



EDUCATION LAW RESEARCH GUIDE

H. DOUGLAS BARCLAY LAW LIBRARY

Check the library's "Location Guide" and Summit/Voyager the Online catalog for the current location of sources mentioned in this pathfinder.

PURPOSE:

This pathfinder is a guide to the Education Law resources available at the Barclay Law Library. The resources are discussed in terms of basic primary sources, secondary sources and finding aids. The pathfinder is divided into Federal Education Law resources and New York resources in order to give the researcher a broader approach for researching Education Law. Each section is divided into Education Law and Special Education Law.

OUTLINE: FEDERAL & NEW YORK

I. PRIMARY SOURCES

- A. Codes
- B. Case Law Reporters

II. SECONDARY SOURCES

- A. Encyclopedias
- B. Treatises & Practice Materials
- C. Form Books & Manuals

III. FINDING TOOLS

- A. Summit/Voyager Online Catalog
- B. Periodical Indexes
- C. New York Law Finder

IV. SOUND RECORDINGS

V. REFERENCE SOURCES

VI. INTERNET RESOURCES

- A. ABA Section of Education Law
- B. Cornell University's Legal Information Institute
- C. Other web sites of interest

VII. BIBLIOGRAPHY

FEDERAL EDUCATION LAW RESOURCES

PRIMARY SOURCES

A. United States Code (USC, USCA & USCS) Floor 4

The *United States Code* collects and organizes federal laws by subject matter into fifty (50) titles. The *United States Code* (USC) is the official code. The *United States Code Annotated* (USCA) and the *United States Code Service* (USCS) are both unofficial, annotated codes.

Other Sources for the United States Code:

- Lexis: Password required.
- Westlaw: Password required.
- Internet: United States Code via Cornell Legal Information Institute
<http://www.law.cornell.edu>

Relevant Education Law statutes found in the *United States Code* include:

General Education Statutes

General Education Provisions Act 20 U.S.C. § 1221 et al.

- National Policy with respect to equal education opportunities 20 U.S.C. § 1221-1.
- Education Impact Statement 20 U.S.C. § 1221e-4
- Prohibition against Federal control of education 20 U.S.C. § 1232a
- State agency monitoring and enforcement 20 U.S.C. § 1232c
- Family educational and privacy rights 20 U.S.C. § 1232g

No Child Left Behind Act of 2001 20 U.S.C. § 6053e et al

This is an amendment to the *Elementary and Secondary Education Act of 1965*. It is broken down by titles, parts and sections. Titles include:

- Improving the Academic Achievement of the Disadvantaged
- Preparing, Training and Recruiting High Quality Teachers and Principals
- Language Instruction for Limited English Proficient and Immigrant Students
- 21st Century Schools
- Promoting Informed Parental Choice and Innovative Programs
- Flexibility and Accountability
- Indian, Native Hawaiian, and Native Alaskan Education
- Impact Aid Program
- General Provisions
- Repeals, Redesignations, and Amendments to Other Statutes

Elementary and Secondary Education Act of 1965 20 U.S.C. § 6301 et al.

- General Provisions 20 U.S.C. §§ 6301-6304

- Basic Program Requirements 20 U.S.C. §§ 6311-6322
- Student Reading Skills 20 U.S.C. §§ 6361-6368, 6371-6376, 6381-6383
- Education of Migratory Children 20 U.S.C. §§ 6391-6399
- Prevention and Intervention for Children at Risk 20 U.S.C. §§ 6421-6422

Equal Education Opportunities Act (EEOA) [20 U.S.C. §§ 1701-1721](#)

- Part 1-Policy and Purpose 20 U.S.C. §§ 1701-1702
- Part 2-Unlawful Practices 20 U.S.C. §§ 1703-1705
- Part 3-Enforcement 20 U.S.C. §§ 1706-1710
- Part 4-Remedies 20 U.S.C. §§ 1712-1718
- Part 5-Definitions 20 U.S.C. § 1720
- Part 6-Miscellaneous Provisions 20 U.S.C. § 1721

