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Introduction: The Law of Special Education



Key Concepts in This Chapter

- ❖ Sources of Law
- ❖ History of Special Education Law
- ❖ Individuals with Disabilities Education Act
- ❖ Section 504 of the Rehabilitation Act
- ❖ Americans with Disabilities Act

This chapter begins with a brief overview of the American legal system in order to assist readers who may be unfamiliar with general principles of educational law in better understanding the discussions in subsequent chapters. Next, the chapter reviews the history of the movement to obtain equal educational opportunities for students with disabilities; this section highlights important cases that led to federal and state legislation mandating a free appropriate public education for students with disabilities. After reviewing the legislation, the chapter explains the dispute resolution procedures established by federal law before examining the role courts play in enforcing statutory rights.

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Readers who are not familiar with legal terminology should consult the glossary at the end of this work for definitions of the terms used in this chapter and throughout the book.

SOURCES OF LAW

There are four sources of law in the United States: constitutions, statutes, regulations, and judicial **opinions**. These sources of law exist at both the federal and state levels.

A constitution is the fundamental law of a nation or state (Garner, 2004). A statute is an act of the legislative body—basically, a law that the Congress or a state legislature has passed (Garner, 2004). Statutes must be consistent with their controlling constitutions. Most statutes are supplemented by implementing regulations or guidelines written by officials in the agencies that are charged with their implementation and enforcement. Regulations are typically more specific than the statutes that they are designed to implement or carry out because they “flesh out” legislative intent as to how laws should work in practice. Finally, the many decisions of the courts interpreting the constitutions, statutes, and regulations comprise a body of law known as case law or **common law**, relying heavily on the concept of binding **precedent**, that a ruling of the highest court in a jurisdiction is binding on all lower courts in that jurisdiction. Cases from other jurisdictions that are of no binding effect are referred to as persuasive precedent, meaning that courts are not bound to follow their **holdings**.

The federal judicial system, like most state systems, has three levels. At the lowest level, trial courts are known as federal district courts. Each state has at least one federal district court, while some, such as California and New York, have as many as four. Trial courts are the basic triers of fact in legal disputes. As triers of fact in **special education** suits, federal trial courts review the record of administrative hearings and additional evidence and hear the testimony of witnesses. Trial courts render **judgments** based on the evidence presented by the parties to the dispute. Parties not satisfied with the decisions of trial courts may **appeal** to federal circuit courts of appeals within which they are located. For example, the First Circuit Court of Appeals consists of Maine, New Hampshire, Massachusetts, Rhode Island, and Puerto Rico. There are thirteen federal judicial circuits in the United States. However, circuit courts are not required to hear all appeals. Parties not satisfied with the judgments of circuit courts may appeal to the Supreme Court, which also does not hear all cases brought before it on appeal. In fact, the Supreme Court accepts less than one percent of the cases in which parties seek further review. Cases typically reach the Court in requests for a writ of *certiorari*, literally “to be informed of” (Russo, 2006). The Supreme Court may decide, for whatever reason, that a case is not worthy of review. Generally, if the Supreme Court agrees to hear an appeal, the justices grant a writ of *certiorari*. At least four of the nine justices must vote to grant *certiorari* in order for a case to be heard (Russo, 2006). Denying a writ has the effect of leaving a lower court’s decision unchanged (Garner, 2004).

Each of the fifty states and various territories has a similar arrangement, except that the names of the courts vary. Generally speaking, there are three levels of state courts: trial courts, intermediate **appellate courts**, and courts of last resort. One has to be careful with the names of state courts. For example, most people probably think of “supreme court” being the name of a state’s highest court; however, in New York, the trial court is known as the Supreme Court, while the high court is called the Court of Appeals.

When a court hands down a decision, its judgment is binding only within its **jurisdiction**. Keeping in mind that the concept of jurisdiction can refer to either the types of cases that courts can hear or the geographic area over which they have authority, this instance refers to the latter situation. By way of illustration, a judgment of the federal district court for New Hampshire is binding only in New Hampshire. The federal district court in Massachusetts might find a decision of the New Hampshire court persuasive, but it is not bound by its order. However, a decision of the First Circuit Court of Appeals is binding on all states within its jurisdiction, and lower courts in those states must rule consistently. A decision by the Supreme Court of the United States is enforceable in all fifty states and American territories.

