CRITICAL ISSUES IN SPECIAL EDUCATION

Access, Diversity, and Accountability

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CONTEMPORARY LEGAL ISSUES IN SPECIAL EDUCATION

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President Gerald Ford signed the Education for All Handicapped Children Act (EAHCA) into law on November 29, 1975. The EAHCA was renamed the Individuals with Disabilities Education Act (IDEA) in 1990. Since the EAHCA became law almost thirty years ago, there have been numerous changes and accomplishments in the ways that students with disabilities are educated. Providing an education to children with disabilities is a complex and controversial subject in the United States, and significant debates, often highly politicized, have surrounded the topic, many of them continuing today.

This chapter provides a brief overview of the education of children who need special education and related services. It discusses the historical developments leading to the passage of federal legislation funding special education and protecting the rights of children with disabilities. It presents an analysis of the major provisions of present federal special education law. It outlines three crucial issues in special education—free appropriate public education, least restrictive environments, and disciplining of students with disabilities—and the controversies surrounding them. The chapter ends with an analysis of future directions for these three issues.

Renee Bradley and Troy Justesen participated in this article as former teachers, university instructors, and private researchers. Opinions expressed herein are those of the authors and do not necessarily reflect the position of the U.S. Office of Special Education Programs, and no such endorsement should be inferred. For additional information on the Individuals with Disabilities Education Act or official information on this legislation and subsequent regulations, visit the Office of Special Education Programs web site at www.ed.gov/offices/OSERS/OSEP.

THE HISTORY OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT

Federal involvement in educating children with disabilities generally parallels the development of federal support for elementary and secondary education. Until the 1960s, elementary and secondary education was viewed almost entirely as state and local functions, and federal intervention was almost nonexistent. The initial comprehensive involvement of the federal government in education began in 1965 with the passage of the Elementary and Secondary Education Act (ESEA) of 1965. The ESEA set the stage for allocating federal funds for the education of children in U.S. public elementary and secondary schools. Until 1965 federal involvement in public education was staunchly prohibited because state and local authorities as well as the public believed that federal intervention in public education was a classic example of federal intrusion in local responsibilities. Nevertheless, just one year after the passage of the ESEA, it was amended to specifically provide federal support for educating children with disabilities. This amendment, Title VI, authorized the use of federal funds to assist states in the initiation, expansion, and improvement of programs to educate children with disabilities.

In the five years after the Title VI amendment, interest groups representing children with disabilities amassed major political support sufficient to expand federal funding to improve education for and afford protections to children with disabilities and their parents. Underpinning the extension of legal rights to an education for children with disabilities were the Civil Rights Movement and the Supreme Court's landmark decision in *Brown v. Board of Education* in 1954, which led to the Civil Rights Acts of 1964 and 1968 (Justesen, in press).

Litigation and legislative efforts from 1964 to 1974 produced strong legal and political support for expanding federal oversight of the education of children with disabilities; particularly significant cases were *Pennsylvania Association for Retarded Children [PARC] v. Commonwealth of Pennsylvania* and *Mills v. Board of Education of the District of Columbia.* Congress created the Bureau for the Education of the Handicapped within the U.S. Office of Education in 1966, and in 1975 Congress enacted the most expansive legislation related to educating and providing services for children with disabilities—the Education for All Handicapped Children Act (P.L. 94-142) (EAHCA).

The education of students with disabilities was seen as a privilege rather than a right prior to 1975 (Huefner, 2000). Access to educational opportunities for students with disabilities was limited in two major ways. First, many students were completely excluded from public schools. Congressional findings in 1974 indicate that more than 1.75 million students with disabilities did not receive educational services. In fact, in the early 1970s U.S. public schools educated only an estimated 20 percent of all children with disabilities (Office of Special Education Programs [OSEP], 2000). Second, over three million students with disabilities who were admitted to school did not receive an education appropriate to their needs (Katsiyannis, Yell, & Bradley, 2001). These students were often "left to fend for themselves in classrooms designed for education of their nonhandicapped peers" (*Board of Education of the Hendrick Hudson Central School District v. Rowley*, 1982, p. 191). Because public schools offered limited educational opportunities, many parents of children with disabilities were forced into expensive, private, and almost exclusively segregated education for their children, often far from their homes (Katsiyannis, Yell, & Bradley, 2001).

The increasing acceptance of federal involvement in public education coupled with the integration of children who are African American into the public schools laid the groundwork

for politicians' willingness to introduce legislation requiring local and state educational agencies to provide a minimum level of educational opportunity for children with disabilities.

THE EDUCATION OF ALL HANDICAPPED CHILDREN ACT

Congress passed the EAHCA for three reasons: (1) to ensure that children with disabilities received a free appropriate public education, (2) to protect the rights of students and their parents, and (3) to assist states and localities in their efforts to provide such services. The EAHCA provided federal funding to states that chose to accept funds appropriated under the EAHCA for the provision of special education to eligible children with disabilities covered by the EAHCA. Federal EAHCA funding was contingent on a state's passage of a state law consistent with the EAHCA. Each state was also required to demonstrate to the satisfaction of the federal government that it was complying with these laws and was providing for the education of students with disabilities consistent with the minimum standards of the EAHCA. With the passage of the EAHCA, therefore, the federal government became a partner with states in educating students with disabilities (Huefner, 2000).

The EAHCA has evolved since 1975, yet it remains the most significant legislation for children with disabilities. It is federal legislation with funding appropriated by Congress, and Congress must routinely review and reauthorize it. The EAHCA was most recently reauthorized in 1990, and among other amendments discussed later in this chapter, its name was changed to the Individuals with Disabilities Education Act (IDEA). The 1990 amendments included allocating supplemental funding for individual state and local efforts to implement the requirements of the IDEA. According to the U.S. Supreme Court, however, when Congress passed the IDEA, it "did not content itself with passage of a simple funding statute. Rather the [EAHCA, now the IDEA] confers upon disabled students an enforceable substantive right to public education . . . and conditions federal financial assistance upon states' compliance with substantive and procedural goals of the Act" (*Honig v. Doe*, 1988, p. 597).

In summary, the IDEA is a comprehensive law that provides supportive funding to the states and governs how students with disabilities will be educated. Eligible students with disabilities must be provided with a free and appropriate public education that consists of special education and related services. The term *special education* means specially designed instruction, at no cost to parents, to meet the unique needs of a child with a disability, including instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings, and instruction in physical education (20 U.S.C. §1401(25)). A student is eligible for protection under the IDEA if he or she has at least one of thirteen types of disability specifically listed under the IDEA and who, by reason thereof, needs special education and related services.

