a disability was making progress. Now, however, states—and, thus, individual schools—are required to make sure students with disabilities are making progress and that they are working towards achieving their goals and objectives. The only way to determine if a student is making progress is through data collection.

Data collection does not have to be an all-encompassing part of a teacher's job, but all teachers need to be able to demonstrate that what they are doing

*All parents—whether their children are educated in the general education classroom or require special education services—need to receive regular, timely progress updates on the status of their children's efforts.*

results in positive changes for students. If they cannot demonstrate that their instruction is supporting student progress, then teachers need to make the changes necessary to do so. Regular, consistent data collection is imperative to determine if students are making progress.

### ***The Principal Should Ensure That All Staff Members Are Aware of the Process for Identifying Students With Disabilities***

Most students with disabilities are not identified as eligible for special education and related services until they are in school, and the general education teacher is often the one who first notices the problems a child is having. Make sure that all general education teachers know what to look out for, that they keep other staff and parents informed of any concerns, and that they continually try their best to provide appropriate services for these students. It is essential to keep families informed of the progress students are making in the classroom, especially if a child is struggling or may be evaluated for special education services. Parents (and others) do not like surprises. Keep them informed of how students are doing, and of any special efforts being made on their behalf.

In addition, support staff in the cafeteria, on the bus, on the playground, or in school safety roles should know to report to supervisors any concerns they have about a child. Students with disabilities need services not just for academic problems, but also for social ones as well. It is often in unstructured settings that students with behavioral and social problems have the most difficulty.



### ***The Principal Must Be Prepared to Lead Meetings Related to Services for Students With Disabilities***

In order for students with disabilities to receive services, a representative of the school district with the authority to commit funds is required to be in attendance at any meeting and to oversee the process. Principals are increasingly being identified to serve in these roles. Therefore, the principal must understand what makes a child eligible for special education services (and what type of services), and be familiar with the regulations governing meetings (e.g., when to arrange meetings, what procedures to follow). Appendix B provides the federal definitions of various disability categories.

Parents and teachers look to the principal for leadership. Make sure you understand the roles of everyone involved in a student's education, and all the options that potentially may be discussed. One of your responsibilities is to supervise those who are providing special education services, so you must be knowledgeable about the general education curriculum, special education services available in the building, and resources available in the district and surrounding region.

### ***The Principal Needs to Know All Students in the Building and Be Ready to Talk About Them***

All families expect the principal to know their children and to understand each child's abilities and challenges. Observe all your students in the classroom, in the hallway, and in other settings. Child study meetings, teacher assistance team meetings, crisis team meetings, grade-level or content-area team meetings, and other collaborative groups all offer ways to learn about potential issues and challenges and to identify students who may be struggling. Talk with teachers about their students, make a practice of observing teachers in the classroom, and familiarize yourself with student records; you will oftentimes need to know the history of a student's placement, education programs, and supports. Remember, parents expect leadership from a principal and you will not be able to knowledgeably discuss students you do not know and have not observed.

You also need to be sensitive to the feelings and reactions of parents and students when discussing disabilities. Using "people-first" language (see box) is a way to convey that you recognize the student first, and the disability as a component or aspect of the student's personality. As a principal, you are in a unique position to shape the public image of people with disabilities. By putting the person first and using these suggested words, you can convey a positive, objective view of an individual instead of a negative, insensitive image.

## People-First Language

*People-first language is intended to offset earlier habits of dehumanizing individuals with disabilities ...*

*Instead of ...*

Differently abled, challenged

The disabled, handicapped

Autistic

Confined to a wheelchair

Slow learner

Brain-damaged

Retarded, mental retardation

Birth defect

Seeing-eye dog

*Say ...*

Disability

People with disabilities

Person with autism, on the autism spectrum

Uses a wheelchair

Has a learning disability

Has a brain injury

Intellectual disability

Congenital disability

Service animal or dog

Talking with staff members prior to meetings also can alert you to other issues that might be raised. The purpose of the meeting might be to reevaluate a student's IEP, but the parents may have (and want to discuss) concerns about the aide in the classroom or the amount of homework a teacher is assigning.

### *The Principal Needs to Know How to Prevent Discipline Problems*

Discipline is much more than dealing with students who have had problems; it should also be considered as a way to prevent problems from occurring. Principals should understand how to conduct and interpret functional behavior assessments (FBA)—and not just for students with disabilities. An FBA assesses the possible reasons for the way a student is behaving; the goal is to reduce or eliminate behaviors before they become problems. Prevention is much easier than having to deal with the consequence of a negative action.

