

## **Matrix of Key Federal Statutes and Federal and State Court Decisions Reflecting the Core Concepts of Disability Policy**

**H. Rutherford Turnbull, III**

**Matt Stowe**

**Samara Klein**

**Brandon Riffel**

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This matrix displays the decisions of the United States Supreme Court and the federal statutes most relevant to individuals with disabilities and their families. It is organized according to the core concepts of disability policy as identified by Rud Turnbull and his colleagues at the Beach Center on Disability, the University of Kansas, Lawrence, and as published in a symposium issue on disability policy. See Turnbull, H. R., Beegle, G., & Stowe, M.J. (2001). The core concepts of disability policy affecting families who have children with disabilities, *Journal of Disability Policy Studies*, 12(3), 133-143, and related articles in the same issue of the *Journal*. Matt Stowe and Samara Klein were senior research associates at the Beach Center and members of the Kansas Bar. Brandon Riffel is a second year law student at Syracuse University and a former research assistant at the Beach Center.

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<b>Disability Policy Core Concepts</b>		
<p><b>ANTIDISCRIMINATION</b> (nondiscrimination and antidiscrimination; equal treatment, equal opportunity, sometimes with accommodation; even-handed treatment of similarly situated individuals)</p> <p><b>Definition</b>—Under various statutes generally known as “civil rights acts,” it is illegal to discriminate against a person with a disability solely by reason of the person’s disability. One purpose of antidiscrimination is to ensure that decisions about an individual are made objectively and on the basis of the whole person, including the person’s capabilities, impairments, and preferences. A more fundamental purpose (more fundamental because linked to the constitutional doctrine of equal protection) is to promote equal for people with disabilities and even-handed treatment of similarly situated people (those with and without disabilities). A principal method to achieve antidiscrimination in services is to provide reasonable accommodations and individualized and appropriate services.</p> <p><b>Constitutional principles</b>—5th and 14th Amendments (Equal Protection)</p>		
<b>Federal Statutory Sources</b>	<b>Federal Case Law Related to Statutes</b>	<b>Other Relevant Case Law</b>
<p><b>Rehabilitation Act of 1973</b>, 29 U.S.C. § 794 – Also known as Section 504, prohibits discrimination against otherwise qualified persons with disabilities in any program or activity receiving federal funds.</p> <p><b>Americans with Disabilities Act of 1990 (ADA)</b>, 42 U.S.C. §§ 12101 <i>et seq.</i> – Prohibits discrimination solely on the basis of disability against an otherwise qualified individual who has a mental or physical disability in the area of employment, public services, transportation, public accommodations, and telecommunications.</p> <p><b>Americans with Disabilities Amendments Act of 2008</b>, P.L. 110-325, establishes a broader standard for determining disabilities than how court</p>	<p><b><i>Bowen v. American Hospital Association</i></b>, 476 U.S.610 (1986) – Sec. 504 of the Rehabilitation Act does not give the Secretary of Health and Human Services authority to commandeer state agencies.</p> <p><b><i>Southeastern Community College v. Davis</i></b>, 442 U.S. 397 (1987) – Refusal of educational institution to admit individual with a hearing disability to nursing program does not violate Sec. 504 of the Rehabilitation Act.</p> <p><b><i>Board of Education v. Arline</i></b>, 480 U.S. 273 (1987) – A person afflicted with the contagious disease of tuberculosis may be a “handicapped individual” within the meaning of Sec. 504.</p>	<p><b><i>City of Cleburne v. Cleburne Living Center</i></b>, 473 U.S. 432 (1985) – invalidated law preventing the establishment of group home for individuals with intellectual disabilities, because government action requires legitimate state interest under the Equal Protection Clause of the 14<sup>th</sup> Amendment.</p> <p><b><i>Olmstead v. L.C.</i></b>, 527 U.S.581 (1999) – Unwarranted placement in segregated facilities constitutes discrimination that is prohibited by the ADA.</p> <p><b><i>Hosanna-Tabor Evangelical Lutheran Church and School v. E.E.O.C.</i></b>, 132 S. Ct. 694 (2012) – teacher who has passed examination to be a “called” teacher in a church school and performs as a “called”</p>

Federal Statutory Sources	Federal Case Law Related to Statutes	Other Relevant Case Law
<p>have defined disability under the ADA of 1990. This includes not considering ameliorative effects of specified mitigating in determining whether there is a substantial limitation on life activity</p> <p><b>Individuals with Disabilities Education Act of 2004 (IDEA)</b>, 20 U.S.C. §§ 1400 <i>et seq.</i>, – Creates zero reject (entitlement to education) principle for students ages 3-21 with disabilities.</p> <p><b>Fair Housing Act (FHA)</b>, 42 U.S.C. §§ 3601 <i>et seq.</i>, Prohibits discrimination in the sale or rental of housing based on a person’s disability. Requires accommodations to rules, policies and services for people with disabilities. Also requires that accessibility guidelines be followed by certain multi-family dwelling units.</p>	<p><b>Alexander v. Choate</b>, 469 U.S. 287 (1985) – Assuming that Sec. 504 or its implementing regulations reach some claims of disparate-impact discrimination, the effect of Tennessee’s reduction in annual inpatient coverage is not among them.</p> <p><b>Pa. Dept. of Corrections v. Yeskey</b>, 524 U.S. 206 (1998) – State prisons are subject to the ADA as they fall squarely within Title II of the ADAs statutory definition of “public entity.”</p> <p><b>Bragdon v. Abbott</b>, 524 U.S. 624 (1998) – An individual with HIV, even when not in symptomatic phase, is a qualified person with a disability.</p> <p><b>University of Alabama v. Garrett</b>, 531 U.S. 356 (2001) – The abrogation of state immunity for money damages under Title I of the ADA is unconstitutional.</p> <p><b>PGA Tour, Inc. v. Martin</b>, 532 U.S. 661 (2001) (May 29, 2001) – The PGA tour is a “public accommodation” and the operators of the tour violate ADA’s requirement of reasonable accommodations when, they insist that “walking requirements” apply to all tour competitors, and refuse to allow a professional golfer with a physical impairment to use a golf cart while</p>	<p>teacher and thus as a minister may not claim employment discrimination because churches are exempt from ADA.</p> <p><b>Cleveland v. Policy Management Systems Corp.</b>, 526 U.S. 795 (1999) – A person may receive Social Security Disability Insurance benefits without necessarily losing ADA protection.</p> <p><b>Davis v. Monroe County Board of Education</b>, 526 U.S. 629(1999) – Local educational agency may be liable for student-on-student trait (sex) harassment.</p> <p><b>Sutton v. United Air Lines</b>, 527 U.S. 471 (1999), <b>Murphy v United Parcel Service</b>, 527 U.S. 516 (1999), and <b>Albertson’s v Kirkingburg</b>, 527 U.S. 555 (1999) – Determining whether an individual is disabled, under the ADA, should be made with reference to measures that mitigate the individual’s impairment.</p> <p><b>City of Edmonds v. Oxford House, Inc.</b> 514 U.S. 725 (1995) – invalidated ordinance that limited the maximum number of unrelated people that could live together, but not the maximum number of family members, as discriminatory under the FHA.</p>