The IDEA is divided into four provisions: Parts A, B, C, and D. Part A contains the general provisions of the act, including congressional justification for authorizing the IDEA and findings of fact regarding the education of students with disabilities that existed when the IDEA was passed; it also defines the terms used in the IDEA. Part B explains what states must do to qualify for federal assistance in the education of all children with disabilities, including state and local educational agency eligibility, individualized education programs and place-

ments, procedural safeguards, and other IDEA administration procedures. The purpose of Part B (the part most familiar to teachers and administrators) is to ensure that all children with disabilities aged three through twenty-one who reside in a state that accepts funding under the IDEA have the right to a free appropriate public education (FAPE). A state's obligation to make FAPE available to each eligible child begins no later than the child's third birthday. Part C covers infants and toddlers from birth through age two; it was formerly Part H but became Part C when the IDEA was amended in 1997. Part C provides funds to eligible states for early intervention services for infants and toddlers with disabilities or who would be at risk of experiencing a substantial developmental delay if early intervention services were not provided (20 U.S.C. §1432(1)). Part D contains provisions for national activities that are vitally important to the development of special education and related services and that improve education of children with disabilities. National activities include investments in research and technology to improve services and results for children with disabilities and technical assistance and training for parents and special education personnel. The following sections examine Parts B, C, and D in detail. Table 1 summarizes each of these parts.

TABLE 1 Individuals with Disabilities Education Act (IDEA)

PARTS OF THE IDEA	TITLE	KEY PROVISIONS
Part A	General Provisions	Purposes and definitions
Part B	Assistance for Education of All Children with Disabilities	State grant formulas Requires states to provide services to children with disabilities aged 3–21 Requires states to provide services to preschool children, ages 3–5 FAPE and procedural requirements
Part C	Infants and Toddlers with Disabilities	Authorizes grants to states to provide early intervention services to infants and toddlers, aged birth to 3.
Part D	National Activities to Improve Education of Children with Disabilities	National activities to improve the education of children with disabilities through investments in areas including research, technology, training, technical assistance and information dissemination, parent training, and evaluation. The IDEA Amendments of 1997 added State Improvement Grants to Part D. State Improvement Grants are grants awarded to states to reform and improve their systems for providing educational services for students with disabilities and their nondisabled peers.

Part B of the IDEA

In addition to setting forth the funding mechanisms by which the states receive federal IDEA funds, Part B also contains the principles that states must adhere to when educating children with disabilities. Part B is permanently funded, so it does not require periodic congressional reauthorization, although Congress may reconsider any portion of the IDEA when it considers any other part of the IDEA; in other words, it may amend Part B whenever it decides that it is necessary, including amending its funding mechanisms and major principles.

Funding Mechanisms. Part B sets forth the eligibility requirements for states to receive federal funds. To qualify for funding a state must demonstrate to the satisfaction of the U.S. secretary of education that it has policies and procedures in effect that will ensure it meets the conditions set forth in Part B. These conditions include, but are not limited to, (1) the system for identifying, locating, and evaluating children and youth with disabilities, known specifically as the "child find provisions" of the IDEA; (2) the programs that will be used to ensure that eligible students with disabilities receive special education and related services; and (3) the procedural safeguards that will ensure that appropriate programming is provided to eligible children.

Moreover, each state shall develop and implement a comprehensive system of personnel development that includes the training of paraprofessionals and primary referral sources; is designed to ensure an adequate supply of qualified special education, regular education, and related services personnel; and is updated at least every five years. Additionally, states are responsible for the continuing development of personnel already teaching in special education. A state's plan must also set up a procedure for allocating special education funds to local school districts.

States that meet the IDEA requirements receive federal funding. The state educational agency (SEA) receives the funds and distributes them to the local educational agencies (LEAs). The federal funds do not cover the entire cost of special education but rather are intended to provide financial assistance to the states. Congress originally intended to fund 40 percent of a state's costs of providing special education and related services through the IDEA. Actual funding levels, however, have usually amounted to approximately 8–10 percent of a state's total special education expenditures. Thus, the IDEA has never been fully funded in accordance with Congress's original intentions under the 1975 EAHCA.

The federal money the states receive must not be used to supplant or substitute for state funds but to supplement and increase funding of special education and related services. This requirement, often referred to as the nonsupplanting requirement of the IDEA, ensures that states will not use IDEA funds to relieve state- and local-level financial obligations but will use them instead to increase the level of state expenditures on special education and related services. Each state is ultimately responsible for ensuring the appropriate use of funds. Each state may use not more than 20 percent of the maximum amount it may retain for any fiscal year or $500,000, whichever is greater, and each outlying area may use up to 5 percent of the amount it receives for any fiscal year or $35,000, whichever is greater, with the remaining amount required to be distributed to local educational agencies (school districts).

Concepts of Part B. Some scholars have divided Part B into six major principles for discussion purposes (e.g., Turnbull & Turnbull, 2000; Turnbull, Turnbull, Shank, Smith, & Leal, 2001). Neither the IDEA's statutory language nor the Office of Special Education Programs

recognizes the division of the law into these six principles, but it provides a useful structure for our discussion, so we briefly summarize it in the following sections.

Zero Reject. According to the zero reject principle, all students with disabilities eligible for services under the IDEA are entitled to a FAPE. This principle applies regardless of the severity of the child's disability. States must ensure that all students with disabilities aged three through twenty-one who (1) reside in the state, (2) need special education and related services or are suspected of having a disability, and (3) need special education services are identified, located, and evaluated. No eligible student with a disability can be excluded (Turnbull & Turnbull, 2000).

Protection in Evaluation. Before a student can receive special education and related services for the first time, he or she must receive a full and individual evaluation administered by trained and knowledgeable personnel in accordance with any instructions provided by the producer of the tests. Tests and other evaluation materials used to assess a child must be selected and administered so as not to be discriminatory on a racial or cultural basis; and a variety of assessment tools and strategies must be used to gather relevant functional and developmental information about the child, including information provided by the parent, and information related to enabling the child to be involved in and progress in the general curriculum, among other evaluation requirements.

Upon completing the administration of tests and other evaluation materials, a group of qualified professionals and the child's parents will determine whether the child qualifies as a child with a disability.