Department of Education 20 U.S.C. § 3491 et al

- Part 1-General Provisions 20 U.S.C. §§ 3401-3404
- Part 2-Establishment of Department 20 U.S.C. §§ 3411-3425
- Part 3-Transfers of Agencies and Functions 20 U.S.C. §§ 3441-3447
- Part 4-Administrative Provisions 20 U.S.C. §§ 3461-3489
- Part 5-Transitional, Savings, and Conforming Provisions 20 U.S.C. §§ 3501-3510

Special Education Statutes

Three federal statutes provide the primary basis for special education requirements: the *IDEA* which addresses the education of students with disabilities, *Section 504 of the Rehabilitation Act of 1973* which prohibits discrimination solely on the basis of disability against individuals otherwise qualified to participate in programs and activities receiving federal funds and the *ADA* which seeks to eliminate discrimination against individuals with disabilities in both public and private institutions.

Individuals with Disabilities Education Act (IDEA) 20 U.S.C. 1400, et seq.

The *IDEA* is primarily a grant program. All states receive *IDEA* funding and are subject to its requirements. It seeks to ensure that students with disabilities receive the special education and related services they need in order to be able to attend and benefit from public education.

- Subchapter I-General Provisions - 20 U.S.C. §§ 1400-1406.
- Subchapter II-Assistance for Education of All Children with Disabilities – 20 U.S.C. §§ 1411-1419
- Subchapter III-Infants and Toddlers with Disabilities – 20 U.S.C. §§ 1431-1445
- Subchapter IV-National Activities to Improve Education of Children with Disabilities
 - Part A-State Program Improvement Grants for Children with Disabilities 20 U.S.C. §§ 1450-1456
 - Part B-Coordinated Research, Personnel Preparation, Technical Assistance, Support, and Dissemination of Information 20 U.S.C. §§ 1461-1466

- Part C-Supports to Improve Results for Children with Disabilities 20 U.S.C. §§ 1470-75

Rehabilitation Act of 1973 (Section 504) – [29](#) U.S.C. §§ [701](#)-718

Section 504 is the civil rights law for the Rehabilitation Act. It prohibits discrimination solely on the basis of disability against individuals otherwise qualified to participate in programs and activities receiving federal funds.

The Americans with Disabilities Act (ADA) 42 U.S.C. §§ 12101 et seq.

The ADA, like Section 504, is a civil rights statute. It seeks to eliminate discrimination against individuals with disabilities in both public and private institutions, as well as transportation, telecommunications and other areas.

For more information see, Zirkel, Perry A. & Steven R. Aleman, *Section 504: the ADA and the Schools* (LRP Publications 2000) KF4210 .Z85 2000.

B. Case Law

1. *West's Education Law Reporter* (West 1982-) KF4110.A2 W47

The library currently has volumes 1-170.

2. *West Digests*

The West case digests are useful for finding relevant cases. Consult the "Schools" topic in either the *West Federal Practice Digest* or the West Digest for a particular state. A researcher can either browse the "Schools" topic through the Table of Contents to find specific cases.

See For Example:

38A & 39 New York Digest 4th "Schools" Sec. 1-183:

3. *Westlaw and Lexis*

Both Lexis and Westlaw have databases devoted specifically to Education law. These databases can be further limited to specific states. Please note a password is required to access these databases.

Westlaw: WLD-ED, MED-CS, WELR, OAKSELU, EDULAW, EDCT

Lexis: FEDCTS, SCHOOL, LRP, EDULAW, BNAADA, NDLTR, EOHA

C. Administrative Law

Code of Federal Regulations Floor 4 Current year

Formats & Sources:

The *Code of Federal Regulations* (CFR) is available in print, microfiche and online sources.

Paper	current year	Unclassified	Floor 4
Microform	1938 – present	Unclassified	Floor 2
Westlaw		password required	
Lexis		password required	
Internet		CFR Online	– http://www.gpoaccess.gov/cfr/index.html

The Department of Education provides the expertise and specialization to regulate the detailed requirements of our federal education laws. It is empowered by federal legislation to engage in administrative lawmaking activity. The Department's regulations contained in the *Code of Federal Regulations* (CFR) are one source of its administrative law making activity. Rules and regulations are not laws, but carry the same legal effect as statutes. They define or interpret law or policy.