## Challenges Facing Principals

Significant changes have occurred over the past decade in the way special education services are provided to students with disabilities. Federal mandates (i.e., the No Child Left Behind Act of 2001 and reauthorizations of the Individuals With Disabilities Education Act), and trends in state and national curriculum standards (i.e., Common Core State Standards) continue to redefine requirements and goals. The present climate of school restructuring is placing new leadership

demands on all administrators, especially principals. In addition, the move to educate students with disabilities in more inclusive settings necessitates shared responsibility and schoolwide collaboration—among supervisors, principals, general and special education teachers, and related service personnel.

The principal’s responsibilities are time consuming. Everyone (teachers and families) assumes that the principal is the one with the greatest expertise in educational matters; however, there are few places to which principals can turn for help when making these types of decisions. And, unfortunately, most new principals come to their positions not as prepared as they need to be in special education matters.

*To be effective, today’s school leaders must be knowledgeable about programs for students with disabilities and must provide appropriate support to teachers.*

The Council for Exceptional Children (CEC) realizes the great pressure that many principals feel when working with students in special education and their teachers. There is also an acknowledged continuing nationwide problem in recruiting and retaining special education teachers (Keigher & Cross, 2010). CEC (1998) developed a list of strategies that can assist principals in improving the working conditions of special education teachers (see box, “Strategies for Retaining and Supporting Staff”). Principals can use these strategies—which dovetail with the underlying themes of this guide—to develop an environment that supports all education staff members.

### **The Principal as Chief Advocate for Special Education**

The principal sets the tone for the school community. Effective special education practices and an environment that supports all students’ learning is a process that may take several years to evolve, but one that will be rewarding for all involved.

The foundation for this effort is the first theme we identified: *The principal is responsible for the education of all students in the school.* Share this ideal with your staff, and have them help you develop a school mission, vision, and core belief statements. Present this to a work group of parents and teachers, and ask them to assist you in developing an action plan for achieving your goals. Express this overarching idea of inclusion by planning schoolwide activities that celebrate acceptance, belonging, and diversity. Take the time to evaluate your mission and progress toward your goals throughout the school year, and learn about special education services, terms, and vocabulary (see Appendix C for a list of commonly used acronyms).

## Strategies for Retaining and Supporting Staff

Present the attitude, “I want you to be here. You are important.”

Be supportive of teacher decisions.

Encourage special and general educators to collaborate through teams and cooperative teaching opportunities. Experiment with multi-age classrooms and cross-curricular integration.

Ensure that there are mentoring programs in place throughout an educator’s professional development.

Reward teachers with appropriate mechanisms.

Ensure that all education professionals are treated equitably.

Ensure that paraprofessionals and instructional aides are qualified and are consistently evaluated.

Provide time for teachers to plan.

Provide teachers with opportunities for professional development and opportunities to work on schoolwide committees. Workshops on collaboration, cooperative learning, teaming, assessment, adaptations, strategy instruction, and content enhancement may be beneficial.

Evaluate staff consistently to ensure that job demands are consistent with the knowledge, interests, and skills of employees.

Ensure that all education professionals have access to materials and resources, including the how-to’s of school administrative practices.

*Note.* Adapted from *Retention of Special Education Professionals: A Practical Guide of Strategies and Activities for Educators and Administrators*. Copyright 1998 by the Council for Exceptional Children.

Let another theme guide your efforts: *Know all the students in the building and be ready to talk about them.* Listen to the dreams of your students’ families. Never say “never,” never say “always,” and never say, “We don’t do that here.” As you work with parents, students, and teachers, continue to promote inclusion and student independence: focus on tasks and goals that are age-appropriate for students, and pursue “least restrictive” education settings for students with special education needs. Do not be fearful of trying inclusion activities that might seem impossible for the child to accomplish. You are in a stronger position if you have tried to meet the needs of the family and child by documenting that you have tried to implement a program in an inclusive setting.

As with any evolutionary process, special education requires a strong foundation. It is essential in the beginning years to place students with disabilities

in classrooms with teachers who are positive, flexible, enthusiastic about trying, and caring. You can enhance the inclusion process by ensuring that all teachers and support staff know their roles and your expectations, while providing the support they need to in turn help students progress and access the curriculum.

### ***Cultivating an Inclusive Environment***

An inclusive environment is one in which students with disabilities are fully integrated into the school and its community. In this type of environment, every member of the school staff knows what is necessary for providing special education services, appropriately implements services for students with disabilities, and is aware of required processes and procedures.

An inclusive environment includes both tangible and intangible elements. As a principal, you may not have control over the structure of your building; however, you can ensure that students with disabilities are educated in classrooms in the mainstream of the school, that all areas of the school are accessible to those with physical disabilities, that all teachers implement procedures for routine activities that support students with disabilities, and that students with disabilities receive support that encourages them to be as independent as possible.