Free Appropriate Public Education. Students who are determined eligible for special education and related services under the IDEA have the right to receive a FAPE. Under the IDEA, this means special education and related services that are provided at public expense, under public supervision and direction, and without charge to the parents; meet the standards of the SEA; include preschool, elementary school, or secondary school education in the child's state; and are provided in conformity with an individualized education program (IEP) that meets the requirements of the IDEA. The key to providing a FAPE is individualized programming.

To ensure that each student covered by the IDEA receives an individualized education, Congress required that an IEP be developed for all students with disabilities receiving special education. The IEP is both a collaborative process between the parents and the school in which each child's educational program is developed and a written document that contains the essential components of a student's educational program (Gorn, 1997). The written document, developed by a team of educators and a student's parents, describes the student's educational needs and details the special education and related services the student will receive (Bateman & Linden, 1998). The IEP also contains the student's educational goals and objectives and the means for measuring his or her progress. The IDEA mandates the process and procedures for developing an IEP.

Least Restrictive Environment. The IDEA mandates that students with disabilities be educated with their peers without disabilities to the maximum extent appropriate. The law presumes that students with disabilities will be educated in integrated settings when appropriate. In fact, students in special education can only be removed from the regular classroom to

separate classes or schools when the nature or severity of the child's disability is such that the child cannot receive an appropriate education in a general education classroom with supplementary aids and services. When this happens, the student may be removed to a more specialized and restrictive setting that meets the student's needs.

To ensure that students are educated in the least restrictive environment (LRE) appropriate for their needs, school districts must ensure the availability of a complete continuum of alternative placements. This continuum ranges from settings that are less restrictive and more typical to those that are more restrictive and specialized. The most typical and, therefore, least restrictive setting for most students is the regular education classroom, or the regular classroom combined with a resource room. Alternatives that must be available include special classes, special schools, home instruction, and instruction in hospitals and institutions.

In determining the educational placement of a child with a disability, including a preschool child, public agencies must ensure that the placement deeision is made by a group of people, including the parents, who are knowledgeable about the child and the meaning of the evaluation data and that the placement options are made in conformity with the LRE provisions of the IDEA. The child's placement is reviewed at least annually, must be based on the child's IEP, and is as close as possible to the child's home. Unless a child's IEP requires some other arrangement, the child must be educated in the school that he or she would attend if the child were not disabled; a child with a disability cannot be removed from an age-appropriate regular classroom solely because of needed modifications in the general curriculum. Programming, therefore, takes precedence over placement (Yell & Drasgow, 2000).

Procedural Safeguards. Part B of the IDEA contains an extensive system of procedural safeguards to ensure that all eligible students with disabilities receive a FAPE. The safeguards also ensure that parents are equal participants in the special education process. For example, the IDEA provides that a student's parents may participate in all meetings in which their child's identification, evaluation, program, or placement is discussed. Parental involvement is crucial to successful results for students, and this requirement is one of the cornerstones of the IDEA. The IDEA requires that informed parental consent must be obtained through an initial evaluation of the child with the parents prior to an LEA's initial provision of special education and related services to a child with a disability. Importantly, under the regulations implementing the IDEA, consent for initial evaluation may not be construed as consent for initial placement.

When the school and parents disagree on any matters involving proposals to initiate or change the identification, evaluation, or educational placement of the child or the provision of a FAPE to the child, or if the school refuses to initiate or change any of these areas, parents may initiate an impartial due process hearing. School districts or the SEA may also request an impartial due process hearing under these same matters. The IDEA amendments of 1997 require states to offer parents the option of resolving their disputes through mediation prior to requesting a due process hearing. The mediation process is voluntary and must not be used to deny or delay a parent's right to a due process hearing.

Any party in a due process hearing has the right to be accompanied and advised by counsel and by individuals with special knowledge of or training in the issues related to children with disabilities. Moreover, any party may present evidence, compel the attendance of witnesses, examine and cross-examine witnesses, prohibit the introduction of evidence not introduced five days prior to the hearing, obtain a written—at the option of the parents—or

electronic verbatim record of the hearing, and be provided with the written or—at the option of the parents—electronic findings of fact and decisions by the hearing officer. The public agency shall ensure that no later than forty-five days after the receipt of a request for a hearing a final decision is reached in the hearing and a copy of the decision is mailed to each of the parties. This decision is binding on both parties. Either party, however, may appeal the decision. In most states, appeals are made to the SEA. The SEA shall ensure that no later than thirty days after the receipt of a request for a review (i.e., an appeal) a final decision is reached in the review and a copy of the decision is mailed to each of the parties. The decision of the SEA can then be appealed to state or federal court as a civil action with respect to the complaint presented to the hearing officer and appealed to the state.

Parental Participation. Since the early days of special education litigation, parents of children with disabilities have played a very important role in helping schools meet the educational needs of their children. Key provisions of the IDEA that require parental participation are scattered throughout the law. Parents must be involved in initial evaluation, IEP meetings, and placement decisions. The IDEA amendments of 1997 also required that schools regularly inform parents of children with disabilities of their children's progress (through such means as periodic report cards) at least as often as the school informs the parents of nondisabled children about their progress. The goal of this principle is to have parents play a meaningful role in the education of their children and to maintain a partnership between schools and parents. Parental involvement is crucial to successful results for students, and this provision has been and continues to be one of the cornerstones of the IDEA.

Part C of the IDEA

Congress recognized the importance of early intervention for young children when it passed the Education of the Handicapped amendments in 1986. This law, which became a subchapter of the IDEA (Part H), made categorical grants to states contingent on their adhering to the provisions of law. The amendments required participating states to develop and implement statewide interagency programs of early intervention services for infants and toddlers with disabilities or at risk for developmental delays. With the consolidation of the IDEA in the amendments of 1997, Part H became Part C.

For purposes of the law, infants and toddlers are defined as children from birth through age two who need early intervention services because they are experiencing developmental delays or have a diagnosed physical or mental condition that puts the child at risk of becoming developmentally delayed. Early intervention services are defined as developmental services that are provided under public supervision and at no cost except where federal or state law provides for a system of payments by families, including a schedule of sliding fees; these services are designed to meet the developmental needs of an infant or toddler with a disability in any one or more of the following areas: physical, cognitive, communication, social or emotional, and adaptive development needs. Early intervention services may include family training, counseling, home visits, special instruction, speech-language pathology and audiology services, occupational therapy, physical therapy, psychological services, case management services, and medical services (for diagnostic or evaluation purposes only); early identification, screening, and assessment services; health services; social work services; vision services; assistive technology devices and services; and transportation and related costs. To the

maximum extent appropriate, these services must be provided in natural environments (i.e., home and community settings) in which children without disabilities participate.