Federal Statutory Sources	Federal Case Law Related to Statutes	Other Relevant Case Law
<p><b>Mental Health Parity and Addiction Equity Act, Part of the Emergency Economic Stabilization Act of 2008</b>, P.L. 110-343. Mandates that employers with more than 50 employees offer equal benefits for mental health as for other benefits if mental health coverage is offered.</p>	<p>competing; using the cart does not fundamentally alter the nature of the competition, the essence of which is hitting the golf ball into a hole with a golf club.  <b>Honig v. Doe</b>, 484 U.S. 305 (1988) – School authorities may not unilaterally exclude a child with a disability from the class-room during the pendency of proceedings concerning the child’s education and dangerous or disruptive conduct growing out of the child’s disabilities.  <b>Seminole Tribe v. Florida et al.</b>, 517 U.S. 44 (1996) – The 11<sup>th</sup> Amendment prevents congress from authorizing suites by Indian tribes against states to enforce the Indian Commerce clause.  <b>Frew v. Albert Hawkins, Commissioner, Texas Health and Human Services Commission, et al.</b>, 540 U.S. 431 899 (2004) – The 11<sup>th</sup> amendment does not bar enforcement of a federal consent decree to uphold a federal statute.  <b>Spector v. Norwegian Cruise Lines</b>, 545 U.S. 119 (2005) – The public accommodation and specified public transportation provisions of ADA apply to cruise ships.</p>	<p><b>FPPEEB v. College Savings Bank</b>, 527 U.S. 627 (1999), <b>College Savings Bank v. FPPEEB</b>, 527 U.S. 666 (1999), and <b>Alden v. Maine</b>, 527 U.S. 706 (1999) – Federal regulation of activities for which state may be sued in its own courts is unconstitutional.  <b>Kimel v. Board of Regents</b>, 528 U.S. 62 (2000) – The abrogation of state immunity under the Age Discrimination in Employment Act (ADEA) is unconstitutional.  <b>Chevron v. Echazabal</b>, 536 U.S. 73 (2002) – The ADA allows employers to refuse to hire a person with a disability if the job would aggravate an existing disability.  <b>Lawrence v. Texas</b>, 539 U.S. 558 (2003) – Texas statute making it a crime for two persons of the same sex to engage in certain intimate sexual conduct violates the due process clause.  <b>Boy Scouts of America v. James Dale</b>, 530 U.S. 640 (2000) – The Boy Scouts of America do not have to retain a homosexual member as it would burden the organization’s right to expressive association and that right is not overridden by the New Jersey Public Accommodations Law.</p>

Federal Statutory Sources	Federal Case Law Related to Statutes	Other Relevant Case Law
	<p><b><i>Toyota v. Williams</i></b>, 524 U.S. 184 (2002) – The proper standard for demonstrating “a substantial limitation in the major life activity of performing manual tasks under ADA” is whether or not the impairment prevents or restricts a person from performing manual tasks that are “of central importance to most people’s daily lives” and has “permanent or long-term” impact. Being limited in performing a “class of manual activities” (i.e., activities affecting the ability to perform specific manual tasks at work) is an insufficient standard for meeting the ADA definition of a “qualified” individual with a disability.</p> <p><b><i>U.S. Airways v. Barnett</i></b>, 535 U.S. 391 (2002) – Ordinarily, the ADA does not require an employer to assign an employee with a disability to a particular position as a “reasonable accommodation” if another employee is entitled to that position under the employees’ established seniority system.</p>	<p><b><i>Nevada v. Hibbs</i></b>, 538 U.S. 721 (2003) – States may be sued by own citizens under FMLA.</p> <p><b><i>Lane v. Tennessee</i></b> 541 U.S. 509 (2004) – a state is subject to ADA and Congress may abrogate state immunity when there is a record of state discrimination against individuals in their exercise of the fundamental right to vote.</p> <p><b><i>U.S. v. Georgia</i></b>, 521 U.S. 509 (2006) – Inmate suing for money damages of violation of 14<sup>th</sup> amendment; court held that Title II of the ADA abrogate state sovereign immunity. [Case currently on remand to 11<sup>th</sup> Circuit.]</p>

## INDIVIDUALIZED AND APPROPRIATE SERVICES

**Definition**—These services are specially tailored to meet the needs and choices of persons with disabilities and their families. Examples are individualized education, rehabilitation, habilitation, treatment, and family-support plans. A synonym for individualized and appropriate services is genuine, effective, and meaningful services. Principal methods to achieve individualized and appropriate services include the core concepts of classification, capacity-based services, empowerment and participatory decision-making, and service coordination and collaboration. Under antidiscrimination (also a core concept), reasonable accommodations or other modifications to services, policies, practices, and procedures are required unless they fundamentally alter the nature of the particular service or program or result in an undue hardship to a service or program. Physical and technological (communication) accessibility are aspects of individualized and appropriate services.