In creating an inclusive environment, ensure that students with disabilities have equal access to and are invited and encouraged to participate in all extracurricular activities (e.g., sports and clubs), field trips, and social activities. Encouraging students with disabilities to participate in clubs and sports will help them to feel a part of the school community. To ensure that they participate equally with their typically developing peers, however, you may need to ensure dignity in participation (i.e., watch carefully for patronizing) and provide support services (e.g., sign-language interpreters, aides). The practice of including students with disabilities in all aspects of school life should extend throughout their time in your elementary or secondary school. In this country, there is a wide range of diploma options for students with disabilities; regardless of the type of program in which a student is enrolled, or the type of certificate or diploma students receive, they should have the opportunity to fully participate in any graduation ceremonies and culminating events.

### ***Modifications, Accommodations, and Testing***

One of the most controversial issues in inclusive education is making modifications to the curriculum for student success. Many teachers and parents worry that accommodating special student needs “dumbs down” the system. It is important that when you develop your school’s inclusion mission statement and goals, this is an area where there is consensus. All teaching staff should be in agreement with and follow the same procedures for reporting progress for students with

disabilities, for administering alternate and alternative assessments, and for implementing appropriate classroom accommodations.

Students' special education plans should always include a statement or description of whether and how the student will participate in standardized testing. Review each student's strengths and needs (as well as governing regulations) to determine whether the standardized assessment will accurately evaluate the student's progress and to what extent the student can participate. In addition to ensuring that your school routinely offers commonly used accommodations such as extended time and small-group testing, you may need to explore training in your state's alternative assessment procedures for individual staff members.

In the pages that follow, you will be able to explore many of these areas in greater depth. The appendices to this book include tools and information to support principals in all of these areas: There is a listing of common education acronyms and abbreviations, definitions of different types of disabilities, and other material to support you in developing processes for assessment of students with disabilities and providing special education services to them.

People with disabilities inhabit all phases of our lives and our communities. Our job as educators is to create settings and programs that will enable everyone—including those who have disabilities—to be able maximize their chances for rich and happy lives.

# What Does a Principal Need to Know About Special Education Law?

# 1

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This chapter discusses the main laws affecting special education. It provides an overview of the Individuals With Disabilities Education Act (IDEA), Sections 504 and 508 of the Rehabilitation Act of 1973, the Americans With Disabilities Act (ADA) and its amendments, and the Family Educational Rights and Privacy Act (FERPA). Each of these laws provides guidance for educating students with disabilities, and each is important for principals to understand.

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## Quick Points



- The main law governing special education is IDEA (2006). It covers identification, placement, and services.
- Students with disabilities are entitled to an appropriate education.
- Students with disabilities are to be educated in the least restrictive environment.
- Not all students with disabilities are eligible for special education services under IDEA; Section 504 plans provide education accommodations and modifications for these students.
- Section 508 governs accessibility of technology and online programs for students with disabilities.
- FERPA governs who can see documents relating to a student.



Special education law is constantly changing due to litigation and legislative attempts to solve problems. However, it is very important for principals to keep up to date about changing requirements. The following information follows the themes delineated in the Introduction: The principal is responsible for the education of all students in the school, and the principal needs to be versed in special education topics and approaches. One of the most important components of special education is the legal aspect. Understanding the laws will go a long way toward ensuring students with disabilities receive the education they need.

### **The Individuals With Disabilities Education Act (IDEA)**

IDEA is the main law governing the educational rights of eligible students with disabilities in school. According to federal law, every child with a disability is entitled to a free appropriate public education (FAPE). The original title of IDEA was the Education for All Handicapped Children's Act (Pub. L. No. 94-142, 1975). Congress chose that title to emphasize how important it was for all children to be included. At the time, public schools had routinely excluded (and many were still excluding) children with disabilities because they were perceived as not being able to benefit from education or as not being "ready" for school. By passing the Education for All Handicapped Children's Act, Congress wanted to make the point that no child was to be excluded.

#### ***Identification, Evaluation, and Placement***

Historically, there have been problems in the testing and placement of children with disabilities (e.g., not testing students in their primary language, not measuring adaptive behavior, relying on a single test for classification and placement). These practices resulted in court cases stipulating correct procedures for the assessment and classification of children with disabilities, including:

- All children are to be tested in their primary language.
- IQ tests alone cannot be used for the placement of children into special education programs.
- Unvalidated tests and group tests are not to be used for determining eligibility.
- Parents must be notified before any testing may begin.
- Adaptive behavior must be taken into account when considering eligibility.
- A district must seek out and evaluate each child with a suspected disability in its jurisdiction.
- Districts need to implement procedures to screen preschool-age children for disabilities.