The infants and toddlers program does not require that the state educational agency assume overall responsibility for the early intervention programs. The agency that assumes responsibility is referred to as the lead agency. The lead agency may be the SEA, the state welfare department, the health department, or any other unit of state government. Many states provide Part C services through multiple state agencies. In these cases, an interagency coordinating council is the primary planning body that works out the agreements between the agencies regarding jurisdiction and funding.

Part D of the IDEA

Part D, perhaps the least known section of the IDEA, even among teachers and administrators, has significantly contributed to improving practices in special education. The Office of Special Education Programs (OSEP, 2000) states that Part D programs account for less than 1 percent of the national expenditure to educate students with disabilities; however, programs funded by the Part D national programs play a crucial role in identifying, implementing, evaluating, and disseminating information about effective practices in educating all children with disabilities. These programs also provide an infrastructure of practice improvement that supports the other 99 percent of our national expenditure to educate students with disabilities (OSEP, 2000). The IDEA amendments of 1997 reauthorized seven Part D programs. These programs provide federal support for (1) researching improvements to educational programs for children with disabilities, (2) developing devices and strategies to make technology accessible and usable for children with disabilities, (3) training personnel who work with children with disabilities, (4) maintaining national programs that provide technical assistance and disseminate information, (5) training parents of children with disabilities, (6) evaluating progress in educating students with disabilities, and (7) funding state improvement grants that promote statewide reforms and improvements in the education of students with disabilities.

Part D national programs are often referred to as support programs because their primary purpose is to support the implementation of the IDEA and to assist states in improving the education of students with disabilities. These programs, even though they receive a small amount of the total federal expenditure for the IDEA, help to ensure that the field of special education will continue to move forward by translating research into practice and thus improving the future of students with disabilities.

The IDEA has been exemplary in meeting its original purpose: to open the doors of public education to students with disabilities. Today, access to an education is more assured than ever before. In fact, according to the U.S. Department of Education (U.S. Department of Education, 2000a), in the 1998–1999 school year over six million students with disabilities, aged three through twenty-one, received special education services under the IDEA. Additionally, almost 50 percent of students with disabilities, aged six through twenty-one, received educational services in the regular classroom for at least 80 percent of the school day. As former secretary of education Richard Riley stated on the twenty-fifth anniversary of the IDEA, "Twenty-five years ago, IDEA opened the doors to our schoolhouses for our students with disabilities. Today, millions of students with disabilities attend our public schools. We have made steady progress toward educating students with disabilities, including them in

regular classrooms, graduating them with the proper diploma, and sending them off to college" (U.S. Department of Education, 2000b, p. 1).

Despite the successes of the past three decades, the IDEA has not been without its share of controversy. Three issues have created a great deal of disagreement and acrimony in the courts and the professional literature—determining what constitutes a free appropriate public education, determining what constitutes the least restrictive environment under specific circumstances, and disciplining students with disabilities. The following sections examine these contemporary legal controversies.

FREE APPROPRIATE PUBLIC EDUCATION

The primary intent of the EAHCA was to ensure that all children and youth with disabilities would receive a FAPE individually designed to meet each student's unique educational needs. When writing the law, Congress did not provide a substantive definition of FAPE, did not indicate what components must be included in a student's IEP, and did not state specific levels of achievement that should be met. Instead, it defined FAPE more as a process by which school districts arrived at each student's IEP. Thus, Congress provided a procedural definition of FAPE but not a substantive one.

The lack of a substantive definition has led to frequent disagreements between parents and schools regarding what constitutes an appropriate education for a particular student with a disability. Many of these disputes have been settled in due process hearings and in formal litigation. In fact, disputes regarding what constitutes a FAPE for a particular student are one of the most heavily litigated areas in special education law. Typically these disputes involve questions about what degree of educational benefit a FAPE should provide. Should a FAPE confer meaningful educational benefits, and if so, what does *meaningful* mean for a specific child in question? Or is the FAPE requirement satisfied when an education confers some benefit, rather than any particular level of benefit, for a student with a disability? The following section reviews the IDEA's FAPE requirement and FAPE litigation in the federal courts. The statutory law (i.e., IDEA) and decisions (i.e., due process hearings and court cases) presented here help to clarify the meaning of FAPE under the IDEA.

Legislation and FAPE

The IDEA defines a FAPE as special education and related services that (1) have been provided at public expense, under public supervision and direction, and without charge; (2) meet the standards of the state educational agency; 3) include an appropriate preschool, elementary, or secondary school education in the state involved; and (4) are provided in conformity with the IEP (IDEA, 20 U.S.C. §1401(8)).

The IDEA mandates specific procedures schools must follow to develop special education programs for students with disabilities. These procedures safeguard a student's right to a FAPE by ensuring that parents are meaningfully involved in the development of their child's IEP and are consulted and can participate throughout the special education process. These safeguards include prior notice, informed parental consent, the opportunity to examine records, the right to an independent educational evaluation at public expense, and the right to

request an impartial due process hearing (IDEA Regulations, 34 C.F.R. §300.500–515). In fact, according to the U.S. Supreme Court, "Congress placed every bit as much emphasis upon compliance with procedures giving parents and guardians a large measure of participation at every stage of the [IEP] process . . . as it did upon the measurement of the resulting IEP against a substantive standard" (*Board of Education of the Hendrick Hudson Central School District v. Rowley*, 1982). The Court also noted that adequate compliance with the procedures would in most cases ensure a FAPE would be provided. Because of the IDEA's lack of clarity in defining a FAPE, however, many disputes arose that culminated in due process hearings and court cases. These decisions have helped to refine the legal definition of a FAPE.

Litigation and FAPE

Soon after the IDEA became law, disputes regarding FAPE found their way into the courts. Early court decisions set the standard of a FAPE as more than simple access to education but less than the best possible educational programs (Osborne, 1992). In 1982, a case from the U.S. Court of Appeals for the Second Circuit became the first special education case to be heard by the U.S. Supreme Court. In *Board of Education of the Hendrick Hudson Central School District v. Rowley* (1982; hereafter *Rowley*), the Supreme Court considered the meaning of a FAPE.