Federal rules and regulations pertaining to Education will be classified under Title 34 of the CFR. Title 34 is divided into various parts and sections. Relevant rules and regulations designed to implement Federal Education Law statutes include:

- Assistance for Education of All Children* 34 CFR Part 300,
 - for *Individuals with Disabilities Education Act*
- Nondiscrimination on the Basis of disability, etc* 34 CFR Part 104,
 - for *Rehabilitation Act of 1973* (Section 504)
- 34 CFR Part 99
 - for *Family Educational Rights and Privacy Act* (FERPA)

NEW YORK CODE & REGULATIONS

New York Code (Floor 3 & Stack 1)

Formats:

Paper	various titles, see list below	Stack 1
Westlaw	Password required	
Lexis	Password required	

1. *McKinney's Consolidated Laws of New York, Annotated* (McKinney's) KFN 5030 .A43; Stack 1 & Floor 3

See, *Education Law*, §1 et seq. (8 vols.).

Education:

- *Teachers and Supervisory and Administrative Staff* N.Y. EDUC. LAW §§ 3001-3035
- *Elementary and Secondary Education Opportunity Program* N.Y. EDUC. LAW §§ 559-563

Special Education:

- *Children with Handicapping Conditions* N.Y. EDUC. LAW §§ 4401-4410-b

2. *New York Consolidated Laws Service: Annotated Statutes With Forms (CLS)*, KFN 5030 .A45 Stack 1

The text of laws is identical to McKinney's. Forms are included following statutes. It is published by LexisNexis.

3. *New York Code of Rules and Regulations (NYCRR)* KFN 5035 .A22 Stack 1

This is the full text of current rules and regulations. It is arranged by issuing agency with a subject index. It might not always be current - check date on page, bring up-to-date by calling agency directly.

Education regulations are found in Title 8. This title has 4 volumes. Contents include:

- Regulations of the Commissioner
- State University of New York
- Higher Education Services Corporation
- Appendices, Case Notes & Index

SECONDARY SOURCES

A. National Encyclopedias (Floor 3 Encyclopedia Wall)

Encyclopedias are useful for an overview of Education Law topics from a multi-jurisdictional perspective.

1. *American Jurisprudence 2d*, West Pub.

Sample Am Jur. 2d topics include:

15A Am Jur. 2d, “*Colleges and Universities*” §§ 1 et seq.

68 Am Jur 2d, “*Schools & School Districts*” §§ 1 et seq.

15 Am Jur. 2d. *Civil Rights* §§ 327-347 (Title X)

2. *Corpus Juris Secundum* (CJS), West Pub.

Sample CJS topics include:

14A CJS, “*Colleges & Universities*” §§1 et seq.

78 & 78A CJS, “*Schools & School Districts*” §§1 et seq.

B. New York Encyclopedia (Floor 3 Reference Wall)

1. *New York Jurisprudence 2d*, West Publishing KFN5065. N48

Education law matters are discussed under a number of titles in *New York Jurisprudence 2d*. The topics discussed also provide the researcher with references and citations to the relevant New York code and case law.

Sample citation:

94 & 95 *NY Jur.* 2d “*Schools, Universities & Colleges*” §§1 et seq.

Discusses law relating to education in New York State. Topics include:

- State Department of Education
- School Districts
- Administration of Educational Institutions
- Right to Education, admissions, attendance & discipline
- No Child Left Behind Act, etc.

C. Treatises and Loose-leafs

Education Generally:

Rapp, James A., *Education Law* (M. Bender) KF4119 .R36

This is a seven volume loose-leaf source. The volumes are titled as follows:

- Volume 1 has five chapters including: Education, Law and the Attorney; Religion, State, and Education; Governing Agencies, Boards, Officers, and Authorities; General Procedures (includes information on contracts); and Funding Support, and Finances.
- Volume 2 has one chapter, Faculty and Staff Employment. It includes information on certification, employment practices, discrimination, tenure, contracts, and disciplining faculty and staff.
- Volume 3 has one chapter, Labor Relations and Collective Bargaining. It includes information on the student educational institution relationship (admission, attendance, grading, and testing) and student control and discipline.
- Volume 4 has one chapter, Educational Opportunities and Equality. It is divided by types of discrimination such as race, color, and national origin; sex; disability; limited English proficiency; and talented or gifted children.