State and local education agencies are required by IDEA to actively seek out and identify students with disabilities who require special education services. School districts must make public their procedures for identifying and evaluating students; this might include announcements in the newspaper, as well as notices in grocery stores, gas stations, physician’s offices, and churches, or “informational brochures, . . . public service announcements, [and] staffing exhibits at health fairs and other community activities” (34 C.F.R. § 300.131[c]). Notices should include dates and locations for screening to determine eligibility for services before entering school at age 5 or 6. Regardless of the age of the child, school districts must identify the specific nature of a child’s disability and determine the type and extent of special education and related services required.

In addition, any evaluation of a child must be an *individualized assessment* of all areas related to the suspected disability. This means that if the child has a suspected reading disability, the assessment focuses on reading; if the suspected problem is a math disability, the focus is on math. A team (rather than a single individual) must make the eligibility decision, with at least one member of the team experienced in the suspected disability category. The job of the team is to determine whether a child is eligible for special education and related services. (For more on eligibility for special education services, see Chapter 3.) Note that districts also must notify parents of their right to an independent evaluation at public expense if they disagree with the results or procedures of the school district’s evaluation (34 C.F.R. § 300.502).

*The IEP is a legal document describing the special education and related services designed to meet the needs of a child who has a disability.*

IDEA defines *children with disabilities* as those with autism, deaf-blindness, deafness, developmental delay, emotional disturbance, hearing impairment, intellectual disability, multiple disabilities, orthopedic impairment, other health impairment, specific learning disability, speech or language impairment, traumatic brain injury, or visual impairment (including blindness; see Appendix B for definitions). Note that for students to be eligible for special education and related services as a “child with a disability” under one of these categories, the student’s educational performance must be adversely affected due to the disability (34 CFR § 300.8[a][2][i]).

If the evaluation team finds the student eligible for special education, they must develop an individualized education program (IEP) based on the results of the assessments. The IEP includes a statement of the child’s present level of educational performance and goals and objectives based on this functioning. It also describes in detail how services will be provided (e.g., placement, dates and duration of services, related services), objective criteria and evaluation procedures, and schedules for determining progress toward IEP goals.

(For more on IEPs, see Chapter 4.) If the team decides that the student is not going to be educated alongside students without disabilities, documentation is necessary stating why this will not occur, and when such placement might occur.

The IEP is more than just a document outlining goals and objectives. It serves as a written commitment by the local education agency to provide the services. Because in years past many children were placed inappropriately in special education and remained there for the duration of their schooling, IDEA mandates at least a 3-year or triennial reevaluation, to determine whether a child still qualifies for special education services (34 CFR § 300.303[a]).

### ***Appropriate Education***

Historically, students with disabilities were placed in a disability-specific classroom, whether or not that placement would provide them an “appropriate” education. The term *appropriate*, however, continues to cause confusion. What one parent, supervisor, principal, or teacher finds appropriate, another might deem completely inappropriate.

For state and local education agencies to receive federal funding for special education, they need to show they are providing an appropriate education for all students with disabilities in their jurisdiction. Districts demonstrate this through the development of an IEP. The definition of appropriate education is a process definition: If the district follows a certain process in the development and implementation of the IEP, then the student should be receiving an acceptable result. This is why it is imperative that principals have a full and complete understanding of the IEP process and need to become an active participant. The principal is ultimately responsible to ensure not only that the district is following appropriate procedures, but also that students are receiving an appropriate education (see box, “Questions to Guide Determination of ‘Appropriate Education’”).

Because defining appropriate education focuses on the process, the burden is on the professionals who develop and implement the IEP to verify and be able to show that it was based on correct information. Districts also need to be able to show an IEP was properly developed and implemented, and that proper monitoring occurred during its implementation.

### ***Least Restrictive Environment***

The last question in the list to guide evaluation of appropriate placement of students relates to the extent to which students with disabilities are included in classrooms with their typically developing peers (see also Chapter 5). IDEA specifies that, “to the maximum extent appropriate,” students with disabilities

are educated with students without disabilities (20 U.S.C. §20 U.S. Code § 1412[a][5][A]). The current term for this in special education is inclusion. The presumption is that students with disabilities will be educated in general education classrooms with supports, unless it can be shown the child cannot benefit from education in this setting.

Because special education is determined by services provided rather than setting, schools must be prepared to offer

a continuum of alternative placements ... to meet the needs of children with disabilities for special education and related services ([including] instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions); and make provision for supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with regular class placement. (34 C.F.R. 300.115[a]–[b])

Again, the specific services to be provided and in what format must be described in the IEP.