**Constitutional principles**—5th and 14th Amendments (Procedural Due Process)

Federal Statutory Sources	Federal Case Law Related to Statutes	Other Relevant Case Law
<p><b>IDEA</b>, 20 U.S.C. §§ 1414 &amp; 1436 – assures appropriate (beneficial) individualized services via IEP (ages 3-21) or an Individualized Family Service Plan (IFSP) (ages birth-2).</p> <p><b>ADA</b>, 42 U.S.C. §§ 12101 <i>et seq.</i> and <b>Rehabilitation Act</b> (Sec. 504), 29 U.S.C. § 794 – requires individualized, reasonable accommodations for nondiscrimination.</p> <p><b>Americans with Disabilities Amendments Act of 2008</b>, P.L. 110-325</p> <p><b>Children’s and Communities Mental Health systems Improvement Act</b>, 42 U.S.C. §§ 290ff <i>et seq.</i> – requires an individualized plan for services; expands the range of services available to children and their families; improves funding to</p>	<p>In <b><i>Frank G. v. School Board</i></b> 459 F.3d 372 (2<sup>nd</sup> Circuit) the Court ruled that the parents did not have to place their child in public school before seeking reimbursement if the public school failed to offer an appropriate placement for the child.</p> <p><b><i>Board of Education v. Tom F.</i></b>, 128 S.Ct.1 (2007) a divided Supreme Court issued a per curiam decision upholding the 2<sup>nd</sup> circuit decision that a student need not have been previously enrolled into special education under Individuals with Disabilities Education Act in order for his parents to recover tuition they paid to a private school for his appropriate education when the school responsible for educating him failed to do so.</p>	<p><b><i>Wyatt v. Stickney</i></b>, 325 E Supp. 781 (M.D. Ala. 1971) – to deprive any citizen of his or her liberty upon the altruistic theory that the confinement is for humane, therapeutic reasons and then fail to provide adequate treatment violates the very fundamentals of due process.</p> <p><b><i>Youngberg v. Romeo</i></b>, 457 U.S. 307 (1982) – an involuntarily committed person with mental retardation has due process liberty interests requiring the state to provide minimally adequate training to ensure safety and freedom from undue restraint.</p>

<p>other service providers involved with the child; provides for case management and periodic assessment toward individual goals; requires multidisciplinary coordination among education, health-care, vocational, and social services agencies, seeks to ensure that children and families receive appropriate service</p> <p><b>Rehabilitation Act</b>, 29 U.S.C. § 722 – Provides for vocational rehabilitation services and covers eligibility and individualized plan for employment.</p> <p><b>Developmental Disabilities Assistance &amp; Bill of Rights Act</b>, 42 U.S.C. §§ 15001 <i>et seq.</i> – Ensures that individuals with disabilities will participate in the design of and access to culturally competent services, supports, and other assistance.</p> <p><b>Child Health Act</b>, 42 U.S.C. §§ 290bb-39 <i>et seq.</i> – Provides for integrated treatment for children with co-occurring disorders (dual diagnoses).</p> <p><b>Early Periodic Screening, Detection and Treatment (EPSDT)</b> (1998) 42 U.S.C. §§ 1396 <i>et seq.</i> – Provides for the periodic evaluations, diagnoses, treatments, and other measures required under the medical assistance program to correct or ameliorate defects, physical and mental illnesses, and conditions discovered by the</p>	<p><b>Board of Education v. Rowley</b>, 458 U.S. 176 (1982)–the definition of "appropriate education" includes individual benefit.</p> <p><b>Irving Independent School District v. Tatro</b>, 468 U.S. 883 (1984)–IDEA and related services that assist in education and health maintenance include clean, intermittent catheterization.</p> <p><b>Cedar Rapids Community School Dist. v. Garret F.</b>, 526 U.S. 66 (1999)–IDEA required provision of the related service of a full-time nurse (not a medical service).</p> <p><b>Forest Grove School District v. T.A.</b>, 129 S. Ct. 2484 (2009) – IDEA (Sec. 1414(a)(10)) does not establish absolute bar to tuition reimbursement for students who previously have not received special education services under the authority of a public educational agency; a court must consider all relevant factors before holding a student may not recover tuition reimbursement.</p> <p><b>Winkelman v. Parma City School District</b>, 127 S. Ct. 1994 (2007) – IDEA permits parents to pursue their own rights and does not exclude them as rights-holders; their rights include a right to their</p>	
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Federal Statutory Sources	Federal Case Law Related to Statutes	Other Relevant Case Law
<p>screening process. Services must be sufficient in scope and duration to treat the condition.</p> <p><b>Promoting Safe and Stable Families Program</b> (1997), 42 U.S.C. §§ 629 <i>et seq.</i> – Helps states develop and expand family support and family preservation service programs. <i>See also Adoption Assistance and Child Welfare Act</i>, as amended (see statutes listed under Protection From Harm and under Family Integrity and Unity), 42 U.S.C. §§ 620 <i>et seq.</i> (child welfare services), §§ 670 <i>et seq.</i>, and § 1396a and § 1396d (foster care and adoption assistance).</p> <p><b>Omnibus Budget Reconciliation Act</b> of 1987, P.L. 100-203 – Establishes program requiring individualized decision-making related to nursing home placement and out-placement of persons with mental disabilities.</p> <p><b>Keeping Children and Families Safe Act of 2003</b>, 42 U.S.C. §5114 – Title I provides for training of professionals to ensure that children who are abused or neglected are appropriately diagnosed and treated.</p>	<p>child’s free appropriate public education and to independent rights.</p>	

Federal Statutory Sources	Federal Case Law Related to Statutes	Other Relevant Case Law
<p>Assists states in developing programs to handle cases involving children with disabilities or serious health-related problems, or who have been abused or neglected. Title III provides services for families who have an infant with a disability and a life-threatening condition, including a plan of safe care and triage procedures. Facilitates adoption of infants when the biological parents' rights have been terminated.</p> <p>Authorizes abandoned-infant assistance grants to programs that give priority to infants who have been exposed to HIV, have a life-threatening illness or special medical need, or who have been exposed to a dangerous drug.</p> <p><b>Children's Health Act (2000)</b>, 42 U.S.C. §§ 290ii et seq. – Authorizes the Secretary to enter into agreements in the form of grants or contracts to provide for emergency mental health needs in local communities, comprehensive community mental health services to children with a serious emotional disturbance, and aftercare services to juvenile offenders who have serious emotional disturbances or are at risk for developing them.</p>		