The written opinions of most cases are readily available in a variety of published formats. The official version of Supreme Court opinions are in the *United States Reports*, abbreviated U.S. The same opinions, with additional research aids, are published in the *Supreme Court Reporter* (S. Ct.) and the *Lawyer’s Edition*, now in its second series (L. Ed.2d). Decisions of the federal circuit courts are found in the *Federal Reporter*, now in its third series (F.3d), while federal trial court opinions are in the *Federal Supplement*, now in its second series (F. Supp.2d). State cases are published in a variety of publications, most notably West’s National Reporter System, which divides the country up into seven regions: Atlantic, North Eastern, North Western, Pacific, South Eastern, South Western, and Southern. Most education-related cases are also republished in West’s *Education Law Reporter*. Prior to being published in bound volumes, most cases are available in what are known as slip opinions, a variety of loose-leaf services, and electronic sources. Special education cases, as well as due process hearing decisions, are reproduced in a loose-leaf format in the *Individuals with Disabilities Education Law Reporter* (IDELR) published by LRP Publications.

Statutes and regulations are also available in similar readily accessible formats. Federal statutes are in the United States Code (**U.S.C.**), the official version, or the United State Code Annotated (U.S.C.A.), published by West. Agency regulations are published in the Code of Federal Regulations (**C.F.R.**). Links for downloading copies of education statutes and regulations appear on the U.S. Department of Education’s Web site. Legal materials are also available online from a variety of sources, most notably WestLaw. State laws and regulations are generally available online from the Web sites of their states.

Legal citations are easy to read. The first number indicates the volume number where the case, statute, or regulation is located; the abbreviation refers to the book or series in which the material may be found; the second number indicates the page on which a case begins or the section number of a statute or

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regulation; the last part of a citation includes the name of the court, for lower court cases, and the year in which the dispute was resolved. For instance, the citation for *Barnett v. Memphis City School System*, 294 F. Supp.2d 924 (W.D. Tenn. 2003) can be located in volume 294 of the *Federal Supplement, Second Series* beginning on page 924. The case was resolved in the federal trial court in the Western Division of Tennessee. Similarly, the citation for the No Child Left Behind Act, 20 U.S.C. § 6301 (2002) can be found in volume 20 of the United States Code beginning with section 6301.

THE DEVELOPMENT OF SPECIAL EDUCATION LAWS

The federal government did not require states to provide special education services to students with disabilities until 1975 but did offer financial incentives for states to provide some level of services. Prior to 1975 some states enacted legislation mandating special education services to students with disabilities, but those states were in the minority. Before states enacted their own laws safeguarding the educational rights of students with disabilities, many local school boards routinely excluded children who were difficult to educate. When challenged, the courts often upheld these exclusionary practices until the early 1970s. It was only through the long-term efforts of advocates of the disabled that the federal government intervened. Initially, the battle for the educational rights of the disabled was fought in the courts, much of it coming about as a result of the civil rights movement.

Exclusionary Practices

In the early years of public education, school programs were not usually available to students with disabilities. In fact, the exclusion of students with disabilities frequently was sanctioned by the courts. For example, in 1893 the Supreme Judicial Court of Massachusetts supported a school committee's exclusion of a student who was mentally retarded (*Watson v. City of Cambridge*, 1893). The student was excluded because he was too "weak minded" to profit from instruction. School records indicated that the student was "troublesome" and was unable to care for himself physically. The court wrote that by law the school committee (as school boards in Massachusetts are known) had general charge of the schools and refused to interfere with its judgment. The court explained that if acts of disorder interfered with the operation of the schools, whether committed voluntarily or because of imbecility, the school committee should have been able to exclude the offender without being overruled by a jury that lacked expertise in educational matters.

In another dispute, the Supreme Court of Wisconsin, in 1919, upheld the exclusion of a student with a form of paralysis (*State ex rel. Beattie v. Board of Education of Antigo*, 1919). The student had normal intelligence, but his condition caused him to drool and make facial contortions. The student attended public

schools through grade five but was excluded since school officials claimed that his physical appearance nauseated teachers and other students, his disability required an undue amount of his teacher's time, and he had a negative impact on the discipline and progress of the school. School officials suggested that the student attend a day school for students with hearing impairments and defective speech, but the student refused and was supported by his parents. When the board refused to reinstate the student, the court **affirmed** its decision, maintaining that his right to attend the public schools was not absolute when his presence there was harmful to the best interests of others. The court went so far as to suggest that insofar as the student's presence was not in the best interests of the school, the board had an obligation to exclude the student.