#### **Questions to Guide Determination of “Appropriate Education”**

- Was the student evaluated in a nondiscriminatory fashion?
- Are all members of the IEP team certified for their roles in the development and implementation of the IEP?
- Is the IEP truly individualized? Is it specifically designed to meet the needs of this particular student?
- Are the necessary related services listed?
- Are all the components listed for service on the IEP being implemented?
- Is there clear documentation on the level of functioning of the student in comparison to the goals and objectives on the IEP?
- Is the student receiving educational benefit from the program?
- Are all the objectives of the IEP behaviorally written?
- Have the parents or guardians been involved in every step of the development of the IEP?
- Have the parents or guardians been made aware of their due process rights?
- Is the student integrated with typically developing peers to the maximum extent possible? If there is no current provision for integration, is there a plan for this in the future?

Often forgotten is that the law stipulates services are to follow students; that is, services are to be tailored to the unique needs of the individual in the most appropriate setting. It is not acceptable for students to be assigned services solely designated for a particular disability or to programs that are available or convenient. Just because a student is identified as having severe intellectual disability does not mean the student has to be placed in a self-contained classroom when a partial-day program or a resource room might be a more appropriate option for that child. Every school district needs to have available a continuum of services spanning everything between the general education classroom and hospital-type settings.

### *Shared Decision Making*

For a long time, parents were shut out of the decision-making process, partly because it was assumed that they were the cause of the child's disability (e.g., Bruno Bettelheim's early theories about autism). Professionals knew what was best for the children and viewed parents as ignorant of their children's educational needs. Families, however, have essential information about their children with disabilities. IDEA recognizes this, and requires that schools ensure parental participation throughout the special education process—specifying procedures for notification, access to records, consultation, and participation in advisory panels.

Shared decision making protects the rights of students by ensuring that someone involved in the process has a long-term interest in the child. It also can be argued that what affects the student with a disability also affects the parents; therefore, most educators regard parents as important stakeholders. Thus, parents need to be aware of—and consent to—every step of the process. This process includes the initial evaluation, the eligibility meeting, the development of the IEP, the annual review, and the reevaluation process. Families also need access to all the records kept on their children and the assurances about confidentiality.

In addition, amendments to IDEA have added requirements for parent involvement: districts must establish a public awareness campaign, a comprehensive child-find program, and a central director of information. School systems have a legal obligation to work with families when children are identified as needing special education services.

Note that this effort extends to preschool children as well (20 U.S.C. 1435[a] [5]); the goal is to provide children with as much assistance as possible before they enter school for the first time. School districts must be prepared to develop an individualized family services plan (IFSP) for preschool-age children who are deemed eligible. Similar to the development of the IEP, the IFSP includes a

heavy family component. The IFSP should describe supports for the other family members, to help them meet the needs of their child with a disability; this might include training family members to carry out specific duties, or collaborating with them to determine the best methods for working with the child. The IFSP is more than just an IEP with a family twist, though: It is a multidisciplinary document designed to enhance children's development and minimize developmental delays by enhancing the family's capacity to meet the child's needs.

Another important component of the early childhood amendments is the realization that one service provider does not have to be the only one working to address circumstances for the child with a disability and related family members. Ideally, multiple agencies must work together to provide a combination of approaches and interventions.

### *Due Process*

As noted previously, IDEA requires parental involvement at all the different levels affecting a child's eligibility for special education services. If parents or guardians disapprove of the methods used for determining eligibility and educational programming for children with disabilities or disapprove of the resulting decisions, due process procedures (established by the Fifth and 14th Amendments of the Constitution) allow them to challenge the school system.

Appropriate notification is one essential element of procedural due process. IDEA is very specific about requirements relating to notice, requiring written notice before schools can propose (or refuse) to initiate or change "the identification, evaluation, or educational placement of the child" or the provision of an appropriate education (34 C.F.R. § 300.503[a]–[b]). Schools also must convey the details of the proposed action and the reasons for the action.

Parents may request a due process hearing if they are not happy with any or all aspects of the procedures or the education of their child with a disability. The purpose of the due process hearing is to resolve differences of opinion between parents and school officials regarding the education, placement, or services for the child with a disability. If the parents request a hearing, a hearing officer independent of the local education agency conducts the hearing. The hearing is at a time and place suitable to the parents.

A due process hearing tends to be an antagonistic process. It usually ends with both parties unhappy about the results or feeling they received less than they wanted. Although due process hearings require an enormous amount of energy, time, and money, due process procedures are an invaluable means of ensuring an appropriate education and the participation of parents in the education of their children.

Instead of due process hearings, more individuals and school systems are using another form of resolution: mediation. Mediation involves the use of less formal, less adversarial, more negotiated-settlement meetings for resolving disputes. Usually in mediation, a neutral party hears the issues and helps parties find an acceptable solution. There has been a significant increase in the number of cases using mediation (Rothstein & Johnson, 2013).