Federal Statutory Sources	Federal Case Law Related to Statutes	Other Relevant Case Law
<p><b>Healthcare Safety Net Amendments (2002)</b>, 42 U.S.C. § 247a(b) Amends the Consolidated Health Centers’ Program Public Health Services Act by incorporating behavioral mental health and substance abuse services, recuperative care and public health care services, and any additional services that may be provided by health centers. Subtitle C establishes demonstration projects for the provision of remote-delivery mental health services to special populations by qualified mental health professionals using Telehealth.</p> <p><b>Adoption Promotion Act (2002)</b>, 42 U.S.C. § 674 <i>et.seq.</i> – Provides incentives for adoption of older children and children with special needs.</p>		

Federal Statutory Sources	Federal Case Law Related to Statutes	Other Relevant Case Law
<p><b>Medicare Prescription Drug and Modernization Act of 2003</b>, 42 U.S.C. §1395i-Amends Title XVIII (Medicare) of the Social Security Act by adding a new Part D (Voluntary Prescription Drug Benefit Program) under which each individual who is entitled to benefits under Medicare Part A (Hospital Insurance) or is enrolled under Medicare Part B (Supplemental Medical Insurance) is entitled to obtain qualified prescription drug coverage.</p> <p><b>Mental Health Benefit Authorization (2006)</b>, 29 U.S.C. §1185a –Amends ERISA, Title XXVII of the PHSA, and the IRS Code of 1986 to extend for one year provisions requiring parity in the application of certain limits to mental health benefits.</p> <p><b>Medicare Improvements for Patients and Providers Act (2008) H.R. 6331, P.L.110 number pending</b> - Amends the Social Security Act so that co-pays for outpatient mental health services is reimbursed at the same rate as other outpatients services.</p>		

**CLASSIFICATION**

**Definition**—Includes processes (ways) and the standards (criteria) by which a person with a disability or the person’s family qualifies (becomes eligible) to benefit from certain laws (antidiscrimination or other rights or entitlements). Sometimes eligibility is based on the severity of a person’s disability or the family’s extent of need.

**Constitutional principles**—5<sup>th</sup> and 14 Amendments (Substantive Due Process, Procedural Due Process, and Equal Protection)

<b>Federal Statutory Sources</b>	<b>Federal Case Law Related to Statutes</b>	<b>Other Relevant Case Law</b>
<p><b>IDEA, 20 U.S.C. § 1414 (a)(b)(c)</b> – Requires nondiscriminatory evaluations to determine whether child has a disability and if so, the child’s educational needs.</p> <p><b>Supplemental Security Income for the Aged, Blind, &amp; Disabled (Title XVI of the Social Security Act)</b>, 42 U.S.C. §§ 1381 <i>et seq.</i>, enacted by P .L. 92-603 (1972), amending Soc. Sec. Act and adding Title XVI – Provides for cash transfers to families who meet federal poverty definitions and have children with severe disabilities.</p> <p><b>Rehabilitation Act</b>, 29 U.S.C. § 795 – Authorizes supported employment for persons with severe disabilities; establishes the order of selection among eligible beneficiaries.</p> <p><b>Developmental Disabilities Assistance &amp; Bill of Rights Act</b>, 42 U.S.C. § 15002(8) – Defines “developmental disability” in terms of age of onset, severity, and chronicity.</p>		

Federal Statutory Sources	Federal Case Law Related to Statutes	Other Relevant Case Law
<p><b>Children’s and Communities Mental Health Systems Improvement Act</b>, 42 U.S.C. §§ 290ff <i>et seq.</i> – Provides for early identification of, and appropriate services to meet, the comprehensive needs of children with severe emotional disability.</p> <p><b>Home Care for Certain Disabled Children (Katie Beckett) Waivers</b>, 42 U.S.C. §§ 1396 <i>et seq.</i> – Permits states to use their Medicaid plans to reimburse home-care services for certain children with disabilities even through the family’s income and resources exceed the state’s normal eligibility standards.</p>		<p><b><i>Barnhart v. Walton</i></b>, 535 U.S. 212 (2002) – The Social Security Administration promulgated a reasonable regulation when it provided that a person is eligible to receive Social Security Disability Insurance benefits only if the person did not actually work or participate in a trial work program during a continuous 12-month period.</p> <p><b><i>Barnhart v. Thomas</i></b>, 540 U.S. 20 (2003) – A person does not qualify for SSI if the person can engage in some form of work, whether the same or similar to the person’s previous work, so long as work is available in the economy in the region in which the person lives. A person does not have a disability (for SSI purposes) if the person can perform any substantially gainful work.</p>

**CAPACITY-BASED SERVICES**

**Definition**—Evaluate the unique strengths and needs of a person with a disability or the person’s family. They include a person- or family-directed evaluation of the choices (autonomy), resources, priorities, and concerns and also the identification of services necessary to enhance family and individual capacity. The term reflects the “strengths” perspective and rejects the “pathology” perspective.