An appellate court in Ohio, even in affirming the authority of the state to exclude certain students, recognized the dilemma that was created by exclusionary practices as they conflicted with compulsory education statutes (*Board of Education of Cleveland Heights v. State ex rel. Goldman*, 1934). At issue was the state's compulsory attendance law, which called for children between the ages of six and eighteen to attend school. Further, the court decided that the Department of Education had the authority to consider whether certain students were incapable of profiting from instruction. The controversy arose when the board in one community adopted a rule excluding any child with an IQ score below 50, subsequently excluding a student with IQ scores ranging from 45 to 61. In rendering its judgment, the court conceded that the Department of Education could exclude some students. Even so, the court ordered the student's reinstatement because it was a local board and not the state that had excluded the child. The court noted that education was so essential that it was compulsory between certain ages.

Civil Rights Movement

The greatest advancements in special education have come since World War II. These advancements have not come easily, but resulted from improved professional knowledge, social advancements, and legal mandates initiated by concerned parents, educators, and citizens. The civil rights movement in the United States provided the initial impetus for the efforts to secure educational rights for students with disabilities.

In *Brown v. Board of Education* (1954), the landmark school desegregation case, the Supreme Court unknowingly laid the foundation for future right to education cases on behalf of students with disabilities. Chief Justice Warren, writing for the majority, characterized education as the most important function of government. Warren, pointing out that education was necessary for citizens to exercise their most basic civic responsibilities, explained:

In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the State has undertaken to provide it, is a right that must be made available to all on equal terms. (*Brown*, 1954, p. 493)

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Other courts, dealing with later cases seeking equal educational opportunities for students with disabilities, either directly quoted or paraphrased Warren's comment. As a result, students with disabilities became known as the other minority as they, largely through their parents and advocacy groups, demanded that they be accorded the same rights to an equal educational opportunity that had been gained by racial and ethnic minorities (Osborne, 1988).

Equal Educational Opportunity Movement

The movement to procure equal educational opportunities for students with disabilities gained momentum in the late 1960s and early 1970s when parent activists filed suits seeking educational equality for the poor, language minorities, and racial minorities. Although not all of these cases were successful, as with *Brown*, much of the language that emerged from the judicial opinions had direct implications for the cause of students with disabilities.

Discriminatory Tracking

In a groundbreaking suit, the federal trial court in the nation's capital, as part of a much larger suit dealing with educational equity, declared that the tracking system used by the city's public schools was discriminatory (*Hobson v. Hansen*, 1969). As part of this system, students were placed in tracks, or curriculum levels, as early as elementary school based on an ability assessment that relied heavily on nationally normed standardized aptitude tests. Once they were placed, it was difficult for students to ever move out of their assigned tracks. The court ordered school board officials to abolish the tracking system after hearing testimony suggesting that the tests could have produced inaccurate and misleading results when used with populations other than white middle-class students. The court found that using these tests with poor minority students often resulted in their being placed according to environmental and psychological factors rather than innate ability.

The court saw that since the school board lacked the ability to render scores that accurately reflected the innate learning abilities of a majority of its students, the students' placements in lower tracks was not justified. The court was of the opinion that tracking denied the class of students who were in the lower tracks equal educational opportunities because they received a limited curriculum. The court concluded that school officials also denied students in the lower tracks equal educational opportunities by failing to provide them with compensatory educational services that would have helped to bring them back into the mainstream of public education.

Culturally Biased Testing

At least two courts forbade school systems from placing students in segregated programs on the basis of culturally biased assessments. In the first case, a student who was Spanish-speaking was placed in a class for the mentally

retarded on the basis of an IQ test administered in English (*Diana v. State Board of Education*, 1970, 1973). The issue was similar in the second case, except that the student was African American (*Larry P. v. Riles*, 1972, 1974, 1979, 1984). In the latter case the court held that standardized IQ tests were inappropriate because they had not been validated for the class of students on whom they were used. This resulted in the students being placed disproportionately in special education classes. In both instances, the courts ordered the respective school boards to develop nondiscriminatory procedures for placing students in special education classes. However, in a separate case, another federal trial court commented that standardized IQ tests commonly used in schools were not culturally or racially biased (*Parents in Action on Special Education v. Hannon*, 1980).