### *Related Services*

In addition to the educational services students with disabilities receive, they may require other, additional services to fully benefit from special education. These *related services* include

transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education, [such as] speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes. Related services also include school health services and school nurse services, social work services in schools, and parent counseling and training. (34 C.F.R. § 300.34[a])

Several conditions must be met before students receive related services. First, to be entitled to related services a child must be eligible for special education services. Unfortunately, there are students who might benefit from these related services but because they are not eligible for special education they cannot receive related services; in the absence of this eligibility, the student does not qualify for related services. Second, only those services necessary for the student to benefit from special education may be provided, regardless of how easily a school nurse or lay person could furnish them. For example, if a particular medication or treatment may appropriately be administered to a child other than during the school day, the school is not required to provide nursing services to administer. Third, the regulations state that medical services must be provided only if they can be performed by a nurse or other qualified person, not if a physician is required (34 C.F.R. § 300.34).

As discussed previously, any initial evaluation for special education eligibility must be sufficiently comprehensive so as to identify all of the student's



education-related needs, including related services—whether or not those needs are commonly linked to the particular disability category. Goals can be written for a related service just as they are for other special education services. The IEP also must specify, with respect to each service, when the service will begin, how often it will be provided and for what amount of time, and where it will be provided (34 C.F.R. § 300.320[a][7]).

Not all students with disabilities require related services. Further, the preceding list of related services from the federal regulations is not exhaustive and may include other developmental, corrective, or supportive services if they are required for the student to benefit from special education (e.g., artistic and cultural programs; art, music, and dance therapy).

School districts may not charge parents of eligible students with disabilities for the costs of related services that have been included on the IEP. Just as special education services must be provided to an eligible student with a disability at no cost to the parent or guardian, so too must related services when the IEP team has determined that such services are required. The need for related services should be determined in the same manner as classroom placement (i.e., as appropriate to the individual student) and listed on the IEP. Finally, IDEA requires school districts to provide any related services identified as needed by the student, regardless of whether they are available at the time of IEP development.

*It is the IEP team's responsibility to review all of the evaluation information, to identify any related services the child needs, and to include them in the IEP.*

### ***Transition Services***

Many of the changes in governing disability law, including special education law, over the years were a result of learning the lessons of history: Students with disabilities in many cases were leaving a free appropriate public education and entering a system where there were no mandates, and students educated in special education were not achieving desired outcomes. Thus, IDEA defines *transition services* as

a coordinated set of activities for a student designed within an outcome-oriented process that promotes movement from school to post-school activities, including postsecondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities must be based upon the individual student's needs, taking into account

the student's preferences and interests, and must include instruction, community experiences, the development of employment and other post-school adult living objectives, and, if appropriate, acquisition of daily living skills and functional vocational evaluation. Transition services must promote or facilitate the achievement of the employment outcome identified in the student's individualized plan for employment. (34 C.F.R. § 361.5[b][55])

For parents to be integrally involved in assisting their teens in making informed choices, they also need information about transition services. Schools must provide families with information and training sessions offering topical subjects such as postsecondary education options, work-force issues, independent living, finance planning, and agency involvement. Embedded in these sessions should be the concept that once the student leaves public school, the service delivery system changes dramatically: Young adults with disabilities and their families must move from a familiar system within the public schools into an unfamiliar and uncertain adult services system. Moreover, unlike the educational system, which entitles all children to receive services, the adult service system requires eligibility. Parents need to prepare for this reality and the possible limitations of adult services—and this means developing informal relationships with those who might provide services.

### **The Rehabilitation Act of 1973**

There are some students with disabilities who do not need special education (i.e., adapted curriculum). For example, a student who is missing a leg due a car accident and is doing fine in school both educationally and socially has a disability but does not need the support of a special education teacher. A student who has breathing problems due to a reaction to certain chemicals, and is doing fine in school both academically and socially, clearly has a disability but does not need special education. Some students with ADD/ADHD are considered to have a disability, but often do not require the support of a special education teacher. These individuals all have disabilities, but are not eligible for special education services. Their needs, however, are accommodated by Section 504 of the Rehabilitation Act of 1973 (Section 504, 2009). Table 1.1 provides an overview of the primary differences between IDEA and Section 504.

Table 1.1 Differences Between IDEA and Section 504		
Focus	IDEA	Section 504
Main purpose	To ensure a free appropriate public education for students with disabilities who are identified as meeting the requirements of one of 13 disability categories.	To prevent discrimination against students with disabilities in agencies or organizations receiving federal funds.
Who is protected?	Eligible students with disabilities ages 3–21 who require specially designed instruction to benefit from education.	<i>A person with a disability</i> , that is, someone who <ul style="list-style-type: none"> <li>• has a physical or mental impairment which limits one or more major life activities;</li> <li>• has a record of such an impairment; or</li> <li>• is regarded as having an impairment.</li> </ul>
Services provided	Free special education services to support students with disabilities in their access of the general education curriculum when appropriate.	No special education services; schools are required to make sure that students can participate in school (i.e., education and activities) without discrimination.