- Volume 5 has four chapters, Curriculum and Teaching Methods; General Liabilities and Litigation; Education Records; and Copyrights, Patents, and Trademarks in the Educational Community.
- Volume 6 includes forms for a variety of areas including general governing of schools, procedures and operations, employment relations, and funding.
- Volume 7 has reference material pertaining to education statutes, forms quoted in cases, and references to the internet and World Wide Web.

Special Education:

1. Zirkel, Perry A. & Steven R. Aleman, *Section 504: the ADA and the Schools* (LRP Publications 2000) KF4210 .Z85 2000

This is a three volume loose-leaf source pertaining to the special education. Volume I includes:

- Part I – Introduction
- Part II - § 504 Legislation and Related Sections of the Rehabilitation Act 29 U.S.C. §§ 705(20), 794, 794a
- Part III - § 504 Regulations – 34 C.F.R. Part 104
 - This includes Employment Practices, Program Accessibility, Preschool, Elementary and Secondary Education, and Procedures.
- Part IV ADA
 - Two sections of interest include Employment and Public Accommodations.

Volume II includes several Appendices. There are comparisons of laws, memoranda, sample policies and procedures, sample notices and forms, classroom modifications, program and facilities accessibility materials, employment, and OCR enforcement. A Supplement follows Volume II.

2. *Individuals with Disabilities Education Law Report* (LRP Publications 1991-) KF4210.A6 E38

This forty-two volume loose-leaf reporter is a reference source for special education law. It includes cases involving classroom discipline of students with special needs, mediation of disputes, development of effective IEPs, and compliance with state standards. It contains the full text of major federal statutes and regulations, IDEA policy rulings, Section 504 policy rulings, federal and state court decisions, and SEA appeals decisions. The *Report* also publishes IDELR Highlights and Special Reports including recent developments in special education law and policy. Indexes are available which include a table of cases, statute regulation tracker, a master list of topical headings, and a topical index with cases.

Examples of Special Reports:

- *Graduating Students with Disabilities: Complying with IDEA* (No. 36)

- *Surrogate Parents: An Overview of Qualifications and Responsibilities Under the IDEA* (No. 34)
- *A Legal Overview of Burden of Proof in Special Education Disputes* (No. 33)
- *A Guide to Americans with Disabilities Act of 1990* (No. 2)

EDUCATION LAW FINDING TOOLS

SUMMIT is Syracuse University's online catalog, which includes all libraries on campus as well as ESF's Moon Library. SUMMIT can be searched in a variety of ways: by author, title, journal title, subject, or any combination thereof.

Sample Keyword Searches in Summit for Secondary Education Law Sources:

Education:

- “education law” +students
- “education law”
- “education law” & Cases
- Guide + “education law”
- Teachers +“education law”

Special education:

- “special education” +law
- “individualized education plans” +law
- disability law

Legal Periodical Indexes (ILP): (Print – Floor 3)

Check with a reference librarian for access and use of this and other indexes available in the law library.

Index to Legal Periodicals & Books, Wilson & Co., K33.I5 Location: 3rd Floor

This resource is available in both print and electronic format. Researchers can search the ILP for Education Law articles by keyword or subject searching.

Typical “Education Law” journals and periodicals cited in the ILP and available in the Law Library include:

- *Journal of Law & Education* (Floor 2 Unclassified)
- *School law bulletin* (Floor 2 Unclassified)
- *NOLPE School Law Journal* (Floor 2 Unclassified)

AUDIOVISUAL RESOURCES

Note: A keyword search in SUMMIT using “education +videorecording” will produce a list of 500+ items in both the Law and Bird Library.