**Constitutional principles**—No direct constitutional basis

Federal Statutory Sources	Federal Case Law Related to Statutes	Other Relevant Case Law
<p><b>IDEA</b>, 20 U.S.C. § 1414(d)(1) (A) – Provides for IEP to address student’s capacity (or lack of it) to participate in the general curriculum; § 1436(a)(1) and (2)-provides for an IFSP that builds on capacity of person with disability and their family.</p> <p><b>Rehabilitation Act</b>, 29 U.S.C. §§ 701 <i>et seq.</i> – Authorizes funding for rehabilitation services.</p> <p><b>Children’s and Communities Mental Health Systems Improvement Act</b>, 42 U.S.C. §§ 290ff <i>et seq.</i> – Provides for multidisciplinary assessment and coordination of child and family needs; provides services that enhance family cohesiveness and requires consideration of family service needs along with those of the child; plans are to be designed and carried out with the participation of the child and family.</p>		

Federal Statutory Sources	Federal Case Law Related to Statutes	Other Relevant Case Law
<p><b>EPSDT</b>, 42 U.S.C. §§ 1396 <i>et seq.</i> – Requires that services be provided on the basis of child’s individual needs as a result of assessments of strengths and needs of the child.</p> <p><b>Adoption Assistance and Child Welfare Act</b>, 42 U.S.C. §§ 620 <i>et seq.</i> (child welfare services) &amp; §§ 670 <i>et seq.</i> (foster care and adoption assistance), as amended by <b>Adoption and Safe Families Act</b>, 42 U.S.C. §§ 629 <i>et seq.</i> – Helps states develop and expand family support and family preservation service programs</p>		

**EMPOWERMENT/PARTICIPATORY DECISION-MAKING**

**Definition**— Involves the means by which a person or family—or a duly appointed surrogate—secures what they want from a service-provider system; the means is through the person or family’s participation with the system in consenting (*see* autonomy) or otherwise participating in the decision-making processes by which the services that they will receive are planned, developed, implemented, and evaluated. The concept applies to decisions at the macro/system level and to decisions at the micro/individual level. EPDM is a means for implementing the core concept of autonomy, which is discussed subsequently.

**Constitutional principles**— 1<sup>st</sup> Amendment (Liberty)

Federal Statutory Sources	Federal Case Law Related to Statutes	Other Relevant Case Law
<p><b>IDEA</b>, 20 U.S.C. § 1412 (establishes free and appropriate public education [FAPE] eligibility standards); § 1414 (explains requirements for evaluations, IEPs, placements, parent and student participation, self-determination in transition); § 1415 (establishes procedural safeguards); and § 1435 <i>et seq.</i> (Part C—sets out provisions for infants and toddlers).</p> <p><b>Developmental Disabilities Assistance &amp; Bill of Rights Act</b>, 42 U.S.C. §§ 15001 <i>et seq.</i> – Creates a “bill of rights” for persons with developmental disabilities, funds services for persons with developmental disabilities, has funding authority for university-affiliated facilities, and establishes a system of protection and advocacy organizations in each state.</p>		

**SERVICE COORDINATION AND COLLABORATION**

**Definition**—These activities assist individuals with disabilities or their families to access and benefit from services from more than one provider system (interagency) or within a single provider system (intra-agency).

**Constitutional principles**—No direct constitutional basis

Federal Statutory Sources	Federal Case Law Related to Statutes	Other Relevant Case Law
<p><b>IDEA</b>, 20 U.S.C. §§ 1431 <i>et seq.</i> (Part C) – Provides for a state-wide system of services to families of infants and toddlers; 20 U.S.C. § 1414 (d)(1)(A)(viii) – Provides for interagency roles in transition planning; 20 U.S.C. § 1412 (a)(12) –Provides for interagency agreements (especially related to state Medicaid agency).</p> <p><b>Assistive Technology Act of 1998</b>, 29 U.S.C. §§ 1301 <i>et seq.</i> – Establishes federal funding to help develop consumer-driven, statewide service-delivery systems that increase access to assistive technology devices and services to individuals of all ages with disabilities.</p> <p><b>Children’s and Communities Mental Health Systems Improvement Act</b>, 42 U.S.C. §§ 290ff <i>et seq.</i> – Authorizes grants to public and private agencies for the purpose of providing comprehensive, individualized, community-based mental health services to children with serious emotional disturbance and their families; is the basis for wrap-around services.</p>		

Federal Statutory Sources	Federal Case Law Related to Statutes	Other Relevant Case Law
<p><b>Keeping Children and Families Safe Act (2003)</b>, 42 U.S.C. § 5114 – Provides for collection and dissemination of information to enhance collaboration among child welfare agencies regarding best practices for addressing the physical, developmental, and mental health needs of abused and neglected children. Supports interagency collaboration among child protective services and Juvenile Justice Authority to improve service delivery and treatment.</p> <p><b>Children’s Health Act (2000)</b>, 42 U.S.C. §§ 290ii <i>et seq.</i> – Provides for integrated child welfare and mental health services for children and adolescents under 19 who are in or at risk of entering the child welfare system and for caregivers and parents who have mental illness; and for integrated treatment services for individuals with a serious mental illness and a co-occurring substance abuse disorder.</p> <p><b>Health Care Safety Net Amendments (2002)</b>, 42 U.S.C.S. § 254(a)(b) – Awards grants to assist in the development of integrated health care delivery systems to serve communities of individuals who are</p>		

<b>Federal Statutory Sources</b>	<b>Federal Case Law Related to Statutes</b>	<b>Other Relevant Case Law</b>
uninsured or underinsured to improve the efficiency of and coordination among providers.		

**PROTECTION FROM HARM**

**Definition**— A person has the right to be free from harm while in state custody or in the care of such private individuals as family members or other caregivers.

**Constitutional principles**— Protections of the 4th and 8th Amendments (unreasonable seizure; cruel and unusual punishment); also 1st, 5th, and 14th Amendments (substantive due process).

Federal Statutory Sources	Federal Case Law Related to Statutes	Other Relevant Case Law
<p><b>Adoption Assistance and Child Welfare Act of 1980</b> as amended by the <b>Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (a.k.a. Child Care and Development Block Grant Amendments of 1996)</b> <b>Adoption and Safe Families Act of 1997</b>, <b>Child Support Performance and Incentive Act of 1998</b> and <b>Foster Care Independence Act of 1999</b> – As codified in 42 U.S.C. §§ 620 <i>et seq.</i>, §§ 629, 670 <i>et seq.</i>, and §§ 1396a and 1396d—establish grants to states to operate family preservation, family reunification, and foster-care and adoption systems; create rebuttable presumption in favor of preservation and reunification (“reasonable efforts”); create exceptions to requirement of reasonable efforts; expedite permanency plans; and prevent foster-care drift.</p>		<p><b><i>Youngberg v. Romeo</i></b>, 457 U.S. 307 (1982) – An involuntarily committed person with mental retardation has due process liberty interests requiring the state to provide minimally adequate training to ensure safety and freedom from undue restraint.</p> <p><b><i>DeShaney v. Winnebago</i></b>, 489 U.S. 189 (1982) § 1983 (civil rights violation) – Liability does not attach in absence of physical custody by state.</p> <p><b><i>Wyatt v. Stickney</i></b>, 325 F. Supp. 781 (M.D. Ala. 1971) – To deprive any citizen of his or her liberty upon the altruistic theory that the confinement is for humane, therapeutic reasons and then fail to provide adequate treatment violates fundamental due process rights afforded to all Americans.</p>