### Section 504

Section 504—which was subsumed under the ADA Amendments Act of 2008 (discussion to follow)—is focused on anti-discrimination. Section 504’s intent is to protect students’ civil rights, ensuring equal access and preventing discrimination—which is different from establishing eligibility for special education services. The main component of Section 504 states:

No otherwise qualified individual with a disability in the United States ... shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. (29 U.S.C. § 794[a])

Section 504, therefore, protects from discrimination students who have “a physical or mental impairment which substantially limits one or more major life activities, ... [have] a record of such an impairment, or ... [are] regarded

as having such an impairment” (34 C.F.R. § 104.3[j][1]). For the purposes of Section 504, *major life activities* include “functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working” (34 C.F.R. § 104.3[j][2][ii]). The law protects individuals from both intentional and unintentional discrimination. Under Section 504, individuals who have a disability can qualify for a related service necessary for them to benefit from education. In addition, Section 504 has provisions for non-discriminatory employment.

Because principals are often involved in the development of Section 504 plans, they need to be familiar with the types of accommodations typically provided for students with disabilities who are not eligible for special education services under IDEA. In addition to general accommodations (see Table 1.2),

*An accommodation is any technique that alters the academic setting or environment in some way, but does not change the content of required work. A modification is any technique that alters the work required in such a way that it differs in substance from the work required of other students in the same class.*

certain accommodations and services might be considered for specific disability profiles. These types of general accommodations when implemented promote a “universally designed” classroom, increasing accessibility to content for all students. Not all accommodations will be necessary or beneficial to a student, but it is always helpful to be prepared and focused on what is possible or might be needed. Appendix D provides some additional examples of

classroom accommodations that might be appropriate for students eligible under Section 504, and which relate to specific disabilities or disorders.

## **Section 508**

Section 508, also originally part of the Rehabilitation Act of 1973 (later incorporated into the Workforce Investment Act of 1998), requires that electronic and information technology developed, procured, maintained, or used by the federal government be accessible to people with disabilities. This requirement also applies to any states that receive funding through the Technology Related Assistance for Individuals with Disabilities Act of 1988.

When evaluating incorporating technology into the education program—whether via increased use of computers, laptops, or tablets in the classroom or online or “flipped” learning—principals need to ensure that students with disabilities are afforded equal access to the material. Equal access includes not only adaptations for students with physical disabilities, but also considerations of content accessibility, for example, for students with learning disabilities. (See Appendix A for resources and information on students with disabilities and online learning environments.)

**Table 1.2**  
**General Section 504 Accommodations**

<p>Environmental</p>	<p>Structured learning environment  A separate “space” for different types of tasks  Preferential seating (e.g., closer to teacher)  Study carrels  Easier access to personal/classroom supplies to minimize distractions  Sensory breaks  Written or picture schedules/task analysis  Reinforce use of compensatory strategies</p>
<p>Organizational</p>	<p>Model and reinforce organizational systems  Written assignments/check student’s recording of assignments  Schedule/milestones for assignments  Clear beginning/end times for activities/assignments  Direct instruction of study and organizational skills  Before- and after-school tutoring/homework assistance</p>
<p>Behavioral</p>	<p>Use behavioral management techniques consistently within classroom, across classes, and schoolwide  Implement behavioral/academic contracts  Utilize positive verbal and nonverbal reinforcements, logical consequences  Home–school communication system  Post rules and consequences for classroom behavior  Maintain daily/weekly progress reports and contracts  Reinforce self-monitoring</p>

<b>Table 1.2 (continued)</b> <b>General Section 504 Accommodations</b>	
Presentation	Provide alternate presentation of information (e.g., audio, visual), alternate choice of texts/sources Incorporate technology aids Provide guided notes, outlines, study guides Prioritize drill and practice activities for relevance Vary lesson presentation methods (visual demonstrations, collaborative group work, computer-assisted instruction, peer tutors, experiments, games) Check student understanding by asking students to repeat/paraphrase Match materials to student level of understanding/skills and preferred learning style Pre-teach and reteach important concepts
Assignment modifications	Modify amount of homework Supplement oral instructions with written directions Permit student choice in method of presentation Break assignments into smaller steps
Testing and assessment accommodations	Consider test-question presentation (amount of material on a single page, readability/accessibility) Provide sample or practice tests Read-aloud/scribe Provide tests in segments so that student hands in one segment before receiving the next part Untimed exams/extended time for completing tests Modify weights of tests when grading