In *Rowley*, the Supreme Court held that a FAPE is a right of all children receiving special education and related services and merely access to public school programs. Justice William Rehnquist, writing for the majority, stated that a FAPE consists of educational instruction designed to meet the unique needs of a student with a disability, supported by such services as needed to permit the student to *benefit* from instruction. The Court noted that the IDEA requires that these educational services must be provided at public expense, meet state standards, and comport with the student's IEP. If individualized instruction allowed the child to benefit from educational services and was provided in conformity with the other requirements of the law, the student therefore, would be receiving a FAPE.

The Supreme Court also ruled that students with disabilities do not have an enforceable right to the best possible education or an education that allows them to achieve their maximum potential. Rather, these students are entitled to an education that is reasonably calculated to confer educational benefit. Furthermore, the *Rowley* decision enabled courts to make case-by-case determinations of whether a particular educational program confers "meaningful educational benefit." Thus, meaningful educational benefit must be decided individually for each student, because there is no generic formula applied in these cases.

Post-*Rowley* Litigation. Other court decisions immediately following the *Rowley* decision tended to apply the decision in a strict manner. For example, the courts applied the first part of the *Rowley* test by examining the student's IEP and the procedural history of the case. Second, the courts applied the second part of the *Rowley* test by examining the student's IEP to determine whether it conferred some degree of educational benefit. Osborne's (1992) analysis of these early cases indicates that if the school district met the first part of the *Rowley* test and was able to show that there was *some* educational benefit to the student, no matter how minimal, then the court would uphold the school's provision of special education and related services as constituting a FAPE.

Yell (1998) summarizes the trend of recent court decisions to interpret the FAPE mandate in a light more favorable to students with disabilities. He contends that in most recent cases the courts have begun to rule that the law's FAPE requirement means more than simple access to an education that confers minimal benefit; instead, a FAPE must confer a *meaningful* educational benefit on the student, and one that confers minimal or trivial progress is insufficient. Yell's (1998) analysis shows that when a school district was challenged, it had to show that a student's FAPE was individually designed to provide educational advancement consistent with the student's overall ability and that there was a measurable gain in that student's progress.

Yell and Drasgow (2000) examined forty-five published due process hearings and court cases in which parents of children with autism challenged the appropriateness of a school district's educational program for their children. These hearings and cases involved disagreements between parent and school district interpretations of what constituted a FAPE for young children with autism. Specifically, parents believed that schools were not providing a FAPE and requested that school districts provide, fund, or reimburse them for a specific type of treatment program—the Lovaas treatment program—for their children. Yell and Drasgow (2000) argue that the Lovaas hearings and cases advanced FAPE to a higher level by stressing that students should receive "meaningful" educational benefits. In reaching decisions, due process hearing officers and judges examined school district program data on student progress to determine if the school district (i.e., the LEA) in question was providing a meaningful education. Moreover, Yell and Drasgow contend that hearing officers and courts were being influenced by empirical research that demonstrates effective practices for assessing and evaluating students with autism. Thus, Yell and Drasgow (2000) conclude that these cases suggest that school districts are being held to a higher standard in providing special education programs. These hearings and cases suggest that the definition of FAPE has expanded from an emphasis on access to an emphasis on quality.

The next section builds on the historical implementation of federal special education law and court interpretations that lead to the IDEA Amendments of 1997 (hereafter IDEA '97) and discusses how these amendments have affected the legal definition of a FAPE.

IDEA '97 and FAPE

When Congress passed the EAHCA in 1975, the law opened the doors of public education to the nation's students with disabilities who needed special education and related services. The original law emphasized access to educational programs rather than any level of educational opportunity (Eyer, 1998; Yell & Drasgow, 2000). Although IDEA was dramatically successful in providing access for children with disabilities, Congress determined that the promise had not yet been fulfilled for too many children (Senate Report, 1997). Therefore, the underlying theme of IDEA '97 was to improve the effectiveness of special education by requiring demonstrable improvements in the educational achievements of students with disabilities. Indeed, providing a quality education for each student with a disability became the new goal under IDEA '97 (Eyer, 1998).

Congress included a number of changes in the IEP requirements to emphasize the necessity of improving educational outcomes. For example, IDEA '97 requires that each child's IEP contain *measurable* annual goals and the methods for measuring the student's progress toward achieving them. Furthermore, IEP teams must regularly inform parents of their child's

progress. IDEA '97 also conveys a clear requirement that if a student fails to make progress toward the annual goals, the IEP must be revised (Clark, 1999). Last, but not least, special education services developed in the IEP planning process must allow a student to *advance appropriately* toward attaining the annual goals. As Eyer (1998) stated, "The IDEA can no longer be fairly perceived as a statute which merely affords children access to education. Today, the IDEA is designed to improve the effectiveness of special education and increase the benefits afforded to children with disabilities to the extent such benefits are necessary to achieve measurable progress" (p. 16).

IDEA '97 requires that schools further the educational achievement of students with disabilities by developing an IEP that provides a special education program that confers measurable and meaningful educational progress.

Summary of FAPE

Throughout the three decades in which the EAHCA and then IDEA have been in effect, the requirement that schools offer all eligible students with disabilities a FAPE has proven to be a very contentious issue. In fact, FAPE has been one of the most heavily litigated areas in special education (Yell, 1998). Typically, litigation occurs when school districts believe they are offering an appropriate education to a student in special education and the parents believe otherwise. The arguments have frequently centered on whether a FAPE includes more than providing access to education and the definition of a meaningful educational program.

The Supreme Court's test for determining a FAPE clarifies some of the ambiguities facing educators as they attempt to interpret this mandate of the IDEA. In the *Rowley* case the Supreme Court gave the lower courts a standard to apply when deciding cases involving questions of what constitutes an appropriate education for students with disabilities. Although the *Rowley* test does not directly address the contents of a FAPE, it does provide guidance for courts to use in deciding, case by case, whether a school has offered a FAPE to a student with disabilities. The degree of benefit provided does not need to result in a student's achieving his or her maximum potential, nor must the FAPE be the best education possible. It must, however, provide the student with an educational program that will result in meaningful and measurable advancement toward goals and objectives that are appropriate for the student given his or her ability and as set forth in the IEP.

A second major area of controversy involved the IDEA's LRE requirement. The LRE requirement has been referred to as the inclusion or mainstreaming mandate and has been the subject of much litigation and professional debate. The next section examines this issue.

