



# Students with Disabilities in Public Education


**AAUW DAW Branch DEI Meeting 4/9/25**

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# Agenda

We will leave time at the end for any questions!

- History of disability rights and education
- What are accommodations and how do they work?
- What's happening now and what do we do?



**"We will not tolerate another generation of young people going through segregated education, segregated society, being dependent on their parents and public aid. We can make a difference in their future. If people with disabilities have a future, then everyone in our society will have a future."**

**Ed Roberts**

*Polio survivor and disability rights advocate*

# Disability Rights & Education Timeline

- 1817 - founding of American School for the Deaf by Laurent Clerc and Thomas Hopkins Gallaudet
- 1800-1980 peak - **Institutionalization**
- 1867 - First "Ugly Law" established
- 1880-1940 peak - **Eugenics**
- 1927 - Buck v Bell
- 1954 - Brown v Board

# Disability Rights & Education Timeline

- **1965** - Elementary and Secondary Education Act (ESEA) solidifies equal access to public education
- **1971** - PARC v Pennsylvania, Mills v Board
- **1973** - Rehabilitation Act passed, last "Ugly Law" repealed
- **1975** - IDEA enacted (Originally Education for All Handicapped Children Act [EHA])
- **1977** - Section 504 sit ins
- **1989** - Timothy v Rochester
- **1990** - Capitol crawl & signing of ADA
- **2017** - Endrew F. v Douglas

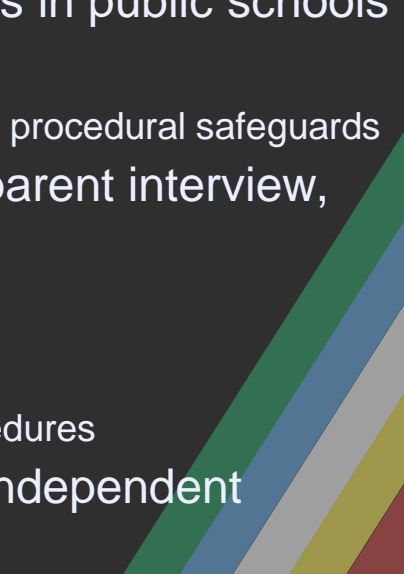
# Accommodations – What are they and how do they work?

- All academic accommodations are based on an Evaluation procedure, rather than a checklist
- Relevant laws:
  - **Section 504 of the Rehabilitation Act of 1973** - Office for Civil Rights
  - **Individuals with Disabilities Education Act (IDEA)** - Department of Education
  - **Americans with Disabilities Act (ADA)**
- “Free and appropriate public education” (FAPE)
- Least Restrictive Environment (LRE) Mandate: a shared mandate between the three laws, where students with disabilities must be given the supports they need for the most integrated setting, as deemed appropriate
- Mainstreaming and Special Education

## Section 504 of the Rehabilitation Act of 1973 – Office for Civil Rights (OCR)

- Outlawed the discrimination of any disabled person by organizations receiving federal funds
  - Discrimination protection applies for your lifespan, not just while in public schools
- Not an education law, but can be applied to an educational setting
- If used for accommodations, a Section 504 Plan requires an evaluation and is usually established before college, and coverage continues beyond high school

# Individuals with Disabilities Education Act (IDEA) - Department of Education

- Education law - main support for academic accommodations in public schools (up til 22)
    - 6 Principles of IDEA: evaluation; IEP; FAPE; LRE; parent participation; procedural safeguards
  - Eligible based on Evaluation, which includes assessment, parent interview, student observation, records review, IEP meeting
  - IEP: Individualized Education Plan
    - Includes Individual Transition Plan (ITP)
    - Accommodations tailored to the student, justified by the evaluation procedures
  - Parental right to participation, procedural safeguards, and Independent Educational Evaluation
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# Americans with Disabilities Act (ADA)