### **The Americans With Disabilities Act**

Though the Rehabilitation Act was passed in 1973, individuals with disabilities continued, as a group, to occupy an inferior status in our society, and were severely disadvantaged socially, vocationally, economically, and educationally. Congress strengthened the law through its subsequent amendments and with the passage of the Americans With Disabilities Act of 1990 (ADA, Pub. L. No. 101-336, 1990). In 2008, the Americans With Disabilities Act Amendments Act (ADAAA, 2009) broadened the parameters of the original ADA. ADAAA included a “conforming

amendment” to Section 504, meaning that the newly expanded coverage under ADAAA also applied to Section 504. Although ADAAA retained existing definitions of *disability* and *impairment*, it expanded the definition of *major life activities* to include bodily functions and spelled out the rules of construction for *substantial limitation*. The reason for this was that Congress felt that the previous standard was too hard to meet, resulting in discrimination.

Section 504 of the Rehabilitation Act and the ADA are broader and more inclusive than IDEA. For example, many students with physical disabilities do not require special assistance to access the curriculum, and therefore are not classified as needing special education services. However, they still meet the definition of having a disability under the Section 504. Therefore, not providing reasonable accommodations to enable these students to fully participate in activities, events, or classes is discriminatory and illegal.

The ADA strives for “equality of opportunity, full participation, independent living, and economic self-sufficiency” (42 U.S.C. § 12101[a][8]) for persons with disabilities. The main purpose of the ADA is to provide civil rights to the 43 million Americans with disabilities who have been unable to access their communities and necessary services. Critics argue that the ADA prevents businesses from expanding and wrecks small business. However, its main interest is to promote equal access and freedom for people with disabilities. Others state the ADA is an extension on the installment of a contract between individuals with disabilities, their family members, and the government for a lifetime of services and accessibility that starts with special education services received in schools. The intent of the ADA is to open more of society to people with disabilities; in practice, the Act is changing the norms of society.

Like IDEA, Section 504 and the ADA allow statutory venues for remediation of complaints. This provides individuals with disabilities and their families an avenue through which they can file complaints against public schools. If these complaints are valid, schools potentially face the loss of federal funds.

### **The Family Educational Rights and Privacy Act**

The Family Educational Rights and Privacy Act of 1974 (FERPA, 2006) defines who may and may not see student records. There are several major points that are important to consider relating to FERPA:

1. FERPA guarantees the parents or guardians of a student the right to inspect and review their child’s records.
2. FERPA establishes policies through which parents can challenge the accuracy of student records.
3. FERPA establishes a mechanism through which parents can appeal concerning alleged failures to comply with the law.



4. FERPA prohibits the release of information about a student without the parents' or guardians' consent, except to those who have a legitimate right to know.
5. Districts need to establish a written policy about who will have access to student records.

As a principal, it is important to realize that all of the information obtained as a part of the assessment process to determine whether a student has a disability is to be placed in the student's file. The only exceptions to this may be the actual test protocols used by the individual administering the psychological and educational assessments. In addition, student files should include evaluation reports, IEPs, and summaries of progress toward IEP goals and objectives.

The important component about FERPA is that all of a student's records are located in the files, parents have access to them, they can challenge them, and the files contain confidential information. Knowing this, all school principals should be very judicious about who has access. In addition, it is necessary to safeguard the files, and ensure the appropriate information remains in the files.

### Quick Review



This chapter has provided an overview of the laws related to the education of students with disabilities. It is very important, as a principal, to have the knowledge required to ensure that students with disabilities receive appropriate services—and equally important to ensure your staff members know what is necessary for special education.

## About the Authors

**David F. Bateman** has a B.A. in Government and Foreign Affairs from the University of Virginia, a M.Ed. in Special Education from the College of William & Mary, and a Ph.D. in Special Education from the University of Kansas. He has been a classroom teacher of students with learning disabilities, behavior disorders, intellectual disability, and hearing impairments. He is a professor of special education at Shippensburg University of Pennsylvania, where he teaches courses in learning disabilities, special education law, and the introduction to special education. He was a due process hearing officer for the Commonwealth of Pennsylvania and is Public Policy Committee Chair for CEC's Division for Learning Disabilities. His latest area of research has been on the role of principals in special education.

**C. Fred Bateman** has a B.A. and M.A. in Political Science from the University of Richmond, and an Ed.D. in Educational Administration from the University of Virginia. He has been a classroom teacher, supervisor, principal, and superintendent. Following his retirement after serving for 15 years as Superintendent of Schools for the City of Chesapeake, Virginia, he joined the faculty of Old Dominion University as the Distinguished Educator in Residence and Director of the Principals' Center of Hampton Roads. Currently, he is the Executive Director of the Urban Superintendents Association of America. He has written two other books and numerous articles on education. His latest area of research has been on the role of principals in special education.