Federal Statutory Sources	Federal Case Law Related to Statutes	Other Relevant Case Law
<p><b>Child Health Act</b>, 42 U.S.C. §§ 290ii <i>et seq.</i> – Places limits on the use of seclusion and restraints.</p> <p><b>Child Abuse Prevention and Enforcement Act (2000)</b>, 42 U.S.C §§ 14601 (b) <i>et seq.</i> – Strengthens criminal background checks and law enforcement capacities of state and local government; <b>Child Abuse Prevention and Treatment Act (1988, as amended)</b>, 42 U.S.C. § 5101 <i>et seq.</i>, with regulations at 45 C.F.R. Part 84 § 84.55 – Creates presumption in favor of medical treatment of newborns with disabilities but allows presumptions to be rebutted for any of three reasons.</p> <p><b>IDEA</b>, 20 U.S.C. § 1414 (d)(3)(B)(i) – Requires special consideration of use of positive behavioral supports; § 1415 (k)(1)(D)(ii) – Requires functional behavioral assessment and behavioral intervention plan.</p> <p><b>Child Abuse Prevention and Enforcement Act (2000)</b>, 42 U.S.C. §§ 290ii <i>et seq.</i> – Funds timely delivery of criminal history information to child welfare agencies that assess foster placements.</p>		<p><b>Franklin v. Gwinnett</b>, 503 U.S. 60 (1992), and <b>Davis v. Monroe</b>, 526 U.S. 629 (1999) – School is liable in damages when it is deliberately indifferent to known acts of sexual harassment that were so severe, pervasive, and objectively offensive that they barred a student’s access to educational opportunity, whether the acts were those of faculty and staff or of other students.</p>

## LIBERTY

**Definition**—A person has the right to be free from unwarranted physical or other confinement by a government. Related to it is a claim to be treated with respect and dignity. Sometimes the concept of liberty is associated with the concept of **autonomy**. Also associated with the core concept of liberty is the core concept of **integration**: A person cannot experience integration unless he or she also experiences liberty.

**Constitutional principles**—1st, 5th, and 14th Amendments (substantive due process).

Federal Statutory Sources	Federal Case Law Related to Statutes	Other Relevant Case Law
<p><b>Developmental Disabilities Assistance &amp; Bill of Rights Act</b>, 42 U.S.C. §§ 15001 <i>et seq.</i> – Creates a “bill of rights” for persons with developmental disabilities, funds services for persons with developmental disabilities, has funding authority for university-affiliated facilities, and establishes a system of protection and advocacy organizations in each state.</p> <p><b>Children and Communities Mental Health Systems Improvement Act of 1994</b>, 42 U.S.C. §§ 290ff <i>et seq.</i> –Expands outpatient treatment settings, provides for intensive home-based services for children at risk of out-of-home placement, expands the availability of therapeutic services in settings with fewer than 10 children, seeks to ensure services are delivered in the least restrictive and most normative setting possible, and removes incentives to fund room and board at inpatient hospital settings.</p>	<p><i>Pennhurst State School &amp; Hospital v. Halderman (Pennhurst I)</i>, 451 U.S. 1 (1981), and <i>Pennhurst State Sch. &amp; Hosp. v. Halderman (Pennhurst II)</i>, 465 U.S. 89 (1984) – The Developmental Disabilities Act does not create for persons with mental retardation any substantive rights, including treatment, services, habilitation, and the provision of those services in the least restrictive setting.</p>	<p><i>Wyatt v. Stickney</i>, 325 F. Supp. 781 (M.D. Ala. 1971) – To deprive any citizen of his or her liberty upon the altruistic theory that the confinement is for humane, therapeutic reasons and then fail to provide adequate treatment violates fundamental due process rights afforded to all Americans.</p> <p><i>O’Connor v. Donaldson</i>, 422 U.S. 563 (1974) – A state may not constitutionally confine in a mental hospital a nondangerous individual who is capable of surviving safely in freedom by himself or with the help of willing and responsible family members or friends.</p> <p><i>Youngberg v. Romeo</i>, 457 U.S. 307 (1982) – An involuntarily committed person with retardation has due process liberty interests requiring the state to provide minimally adequate training to ensure safety and freedom from undue restraint.</p>

Federal Statutory Sources	Federal Case Law Related to Statutes	Other Relevant Case Law
<p><b>IDEA</b>, 20 U.S.C. §§ 1414(d) and 1415(k)  – Requires consideration of positive behavioral interventions, strategies, and supports in IEPs and in relation to discipline.</p> <p><b>Child Health Act of 2000</b>, 42 U.S.C. § 290ii – Places limits on use of seclusion and restraints.</p>		<p><b><i>Washington v. Harper</i></b>, 494 U.S. 210 (1990)  – The Washington state policy that allowed prison authorities to administer medication to inmates against their will was constitutional because the procedures did not deprive respondent of the right to refuse treatment without adequate due process.</p> <p><b><i>Riggins v. Nevada</i></b>, 504 U.S. 127 (1992) –  The court identifies standards sufficient to justify forced administration of the drug to the defendant during his trial.</p> <p><b><i>Kansas v. Hendricks</i></b>, 521 U.S. 346 (1997) –  A state law providing standards and procedures for civil commitment of sexually violent predators sufficiently satisfies substantive due process requirements and does not violate the federal Constitution’s double jeopardy or ex post facto clauses.</p>