Language Minorities

In 1974 the Supreme Court ruled that the failure to provide remedial English language instruction to non-English-speaking students violated Section 601 of the Civil Rights Act of 1974 (*Lau v. Nichols*, 1974). **Plaintiffs** filed a **class action** suit on behalf of Chinese students in the San Francisco school system who did not speak English and who had not been provided with English language instruction. The Court found that the board's denying the students the chance to receive remedial instruction denied them meaningful opportunities to participate in public education. The Court contended that, as a recipient of federal funds, the school board was bound by Title VI of the Civil Rights Act of 1964 and a Department of Health, Education, and Welfare regulation that required it to take affirmative steps to rectify language deficiencies.

Equal Expenditure of Funds

In a variety of suits plaintiffs claimed that the poor were discriminated against insofar as the quality of education that they received was based on school district wealth. By way of background, it is worth noting that in most of these disputes property taxes were used to finance education, resulting in great disparities in educational expenditures between and among a state's school districts. The differences in expenditure levels, the plaintiffs alleged, resulted in differences in the quality of education that the students received. However, in its only case ever addressing school finance directly, *San Antonio v. Rodriguez* (*Rodriguez*) (1973), the Supreme Court rejected the claim that these disparities violated the federal Constitution. Postulating that the poor were not a suspect class and that education was not a fundamental right, the Court commented that at least where wealth was concerned, the Constitution did not require absolute equality.

In *Rodriguez*, the Court delineated the criteria for what constitutes a suspect class: a group "saddled with such disabilities or subjected to such a history of purposeful unequal treatment, or relegated to such a position of political powerlessness as to command extraordinary protection from the majoritarian political process" (p. 28). Under equal protection analysis, categorization as a suspect class

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requires the courts to use what is known as the strict scrutiny test, a measure that imposes a higher standard on governmental units to justify unequal treatment. Conversely, subjecting a claim to the rational relations test, such as when dealing with issues of general welfare, requires states to meet a lower standard of duty. In practical terms, then, delineation as a suspect class makes it easier for a plaintiff class to show that disparate treatment was discriminatory. To drive home its point, the Supreme Court emphasized that "Education, of course, is not among the rights afforded explicit protection under our Federal Constitution. Nor do we find any basis for saying it is implicitly so protected" (p. 35).

In a bellwether state case involving school finance, the Supreme Court of California applied the strict scrutiny test in striking down the state's school finance system as violative of the equal protection clause of the state constitution because the inadequate system failed to serve a compelling state interest (*Serrano v. Priest*, 1971). Over the past thirty-five years, almost forty states have faced similar litigation. Overall, state courts are almost evenly split on the issue of whether their financing systems meet state constitutional requirements.

A New Era for Students with Disabilities

State and federal court cases addressing equal educational opportunities for the poor, language minorities, and racial minorities served as persuasive, rather than binding, precedent in later disputes over access to public school programs for students with disabilities. The legal principles remain the same regardless of why a particular group of students may be classified as a minority. Advocates for students with disabilities successfully used the cases dealing with equal educational opportunities discussed above to lobby for the passage of laws mandating equal treatment for these students.

The successes that advocates for students with disabilities enjoyed in mostly lower court cases are considered landmark opinions despite their limited precedential value since they provided the impetus for Congress to pass sweeping legislation mandating a free appropriate public education for students with disabilities, regardless of the severity or nature of their disabilities. These cases, which are listed by their conceptually related holdings rather than chronologically, occurred in less than a decade of each other and are important because they helped establish many of the legal principles that shaped the far-reaching federal legislation that is now known as the **Individuals with Disabilities Education Act (IDEA)** (2005).

Entitlement to an Appropriate Education Established

One of the first cases that shifted the tide in favor of students with disabilities, *Wolf v. State of Utah* (*Wolf*) (1969), was filed in a state court on behalf of two children with mental retardation who were denied admission to public schools. As a result, the parents of these children enrolled them in a private day-care center at their own expense. As background to the dispute, the parents, through their lawyer, pointed out that according to Utah's state constitution, the public

school system should have been open to all children, a provision that the state supreme court interpreted broadly; other state statutes stipulated that all children between the ages of six and twenty-one who had not completed high school were entitled to public education at taxpayers' expense. In light of these provisions, the *Wolf* court, in language that was remarkably similar to portions of *Brown*, declared that children who were mentally retarded were entitled to a free appropriate public education under the state constitution.