LEAST RESTRICTIVE ENVIRONMENT

One of the most controversial issues in special education is inclusion. Both the terms *inclusion* and *mainstreaming* come from the IDEA's principle of the LRE. In fact, *LRE, inclusion,* and *mainstreaming* are often used interchangeably; however, they are not synonymous concepts. The somewhat dated term *mainstreaming* is used to describe the practice of placing students with disabilities in general education classrooms with their nondisabled peers for some or all of the school day (Huefner, 2000). *Inclusion* refers to the placement of a student

with disabilities, regardless of the student's level of disability, into an age-appropriate general education classroom in the local community school (Crockett & Kauffman, 1999a). *LRE* refers to the IDEA's mandate that students with disabilities be educated with their nondisabled peers to the maximum extent appropriate. The LRE is determined individually for each student with a disability, and, therefore, it is not a particular setting. The LRE requirement ensures that students with disabilities are integrated to the maximum extent possible.

Inclusion (*mainstreaming* is the term the courts usually use) is the subject of many due process hearings and court cases and of much controversy in the professional literature (e.g., Crockett & Kauffman, 1999b; Fuchs and Fuchs, 1994; Kauffman & Hallahan, 1995; Lipsky & Gartner 1998; Stainback & Stainback, 1985). Proponents of inclusion argue that the general education classroom is the appropriate learning environment for all students, with and without disabilities. Many educators, however, argue that inclusion deprives students of the specialized services that they need to meet their unique educational needs (Bateman & Linden, 1998).

Legislation and LRE

The LRE mandate consists of two requirements. First, the IDEA requires that students with disabilities must be educated with students without disabilities in the general education setting to the maximum extent appropriate. This means that the law presumes students with disabilities will be educated together with children who do not have disabilities in the general education classroom. This requirement ensures that students with disabilities are educated in the LRE that is suitable for their individual needs. The second requirement is that students with disabilities cannot be removed from general education settings unless education in those settings cannot be achieved satisfactorily and only after the use of supplementary aids and services were considered to mitigate the learning environment. This requirement means that even though school districts must educate students with and without disabilities together to the greatest degree possible, the school district may move a student to a more restrictive setting when the general education setting is not appropriate for the student with disabilities but only after the IEP team has been involved in the process of changing the student's educational placement.

To ensure that school districts are able to meet the placement needs of students with disabilities, the IDEA's implementing regulations provide for a "continuum of alternative placements," and those alternative settings vary in restrictiveness. Champaign (1993) defines *restrictiveness* as "a gauge of the degree of opportunity a person has for proximity to, and communication with, the ordinary flow of persons in our society" (p. 5). In special education this means that a student with a disability has the right to be educated with students without disabilities in the general education environment. The continuum of alternative placements includes the general education classroom, self-contained classrooms, special schools, home instruction, and hospitals and institutions. The general education environment is considered the least restrictive setting along the continuum because it is the placement in which there is the greatest measure of opportunity for proximity and communication with the ordinary flow of students in schools. From this perspective, the less a placement resembles the general education environment, the more restrictive it is considered (Gorn, 1999). Hospitals and institutions are the most restrictive settings because they are the least like the general education setting.

Each student's IEP team determines the least restrictive setting that will provide an appropriate education. The IDEA and comments to the implementing regulations make it clear that the IEP team can make this decision only by assessing each child individually and then by determining his or her goals based on this assessment. The law clearly anticipates that IEP goals may sometimes be achieved only in specialized and restrictive settings.

School administrators and teachers find that determining which educational placement constitutes the LRE for a given student with a disability is difficult (Huefner, 1994; Yell & Drasgow, 1999). Not surprisingly, disagreements often arise between parents and school district personnel because of the difficulty of making appropriate placement decisions. When such disagreements cannot be settled between the involved parties, due process hearing officers or courts may ultimately be called on to resolve disputes. Courts hear the facts of a particular dispute, apply law to the specific facts of the case, and then issue an opinion. In fact, questions regarding educational placements in LREs have been a frequent source of litigation in special education. The next section discusses the impacts of the more important of these cases on the concept of LRE.

Litigation and LRE

Unlike the FAPE issue, the U.S. Supreme Court has never heard a case regarding LRE, so there is no single legal standard for determining whether a school has meet the LRE requirement of the IDEA. Nonetheless, a number of LRE cases have made their way to the U.S. Courts of Appeals. These decisions set forth *standards*, or tests, that a court will use to apply the law to the facts of the case. Courts will use these standards adopted in LRE cases to review disagreements arising regarding the LRE requirement. When a U.S. Court of Appeals adopts a judicial standard for reviewing a particular type of case, the lower federal courts (e.g., the federal district courts) in the appellate court's jurisdiction must use the appropriate judicial standard in reaching decisions in LRE cases.

These decisions are influential in clarifying the LRE requirement in their respective circuits. Although the decisions in these cases vary, they all contain consistent principles that schools are wise to consider in developing special education programs that meet the LRE requirement of the IDEA. We believe that four major principles can be extrapolated from these decisions.

First, placement decisions must be made in accordance with the individual needs of each student with a disability. An important cornerstone of special education is individualization of special education and related services. Each student with a disability must receive a full and individualized evaluation prior to developing programming and determining placement. Educational decisions must be made in accordance with this evaluation. In making such decisions, each student's IEP team must determine (1) what educational services are required and (2) where these services can be most appropriately delivered to meet the needs of the student.

Second, all students with disabilities have a presumptive right to be educated in integrated settings. The LRE mandate in the IDEA sets forth a clear preference for these settings; that is, students with disabilities have a right to be educated in their local schools with students who are not disabled. Schools must make good faith efforts to educate students with disabilities in integrated settings. Before a child's IEP team concludes that a student should be educated in a more restrictive setting, the team must consider whether supplementary aids and

services would permit an appropriate education in the general education setting. Supplementary aids and services may involve educational options such as a resource room, itinerant instruction, assigning a paraprofessional, a positive behavior intervention plan, and assistive technology devices and services. Finally, when students with disabilities are educated in more restrictive settings, the school must provide as many integrated experiences for the child as possible (e.g., recess, physical education classes, and extracurricular activities).

Third, nothing in the statutory or case law indicates that LRE considerations are intended to replace considerations of appropriateness. To the contrary, in determining special education and related services for a student, the IEP team's first consideration must be to decide what constitutes a FAPE for that student. In determining a student's special education, therefore, questions of what educational services are required must precede questions of where they should be provided (Yell, 1998). In making considerations of appropriateness, each child's IEP must address both academic and nonacademic needs (e.g., modeling, social development, communication). The IDEA's clear preference for educating students with disabilities in general education classrooms indicates that when an appropriate education can be provided in an integrated setting and the placement will not disrupt the classroom setting, inclusion is generally required (Gorn, 1997).