## AUTONOMY

**Definition**—Refers to the right of a person with a disability or the person’s family to consent, refuse to consent, withdraw consent, or otherwise control or exercise choice or control over what happens to him or her. If the person or family is legally incompetent to exercise this right, a duly appointed surrogate may do so. Sometimes the concept of autonomy is expressed as “independence” or “self-determination.” One form of independence is independent living. Independence and independent living may refer to the ability to act by one’s self, relatively unassisted. Associated with the concept of autonomy is **privacy and confidentiality**. The core concept of autonomy is implemented through the previously discussed core concept of Empowerment/Participatory Decision Making

**Constitutional principles**—1<sup>st</sup> Amendment (Liberty, as also sometimes called choice, consent and privacy)

Federal Statutory Sources	Federal Case Law Related to Statutes	Other Relevant Case Law
<p><b>Developmental Disabilities Assistance &amp; Bill of Rights Act of 2000</b>, 42 U.S.C. §§ 15001 <i>et seq.</i> – Creates a “bill of rights” for persons with developmental disabilities, establishes state developmental disabilities planning councils, funds services for persons with developmental disabilities, has funding authority for university-affiliated facilities, and establishes a system of protection and advocacy organizations in each state.</p> <p><b>Rehabilitation Act</b>, 29 U.S.C. §§ 701 <i>et seq.</i> – Authorizes federal funding for individualized vocational rehabilitation service provision, including supported employment, independent living centers, and independent living.</p> <p><b>IDEA</b>, 20 U.S.C. § 1400(d)–Explains that the purpose of special education includes preparation to lead independent adult lives;</p>		<p><i>In re: Lee Ann Grady</i>, 170 N.J. Super. 98, vacated by 85 N.J. 235 (1981) – Parents of a legally incompetent woman in their role as their daughter’s guardians must be permitted to exercise their substituted judgment for their daughter on the subject of sterilization.</p> <p><i>Cruzan v. Director, Missouri Dept. of Health</i>, 497 U.S. 261 (1990) – A state may require a decision on withholding life-maintaining services to be protected by proof, at a clear and convincing level, that the decision is consistent with the wishes/consent of the person/patient.</p> <p><i>Heller v. Doe</i>, 509 U.S. 312 (1993) – Allowing participation by guardians and immediate family members in commitment proceedings does not violate the 14th Amendment’s due process clause.</p>

Federal Statutory Sources	Federal Case Law Related to Statutes	Other Relevant Case Law
<p>§ 1414(d)(1)(A)(vii) provides for student participation in postsecondary planning.</p>	<p><b><i>Chevron v. Echazabal</i></b>, 536 U.S. 73 (2002) – Under the ADA, an employer can refuse to hire a person with a disability if the job would aggravate the existing disability.</p>	<p><b><i>Strunk v. Strunk</i></b>, 445 S.W. 2d 145 (1969) – The courts have sufficient power to employ substituted judgment and give consent for an incompetent individual to undergo a medical procedure if the operation is deemed to be in the individual’s best interest.</p> <p><b><i>Washington v. Glucksberg</i></b>, 521 U.S. 702 (1997) – Washington’s ban on assisted suicide was rationally related to a legitimate government interest and did not violate due process.</p> <p><b><i>Vacco v. Quill</i></b>, 521 U.S. 793 (1997) – It is consistent with the U.S. Constitution for New York to treat assisted suicide and the refusal of lifesaving treatment differently.</p>

**PRIVACY AND CONFIDENTIALITY**

**Definition**—*Privacy* refers to protection against unwarranted governmental interference in decision-making that affects private interests. The “zone” of a person’s or family’s privacy varies. *Confidentiality* refers to information concerning one’s self or family; it includes the person’s or family’s right to access the information, rights of correction and expungement, and control over access to it by others.

**Constitutional principles**—Privacy rights protected by the 1st and 14th Amendments

Federal Statutory Sources	Federal Case Law Related to Statutes	Other Relevant Case Law
<p><b>Family Education Rights and Privacy Act</b> (FERPA; 1974, 1998), 20 U.S.C. § 1232g – Provides for parental (and individual, when over the age of majority) consent related to control of records. FERPA is incorporated into IDEA, 20 U.S.C. §§ 1412(a)(8) and 1417(c).</p> <p><b>Patient Safety and Quality Improvement Act of 2005</b>, 42 U.S.C. §2996(21)–amends the PHSA to ensure the safety and privacy of patient information.</p>	<p><b><i>Gonzaga University and Roberta S. League v. John Doe</i>, 536 U.S. 273 (2002)</b> – FERPA does not authorize a private right of action against an educational institution.</p> <p><b><i>Oswasso Independent School District v. Falvo</i>, 534 U.S. 426 (2002)</b> – Peer grading of assignments does not violate a student’s right to confidentiality. Peer papers exchanged for grading are not maintained in the same way a registrar maintains a student’s folder in a permanent file.</p>	<p><b><i>Tarasoff v Regents</i></b>, 17 Cal.3d 425 (1976) – Mental health professionals have a duty to protect or warn when there is a foreseeable danger posed by one of their patients.</p> <p><b><i>Wyatt v. Stickney</i></b>, 325 F Supp. 781 (M.D. Ala. 1971) – To deprive any citizen of his or her liberty upon the altruistic theory that the confinement is for humane, therapeutic reasons and then fail to provide adequate treatment violates fundamental due process rights afforded to all American.</p> <p><b><i>Gonzales v. Raich</i></b>, 545 U.S. 1 (2005) – Regulation of marijuana under the Controlled Substances Act is within Congress’ commerce power because production of marijuana for home consumption has a substantial effect on supply and demand in the national market. Federal supremacy (commerce power) trumps the California state Compassionate Use Act which legalizes marijuana use for medical purposes. [Case remanded to 9<sup>th</sup> Circuit.]</p>

## INTEGRATION

**Definition**—A person with a disability has the right to not be segregated solely on the basis of disability from persons who do not have disabilities and to not be barred from participation in services that serve persons who do not have disabilities or to be limited to participation in services that serve only persons with disabilities. The prohibition against segregation includes a mandate for integration into generic or specialized services, or both (as appropriate), and into the most typical environments (as appropriate). Sometimes the right to integration depends on and reflects the person’s or family’s autonomy/choice. A technique of integration is *inclusion*. This term refers to the placement or participation of a person with a disability or their family in generic services and environments. (*See also* the core concept of **liberty**.)