- Non-discrimination law - captures and expands Section 504
- Title II (2): No public entity (government or government-run, such as public schools) may discriminate against disabled people, nor be excluded from the activities and services of public entities
- Title III (3): Disabled people are entitled to access to public accommodations (entities, private or not, whose operations affect commerce - includes private schools) and access to services by private entities
- Mandates non-discrimination and accessibility, but not necessarily accommodations
  - Ex: you can't be denied enrollment in a private school on the basis of disability, but you are not guaranteed academic accommodations to allow you to succeed once in the school

# Important Distinctions

- Definitions of “disability”:
  - **Section 504 and the ADA:** “A person who has a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such an impairment, or a person who is perceived by others as having such an impairment.”
  - **IDEA:** “A child with specific disabilities who, by reason thereof, needs specially designed instruction and related services.” List of specific disabilities is limited to Autism, Deaf-Blind, Deafness, Emotional Disturbance, Hearing Impairment, Intellectual Disability, Multiple Disabilities, Orthopedic Impairments, Other Health Impaired, Specific Learning Disability, Speech or Language Impairment, Traumatic Brain Injury, Visual Impairment including Blindness
- Section 504 and the ADA are non-discrimination laws and can be more broadly applied
- IDEA is specifically about public education and can only be applied in said environment
- ***None of these laws apply to academic accommodations in private schools unless they receive any form of federal funding***



**What's  
happening now?**

## Public versus Private

- Public schools are funded by the government and thus protect disabled students under the law
- Private schools are not exempt from the law, but legal protections for disabled students aren't the same
- Prioritizing private school vouchers while cutting funding for public schools under the guise of "parental choice" **leaves disabled students with either subpar public education or unaccommodated private education**

## Anti-ADA Rhetoric

- Accusing Sign Language interpreters of distracting from or making light of emergency situations
- Accusing disabled people of profiting from suing small businesses using the ADA, which distracts from how businesses are breaking the law
- Claiming the space/cost of access disabled people are entitled to are "too much"
- **Accessibility benefits all - who benefits from a lack of accessibility?**
- **The ADA is the law**

## Texas v Becerra

- Texas v Becerra is a legal challenge by 17 State Attorneys General to the constitutionality of including "gender dysphoria" as a covered disability by 504, as well as Section 504 itself
- Ruling in favor of the challenge would upend Section 504's protections
- **Deeming Section 504 as unconstitutional puts the ADA at risk** of the same fate, as they're built on the same legal justifications

# What do we do?

The attacks on disabled students' education are overwhelming, but nothing's set in stone!

- **Push local school districts** to provide parents training on their rights and their students' rights regarding special education
- **Call the Attorneys General** and demand support for Section 504
- **Call your state and federal representatives** and demand they protect the ADA and funding for special education and accommodations
- **Meet with legislators** to explain why you think educating disabled children is important and make it clear you expect solutions from them
- Pressure the CA legislature to **create/reinforce non-discrimination and accommodation trigger laws** if federal protections fall
- Emphasize to Representatives and Senators how much you care about **Medicaid and Medicare** staying in place

# Resources and Media for further understanding:

## Resources:

- **Disability Rights California** - legal advocacy group with many legislative resources
- **Disability Rights Education & Defense Fund (DREDF)** - disability advocacy group focused on civil rights law and policy
- **Administration for Community Living (ACL)** - national network of Independent Living resources and organizations, works in tandem with Centers for Independent Living (CILs) and the State Council for Independent Living (SILC)
- **ADA National Network ([adata.org](http://adata.org))** - network of Regional ADA Centers to train and provide information on the ADA and enforcement of it

## Media:

- **Out of My Mind** - fictional film and book highlighting one of many experiences disabled children have with public education
- **Change Not Charity** - documentary focusing on the disability rights movement
- **Crip Camp** - documentary focusing on the origins of the disability rights movement
- **The Power of 504** - documentary focusing on the 504 Sit-Ins
- **Being Heumann** - autobiography by one of many disability rights leaders, including what her education was like before legislation passed protecting it



Q & A