Fourth, when the group of qualified professionals, including the parents, determines that placement in general education with supplementary aids and services will not meet the student's needs, the group must be able to choose from the entire continuum of alternative placements to determine the appropriate setting. This does not mean that school districts must have all alternative placements within its boundaries. It means that schools must be able to access the appropriate placement if required to meet the needs of a particular child with a disability. A school district (i.e., an LEA) may use alternative means, such as contracting with larger school districts for services, to obtain the alternative placement required.

IDEA '97 and LRE

Although IDEA '97 did not include any major changes regarding LRE, it did include significant changes to language. First, the law now requires that if a student with a disability will not be integrated into the general education classroom with his or her nondisabled peers, the IEP team must explain why. This is significant because prior to the passage of IDEA '97 the law expressed a preference for participation in general education programs, but in IDEA '97 this preference clearly became a presumption. Furthermore, this presumption can be overcome only by providing evidence that education in this setting will not be appropriate even after supplementary aids and services are provided. The importance of this is that it shifts the burden of proof onto the IEP team when a student is removed from the general education setting.

Second, IDEA '97 emphasizes that the general education curriculum is presumed to be the appropriate beginning point for planning each student's IEP. Only when participation in the general curriculum with supplementary support and services will not benefit the student should an alternative curriculum be considered. Therefore, it is important that the participants in the IEP process begin with the general curriculum as the preferred course of study for all students (Yell & Shriner, 1997). We emphasize that this *does not* mean that all students in special education must be educated in the general education curriculum; instead it means that the general education curriculum is the starting point when an IEP team considers a student's educational program.

Summary of LRE

The movement to educate all students, with and without disabilities, in integrated settings is certainly one of the important and widely discussed issues in education. This chapter has presented the legal basis of inclusion (i.e., the LRE principle of the IDEA). Clearly, integrated settings are the preferred placements for all students with disabilities. The IDEA sets forth the principle that such placements are the presumptive right of all students with disabilities. The most important principles, however, in educational decision making for students with disabilities are individualization and appropriateness. Special education must be individually tailored to meet each student's unique educational needs and provide meaningful educational benefit.

DISCIPLINING STUDENTS WITH DISABILITIES

The use of disciplinary procedures for students with disabilities is a controversial and confusing issue. Although the IDEA and its implementing regulations are quite detailed, there were no specific federal guidelines regarding disciplining students with disabilities until IDEA '97. This lack of statutory or regulatory requirements resulted in uncertainty among school administrators and teachers regarding appropriate disciplinary procedures and led to many due process hearings and court cases.

Although the original EAHCA did not directly address discipline, one section of the law regarding change of placement procedures proved to be important when school districts attempted to suspend or expel students with disabilities. The next section presents a brief discussion about the legislation and litigation regarding change of placement procedures and the subsequent effect on disciplining of students with disabilities.

Legislation, Litigation, and Discipline

When an IEP team wants to substantially alter a student's educational program, it must follow the procedural requirements of the IDEA. This means that the school must request that the child's IEP team convene, including giving appropriate prior notice to the parents, to consider changes proposed by school personnel. The primary purpose of prior notice is to let parents know about the school district's proposal so that parents may fully participate in the process. Minor changes in the student's educational program that do not involve a change in the general nature of the program or a change in placement do not require prior notification. Changes that substantially or significantly affect the delivery of education or the child's IEP goals and objectives, however, do constitute a change in placement and are not permissible without full consideration of the child's IEP team.

Courts have long held that long-term suspensions or expulsions are significant changes in a student's educational program and, therefore, are changes in placement (Yell, 1998; Yell, Rozalski, & Drasgow, 2001). If a student's parents object to a proposed action, including long-term suspensions or expulsions, they may request an IEP meeting to consider if the change of placement is appropriate. If the school district decides to proceed with the proposed action, a parent may request a due process hearing. In such situations, the school district is prohibited from unilaterally changing placement by the stay-put provision of the IDEA. This provision states that "during the pendency of any proceedings . . . unless the [school] and the

parents . . . otherwise agree, the child shall remain in the then current placement of such child" (IDEA, 20 U.S.C. §1415(e)(3)).

The purpose of the stay-put provision is to continue students in their current placement (a student's placement before the dispute arose) until the dispute is resolved. This provision has been the focal point in many disciplinary controversies. This is because schools have suspended or expelled students receiving special education and related services and the parents, disagreeing with the school's actions, have requested a due process hearing. Under these circumstances, the student with a disability must be returned to his or her previous setting in accordance with the requirements of the stay-put provisions unless the school and the parents agree otherwise. There is no dangerous exemption to this provision. According to the Supreme Court, the purpose of this provision is to strip schools of their unilateral authority to exclude students with disabilities from school (*Honig v. Doe*, 1988).

The decision in *Honig v. Doe* (1988) and others led many school district administrators to believe that there was a dual disciplinary standard; that is, administrators and teachers faced a different set of rules and limitations when using disciplinary procedures with students with disabilities protected by the IDEA. This became such a contentious issue that Congress finally decided to address this issue in 1994.

IDEA '97 and Discipline

Although the IDEA was originally scheduled to be reauthorized in 1994, because of the controversial nature of the disciplinary issue, reauthorization was not completed until 1997. In fact, discipline became the most controversial policy issue in the law's history (Egnor, 2003). When the IDEA was finally reauthorized in 1997, Congress addressed a number of issues related to discipline. According to the Office of Special Education Programs, the underlying assumptions of the disciplinary provisions of IDEA '97 were that (1) all students, including those with disabilities, deserve safe, well-disciplined schools and orderly learning environments; (2) teachers and school administrators should have the tools they need to assist them in preventing misconduct and discipline problems and to address those problems, if they arise; (3) there must be a balanced approach to the issue of discipline of students with disabilities that reflects the need for orderly and safe schools and the need to protect the right of students with disabilities to have a FAPE; and (4) students have the right to an appropriately developed IEP with well-designed behavior intervention strategies (Senate Report, 1997).

By including the discipline provisions in the 1997 amendments, Congress sought to expand the authority of school officials to protect the safety of all children by maintaining orderly, drug-free, and disciplined school environments while ensuring that the essential rights of students with disabilities were protected (Individuals with Disabilities Education Law Report, 1999). Congress sought to help schools officials and IEP teams to (1) respond appropriately when students with disabilities exhibit serious problem behavior, and (2) appropriately address problem behavior in the IEP process. IDEA '97 added a section on discipline to the procedural safeguards section of Part B; this section reflects Congress's intention to balance school officials' obligation to ensure that schools are safe and orderly environments conducive to learning with the school's obligation to ensure that students with disabilities receive a FAPE.