Landmark Decisions

Two federal class action suits combined to have a profound impact on the education of students with disabilities. The first case, *Pennsylvania Association for Retarded Children (PARC) v. Commonwealth of Pennsylvania* (1971, 1972), was initiated on behalf of a class of all mentally retarded individuals between the ages of six and twenty-one who were excluded from public schools. Commonwealth officials justified the exclusions on the basis of four statutes that relieved them of any obligation to educate children who were certified, in the terminology used at that time, as uneducable and untrainable by school psychologists, allowed officials to postpone the admission to any children who had not attained the mental age of five years, excused children who were found unable to profit from education from compulsory attendance, and defined compulsory school age as eight to seventeen while excluding children who were mentally not between those ages. The plaintiff class sought a declaration that the statutes were unconstitutional while also seeking preliminary and permanent **injunctions** against their enforcement.

PARC was resolved by means of a consent agreement between the parties that was endorsed by a federal trial court. In language that presaged the IDEA, the stipulations maintained that no mentally retarded child, or child thought to be mentally retarded, could be assigned to a special education program or be excluded from the public schools without due process. The consent agreement added that school systems in Pennsylvania had the obligation to provide all mentally retarded children with a free appropriate public education and training programs appropriate to their capacities. Even though *PARC* was a **consent decree**, thereby arguably limiting its precedential value to the parties, there can be no doubt that it helped to usher in significant positive change with regard to protecting the educational rights of students. *PARC* helped to establish that students who were mentally retarded were entitled to receive a free appropriate public education.

The second case, *Mills v. Board of Education of the District of Columbia (Mills)* (1972), extended the same right to other classes of students with disabilities, establishing the principle that a lack of funds was an insufficient basis for denying these children services. Moreover, *Mills* provided much of the due process language that was later incorporated into the IDEA and other federal legislation.

Mills, like *PARC*, was a class action suit brought on behalf of children who were excluded from the public schools in the District of Columbia after they were classified as being behavior problems, mentally retarded, emotionally disturbed, and hyperactive. In fact, in an egregious oversight, the plaintiffs estimated that

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approximately 18,000 out of 22,000 students with disabilities in the district were not receiving special education services. The plaintiff class sought a declaration of rights and an order directing the school board to provide a publicly supported education to all students with disabilities either within its system of public schools or at alternative programs at public expense. School officials responded that while the board had the responsibility to provide a publicly supported education to meet the needs of all children within its boundaries and that it had failed to do so, it was impossible to afford the plaintiff class the relief it sought due to a lack of funds. Additionally, school personnel admitted that they had not provided the plaintiffs with due process procedures prior to their exclusion.

Entering a judgment on the merits in favor of the plaintiffs, meaning that it went beyond the consent decree in *PARC*, the federal trial court pointed out that the United States Constitution, the District of Columbia Code, and its own regulations required the board to provide a publicly supported education to all children, including those with disabilities. The court explained that the board had to expend its available funds equitably so that all students would have received a publicly funded education consistent with their needs and abilities. If sufficient funds were not available, the court asserted that existing funds would have to be distributed in such a manner that no child was entirely excluded and the inadequacies could not be allowed to bear more heavily on one class of students. In so ruling, the court directed the board to provide due process safeguards before any children were excluded from the public schools, reassigned, or had their special education services terminated. At the same time, as part of its opinion, the court outlined elaborate due process procedures that it expected the school board to follow. These procedures later formed the foundation for the due process safeguards that were mandated in the federal special education statute.

Other Significant Decisions

A number of subsequent cases were not as high profile as *PARC* and *Mills*, but nonetheless helped to establish many of the legal principles that were later incorporated into the federal special education law. In one such case, *In re G.H.* (1974), the Supreme Court of North Dakota maintained that a student with disabilities had a right to an education under the state's constitution. The child's parents moved out of state leaving her behind at the residential school she had been attending. The school board that had been paying the child's tuition and the welfare department disputed which party was responsible for her educational expenses. The court concluded that the board was liable after acknowledging that the child had the right to have her tuition paid because special education students were entitled to no less than other pupils under the state constitution. The court suggested that students with disabilities constituted a suspect class because their disabilities were characteristics that were established solely by the accident of birth. The court reasoned that the deprivation of an equal educational opportunity to a student with disabilities was a similar denial of equal protection as had been held to be unconstitutional in racial discrimination cases.