General Education

One Nation under God? School Prayer and the First Amendment (Close Up Publishing 1995) KF 4162 .N3 1995

The Road to Brown (California Newsreel, 1995) Videotape KF373.H644 R63 1995

Special Education

Surviving Due Process: When Parents and the School Board Disagree (Harbor House Law Press 2004) KF 4210 S.8 2004.

IDEA Procedural Safeguards Parents' Rights, Districts' Responsibilities (LRP Publication 1999) Videotape LC4019 .I22 1999

How to Develop an IEP That Works (Baxley Media Group 1994) Videotape LC3981 .L44 tape 3

What Courts Are Requiring In the IEP (Baxley Media Group 1994) Videotape LC3981 .L44 tape 9

Teachers' Rights in Special Education (Baxley Media Group 1994) Videotape LC3981 .L44 tape 19

Educating Peter (Films for the Humanities and Sciences 2003) Videotape LC4631 .E33 2001

INTERNET RESOURCES

Cornell University's Legal Information Institute

<http://www.law.cornell.edu/topics/>

This web site is very useful for access to primary law resources sources for researching such matters as special education and the IDEA. Overview of these topics also includes links to source materials such as statutes, regulations and cases.

United States Department of Education

<http://www.ed.gov/index.jhtml>

This web site is very useful for legislation and regulation resources:
It also links to State statutes dealing with education:

Education Law: An Overview (Legal Information Institute)

The Virtual Chase: Legal Research Guide: Education Law
http://www.virtualchase.com/resources/education_law.html

Education Law Research Guide & Bibliography – Special Education (Mental & Physical Disabilities)
<http://www.dsl.psu.edu/library/lrr/guides/education/special.html>

BIBLIOGRAPHY

In addition to the title listed above, this is a brief list of titles held by the Barclay Law Library and Bird Library.

General Treatises:

Mooney, Christopher F. *Boundaries Dimly Perceived: Law, Religion, Education, and the Common Good* (University of Notre Dame Press 1990) KF380.M66 1990

Morgan, Kerry L. *Real Choice, Real Freedom in American Education: The Legal and Constitutional Case For Parental Rights and Against Governmental Control of American Education* (University Press of America 1997) KF4119.M67 1997

Education Law & Policy:

Alexander, Kern & M. David Alexander, *The Law of Schools, Students and Teachers* (Thompson 2003) KF 4119.3 .A43 2003

Brookings Papers on Education Policy, Sponsored by the Brown Center on Education Policy. Washington, D.C.: Brookings Institution Press, c1998. Bird – LC89.B747 1999

Hollander, Patricia *Legal Handbook for Educators* (Westview Press 1978) KF419.H64

Nolte, M. Chester, *School Law in Action: 101 Key Decisions with Guidelines for School Administrators* (Parker Pub. Co. 1971) KF4114.N6 1972

Menacker, Julius, *School Law: Theoretical and Case Perspectives* (Prentice-Hall 1987) KF 4118.M46 1987

Yudof, Mark G. *Kirp & Yudof's Educational Policy and the Law: Cases and Materials* 2d ed. (McCutchan Publishing 1982) KF4118 .K5 1982

Special Education (Mental & Physical Disabilities)

Please note that LRP is a major publisher in the area of special education and higher education. A complete list of their titles held by the library is available through a keyword search. For LRP's current publications, see the LRP website at <http://www.shoplrp.com/>.

Amary, Issam B. *The Rights of the Mentally Retarded-Developmentally Disabled to Treatment and Education* (Thomas 1980) RC570 .A65

Baldrige, Steve, *Mediation under the New IDEA: Room to Be Reasonable* (LRP Publications 1998) KF4210.A6 I52 no.19

Budoff, Milton, et al. *Due Process in Special Education: On Going To a Hearing*. Cambridge, (Ware Press 1982) KF4210 .B83 1982

The Chronicle Of Special Education Law: Cases And Commentary (Jefferson Law Book Co. 2002) KF4209.3 .C57 2002

Education for the Handicapped Law Report vols. 1-17 (CRR Pub. Co. 1979-) KF4210.A6 E38

Freedman, Miriam Kurtzig, *Testing, Grading and Granting Diplomas to Special Education Students* (LRP Publications 1997) KF4210.A6 I52 no.18