IDEA '97 requires that if a student with a disability has behavior problems (regardless of the student's disability category), the IEP team shall consider strategies, including

TABLE 2 Discipline Provisions of IDEA '97

KEY POINTS	EXPLANATION
Disciplinary procedures	School officials may change the placement of a student to an interim alternative education setting (IAES) another setting or to suspend the student for not more than 10 days. If a student brings a weapon, possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance while at school or a school function, the student may be removed to an IAES for not more than 45 days. A hearing officer may order a change of placement to an IAES when a student presents a danger to self or others if school officials can demonstrate by substantial evidence that (1) maintaining the current placement is substantially likely to result in injury, (2) the IEP and placement are appropriate, (3) the school has made reasonable efforts to minimize the risk of harm, and (4) the IAES meets the criteria set forth in IDEA '97.
Functional behavior assessment and behavior intervention plan	If a student has behavioral problems (regardless of disability category), the IEP team shall consider strategies, including positive behavioral interventions and supports, to address these problems. In such situations, a proactive behavior intervention plan, based on a functional behavioral assessment, should be included in the IEP. If a student is suspended or put in an IAES, and the school has not conducted a functional behavioral assessment and implemented a behavior intervention plan, then the IEP team must develop a behavior intervention plan within 10 days. If a behavior intervention plan is already included in the IEP, the team must meet to review and modify it if necessary.
The manifestation determination	If school officials seek a change of placement, suspension, or expulsion, a review of the relationship between the student's disability and misconduct must be conducted within 10 days. The manifestation determination must be conducted by the student's IEP team and other qualified personnel. If no relationship exists, the same disciplinary procedures as would be used with nondisabled students are available (e.g., long-term suspension, expulsion). *Educational services must continue.* If a relationship exists, school officials may seek a change of placement but cannot use long-term suspension and expulsion.
Conducting the manifestation determination	The IEP team considers all relevant information regarding the behavior in question. This includes evaluation and diagnostic results, information supplied by parents, and direct observations of the student. The IEP team can determine that the misconduct was not a manifestation of a student's disability only when (1) the student's IEP and placement were appropriate and the IEP was implemented as written, (2) the student's disability did not impair his or her ability to understand the impact and consequences of the misconduct, and (3) the student's disability did not impair his or her ability to control the behavior at issue.

TABLE 2 Continued

KEY POINTS	EXPLANATION
The interim alternative education setting	The IEP team must determine the IAES. Although the IAES is not in the school setting, the student must be able to participate in the general education curriculum and continue to receive services listed in the IEP.
The stay-put provision	If parents or guardians of a student placed in an IAES request a hearing, they are entitled to an expedited hearing; however, the stay-put placement is the IAES.
IDEA protections for students not yet eligible for special education	Students who have engaged in misconduct or rule violation may only assert IDEA proeedural protections if school officials had knowledge that the student had a disability prior to the behavior that precipitated the disciplinary sanction.
Referral to law enforcement and juvenile authorities	Nothing in the IDEA prohibits a school from reporting a crime committed by a student to appropriate authorities or to prevent state law enforcement and judicial authorities from exercising their responsibilities. The SEA may require LEAs to transmit copies of school district records regarding special education records and disciplinary records to appropriate authorities.

positive behavioral interventions, and supports to address them. In such situations the student's IEP must include a proactive behavior management plan, based on a functional behavioral assessment.

IDEA '97 also addresses discipline procedures that may be used with students receiving special education. School officials may discipline a student with a disability in the same manner they discipline students without disabilities with a few notable exceptions. Table 2 lists the disciplinary requirements of IDEA '97.

Summary of Discipline

IDEA '97 attempts to balance a school's need to maintain a safe and orderly environment with the right of students with disabilities to receive a FAPE. Perhaps the most important discipline provisions of IDEA '97 are those requiring IEP teams to take a proactive, problem-solving approach to addressing problem behaviors of students with disabilities. IEP teams must become competent in conducting appropriate assessments and evaluations. Furthermore, the IEP team must design and deliver appropriate programming based on positive behavioral interventions and supports. This means that school districts will need to employ people who are competent in conducting functional behavioral assessments and developing positive behavior intervention plans to include in a student's IEP. Finally, IEP teams need to become proficient at developing data-collection systems to determine each student's progress toward his or her behavioral goals; moreover, instructional decisions should be based on the data collected. Future hearings, court rulings, and legislation will help to clarify these confusing issues.

CONCLUSION

The signing of the Education for All Handicapped Children Act on November 29, 1975, was a decisive event in the education of students with disabilities. Through the many developments over the past three decades, the law has been extraordinarily successful in achieving its major purpose of opening the doors of public education to students with disabilities. With the passage of IDEA '97, the primary goal of the law shifted from providing access to educational services to providing meaningful and measurable programs for all students with disabilities receiving special education and related services.

Along with the success of the IDEA is its controversy. The issues of what constitutes a FAPE, what constitutes an appropriate LRE, and how to correctly apply disciplinary procedures were, and in some ways remain, particularly contentious. These controversies have been the subject of numerous due process hearings and court cases. No doubt these issues will remain central to legislation and litigation regarding special education.

QUESTIONS FOR FURTHER DISCUSSION

1. The Individuals with Disabilities Education Act (IDEA) contains five major principles concerning the education of children with disabilities: zero reject; free appropriate public education (FAPE); least restrictive environment (LRE); protection in evaluation; and procedural due process. Explain these principles.
2. The Individuals with Disabilities Education Act requires that school districts offer a free appropriate public education (FAPE) for eligible students with disabilities. Since the original passage of the law in 1975, the issue of what constitutes a FAPE for students with disabilities has led to a great deal of confusion and controversy. What is a FAPE? What are the essential components of a FAPE? What is the primary vehicle by which school districts provide students with a FAPE? What guidance has litigation provided us regarding the content of a FAPE?
3. How have the courts changed how we provide special education services to students with disabilities? From your perspective as a researcher and teacher trainer, how should our field of special education react to these changes? Should this change affect the ways in which we prepare special education teachers, and if so, how?
4. One of the most contentious issues in special education involves the principle of least restrictive environment (LRE). Explain the LRE principle. What are the two major parts of the LRE principle? What is the continuum of alternative placements? How should IEP teams determine LREs for students with disabilities?

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