A year after the second judgment in *PARC* and *Mills*, an order of the Family Court of New York City helped establish the principle that special education programs had to be free of all costs to parents. *In re Downey* (1973) was filed on behalf of a student with disabilities who attended an out-of-state school because the city did not have an adequate public facility that could have met his instructional needs. As a result, the child's parents challenged their having to pay the difference between the actual tuition costs and the state aid that they received. The court found that requiring the parents to contribute to the costs of their child's education violated the equal protection clauses of both the federal and state constitutions. In ordering reimbursement for the parents' out-of-pocket expenses, the court was of the view that since children, not their parents, had the right to receive an education, their right should not have been limited by their parents' inability to pay for an education.

In *Fialkowski v. Shapp* (*Shapp*) (1975), another case from Pennsylvania, a federal trial court helped to define what constituted an adequate program for a student with disabilities. Here the parents of two students with severe disabilities claimed that their children were not getting an appropriate education because they were being taught academic subjects instead of self-help skills. School officials, relying on the Supreme Court's decision in *Rodriguez*, argued that the claim should have been dismissed because the children did not have a fundamental right to an education. The court responded that *Rodriguez* was not controlling and that the students had not received adequate educations because their programs were not giving them the tools they would need in life. At the same time, although agreeing with the parents that their children who were mentally retarded could have constituted a suspect class, the court did not find it necessary to consider this question because it was satisfied that the parents had presented a claim that warranted greater judicial scrutiny than was necessary by the claim of unequal financial expenditures among school systems. A year after *Shapp*, the same federal trial court in Pennsylvania heard a class action suit filed on behalf of students with specific learning disabilities who allegedly were deprived of an education appropriate to their specialized needs. The complaint in *Frederick L. v. Thomas* (1976, 1977) charged that students with specific learning disabilities who were not receiving instruction suited to their needs were being discriminated against while children who did not have disabilities were receiving a free public education appropriate to their needs, that mentally retarded children were being provided with a free public education suited to their needs, and that some children with specific learning disabilities were receiving special instruction. Therefore, the plaintiffs claimed, students with specific learning disabilities who were not receiving an education designed to overcome their conditions were being denied equal educational opportunities. In refusing to dismiss the claim, the court was convinced that the students did not receive appropriate educational services in violation of state special education statutes and regulations as well as Section 504 of the Rehabilitation Act of 1973. The Third Circuit agreed that while the trial court's remedial order requiring the local school board to submit a plan identifying all students who were learning disabled was an appealable injunctive order,

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the court neither abused its discretion in refusing to abstain nor erred in mandating the identification of all children in the district who had learning disabilities.

A federal trial court in West Virginia, in *Hairston v. Drosick* (1976), established that basic due process safeguards needed to be put in place before a student could be excluded from general education classes. The court held that a local school board violated federal law when officials excluded a minimally disabled student from its public schools without a legitimate educational reason. The student, who had spina bifida, was excluded from general classes even though she was mentally competent to attend school. Further, officials excluded the student even though they did not give her parents any prior written notice or other due process safeguards. The court concluded that the actions of school officials in excluding the student from general education and placing her in special education without prior written notice, the opportunity to be heard, and other basic procedural safeguards violated the due process clause of the Fourteenth Amendment.

The final groundbreaking lower court case arose in Wisconsin. In *Panitch v. State of Wisconsin* (1977), a federal trial court observed that not providing an appropriate education at public expense to mentally retarded students violated the equal protection clause of the Fourteenth Amendment to the United States Constitution. Although the state enacted legislation in 1973 that should have provided the relief the plaintiffs sought, by the time that the court issued its order four years later, public officials had yet to carry out the law's dictates. Believing that the delay was a sufficient indication of intentional discrimination in violation of the equal protection clause, the court ordered the state to provide an appropriate education at public expense to the students in question.

LEGISLATIVE INITIATIVES

With the prospect of additional litigation looming, Congress, along with selected state legislatures, passed new laws expanding the rights of students with disabilities to receive an appropriate education. In so doing, the legislatures incorporated many of the legal principles that emerged from the cases discussed above.

Special education in the United States is now governed primarily by three federal laws and numerous state laws. The federal laws are the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act, and the Americans with Disabilities Act. Each is discussed in the following sections; these latter two statutes are discussed in more detail in Chapter 10.

Individuals with Disabilities Education Act

In 1975 Congress passed Public Law (P.L.) 94-142, which at that time was known as the Education for All Handicapped Children Act. In a 1990 amendment, this landmark statute was given its current title, the Individuals with Disabilities Education Act (IDEA). P.L. 94-142, signifying that it was the 142nd piece of legislation introduced during the Ninety-Fourth Congress, was not an