Gorn, Susan, *What's Hot, What's Not: Trends in Special Education Litigation* (LRP Publications 1996) KF4210.A6 I52 no. 14

Hartwig, Eric Paul, *Disciplining Children with Disabilities: Balancing Procedural Expectations and Positive Educational Practice* (LRP Publications 1991) KF4210.A6 I52 no. 5

Hartwig, Eric Paul & Gary M. Ruesch, *Discipline in the School* (LRP Publications 1994) LB3012.2 .H38 1994

Hubley, Nancy A., *Children without Parents: The IDEA's Surrogate Parent Mandate* (LRP Publications 1997) [Kf4210.A6 I52 no.17](#)

Huefner, Dixie Snow, *Burden Of Proof under the Individuals with Disabilities Education Act*. (LRP Publications 1993) KF4210.Z9 I52 no. 9

Individuals with Disabilities Education Law Report. (loose-leaf) (LRP Publications c1991- continues through *Education for the Handicapped Law Report*) KF4210.A6 E38

Kelman, Mark, *Jumping the Queue: An Inquiry into the Legal Treatment of Students with Learning Disabilities*. (Harvard University Press 1997) [KF4215 .K45 1997](#)

- Lake, Steven, *Section 504 Retaliation Claims: A Legal Overview* (LRP Publications 2002) KF4210.A6 I52 no. 30
- Lantzy, M. Louise, *Individuals with Disabilities Education Act: An Annotated Guide to Its Literature and Resources, 1980-1991* (F.B. Rothman & Co. 1992) KF4210.A1 L36 1992
- Lippman, Leopold D., *Right to Education: Anatomy of the Pennsylvania Case and Its Implications for Exceptional Children* (Teachers College Press 1973) [KF4215 .L57](#)
- Maloney, Melinda & Brian Shenker, *The Continuing Evolution of Special Education Law, 1978 To 1995*. (LRP Publications 1995) KF4210.A6 I52 no. 12
- Mattison, Deborah A. *The Availability of Damages and Equitable Remedies under the IDEA, Section 504, and 42 U.S.C. Section 1983* (LRC Publications 1992) [KF4210.A6 I52 no. 7](#)
- Mehfoud, Kathleen S. *Special Education Services for Private School Students* (LRP Publications 1994) KF4210.A6 I52 no. 10
- Osborne, Allan G., *Special Education and the Law: A Guide for Practitioners* (Corwin Press 2003) KF4209.3 .O82 2003
- Pitasky, Vicki M. & Charles Russo, *The Current Legal Status of Inclusion* (LRP Publications 1996) KF4210.A6 I52 no. 15
- Rapp, James A., *Education Law* (Bender vol. 1 – 7 Oct. 2004) KF4119 .R36
- Siegel, Lawrence M., *The Complete IEP Guide: How to Advocate for Your Special Ed Child* 2d. ed. (Nolo.com Press 2001) KF4209.3.Z9 S57 2000 (Community Legal Resource shelves)
- Special Educator . . . desk book* (LRP Publications 2003) KF4210 .S63
- Thomas, Stephen B., & Charles J. Russo, *Special Education Law: Issues and Implications for The '90s*. (National Organization on Legal Problems of Education 1995) KF4210 .T5 1995
- Thomas, Stephen B. *The Yearbook of School Law* (National Organization on Legal Problems of Education 1988-) KF4101.5 .Y4
- Weber, Mark C., *Special Education Law and Litigation Treatise* (LRP Publications 2002) KF4210 .S4 2002
- Zelin, Gerald M. *The Constitutional Foundations of Special Education Law* (LRP Publications 1993) KF4210 .A6 I52 no. 8

Zirkel, Perry A. & Steven R. Aleman, *Section 504: the ADA and the Schools* (LRP Publications 2000) KF4210 .Z85 2000

General Reference Sources

Ellen Gibson, *New York Legal Research Guide* Reference KFN 5074 .G53; KFN 5074 .G53

New York Red Book Reference KFN 5074 .A14 N48; KFN 5074 .A14 N48

New York State Directory Reference JK 3430 .N52