**Constitutional principles**—”Integration” or “least restrictive/drastring environment/means” (grounded in the 1st, 5th, and 14th Amendments. Also grounded in antidiscrimination laws).

Federal Statutory Sources	Federal Case Law Related to Statutes	Other Relevant Case Law
<p><b>IDEA</b>, 20 U.S.C. § 1412(a)(5)(A) – Authorizes inclusion of students with disabilities into general curriculum; § 1414(d)(1)(A)(i), (ii), (iii), and (iv)—sets out provisions related to access to and participation in the general curriculum.</p> <p><b>Title XIX (HCBS Waivers; of the Social Security Act)</b> 42 U.S.C. § 1396n(b) – Provides funding to prevent institutionalization or to move an individual back into the community from a non-community setting; funds a class of “habilitation services” to help the person reside at home and in the community.</p>	<p><b><i>Sacramento City Unified School Dist., Bd. of Educ. v. Rachel H. By and Through Holland</i></b>, 14 EM 1398 (9th Cir. (Cal.), 1994) – There are four criteria for determining least restrictive (most inclusive) educational services for students with disabilities.</p> <p><b><i>Olmstead v. L.C.</i></b>, 527 U.S. 581 (1999) – The ADA requires states to provide community-based placements in lieu of institutionally based placements (subject to three defenses)</p>	<p><b><i>City of Cleburne v. Cleburne Living Center</i></b>, 473 U.S. 432 (1985) – invalidated law preventing the establishment of group home for individuals with intellectual disabilities, because government action requires legitimate state interest under the Equal Protection Clause of the 14<sup>th</sup> Amendment.</p> <p><b><i>Heller v. Doe</i></b>, 509 U.S. 312 (1993) – Application of the least restrictive alternative principle is not mandatory in civil commitment proceedings.</p>

Federal Statutory Sources	Federal Case Law Related to Statutes	Other Relevant Case Law
<p><b>Developmental Disabilities Assistance &amp; Bill of Rights Act</b>, 42 U.S.C. § 15001 – Creates national goal of inclusion (also, productivity and independence).</p> <p><b>ADA</b>, 42 U.S.C. §§ 12101 <i>et seq.</i> – Ensures inclusion through reasonable accommodations to otherwise qualified individuals.</p> <p><b>Americans with Disabilities Amendments Act of 2008</b>, P.L. 110-325</p> <p><b>Rehabilitation Act</b>, 29 U.S.C. §§ 794 <i>et seq.</i> – Same as ADA, but applies only to federally assisted programs.</p> <p><b>Fair Housing Act (FHA)</b>, 42 U.S.C. §§ 3601 <i>et seq.</i>, prohibits discrimination in housing.</p> <p><i>Note.</i> The child welfare, family support, and adoption assistance statutes (set out under the category of <b>family integrity and unity</b>) also advance inclusion in community because membership in a family is a means of community membership.</p>		

**PRODUCTIVITY AND CONTRIBUTION**

**Definition**—Refers to engagement in income-producing work or in unpaid work that contributes to a household or community. A synonym for productivity is economic self-sufficiency.

**Constitutional principles**—No direct constitutional basis

Federal Statutory Sources	Federal Case Law Related to Statutes	Other Relevant Case Law
<p><b>Developmental Disabilities Assistance &amp; Bill of Rights Act</b>, 42 U.S.C. § 15001 – Declares national goal of productivity (also, inclusion and independence).</p> <p><b>Rehabilitation Act</b>, 29 U.S.C. §§ 701 <i>et seq.</i> – Authorizes federal funding for individualized rehabilitation services, including supported employment and independent living.</p> <p><b>ADA</b>, 42 U.S.C. §§ 12101 <i>et seq.</i> – Prohibits discrimination in employment against otherwise qualified individuals with disabilities.</p> <p><b>Americans with Disabilities Amendments Act of 2008</b>, P.L. 110-325</p> <p><b>Workforce Investment Partnership Act of 1998</b>, 29 U.S.C. §§ 2801 <i>et seq.</i> – Reauthorizes the Rehabilitation Act, linking its programs more closely with generic workforce investment programs; consolidates many federal job training programs and provides increased support for state and local programs.</p>	<p><b>Barnhart v. Walton</b>, 535 U.S. 212 (2002) – “See Classification”</p> <p><b>Toyota v. Williams</b>, 534 U.S. 184 (2002) – “See Antidiscrimination”</p> <p><b>PGA Tour v. Martin</b>, 532 U.S. 184 (2002) – “See Antidiscrimination”</p> <p><b>Chevron v. Echazabal</b>, 536 U.S. 73 (2002) – “See Antidiscrimination”</p> <p><b>Barnhart v. Thomas</b>, 540 U.S. 431(2003) – “See Classification”</p> <p><b>Black and Decker v. Nord</b>, 538 U.S. 822 (2003) – An employer does not have to defer to the medical judgment of an employee’s treating physician when an employee claims benefits under an employer’s disability benefit plan.</p>	

Federal Statutory Sources	Federal Case Law Related to Statutes	Other Relevant Case Law
<p><b>IDEA</b>, 20 U.S.C. § 1414(d)(1)(A)(vii) – Provides for transition services that lead to employment and other typical postsecondary activities; see also 20 U.S.C. § 1400 (c)(5)(E)-sets out a policy of economic self-sufficiency.</p> <p><b>Goals 2000: Educate America Act</b> 20 U.S.C. §§ 5801 <i>et seq.</i> – Sets national goals leading to postsecondary employment for all students.</p> <p><b>Improving America’s Schools</b> 20 U.S.C. §§ 6301 <i>et seq.</i> –Provides for reform of public education, outcomes-based accountability/assessment of schools and their students, and linkage of IDEA/special education with general education.</p> <p><b>Charter Schools</b> 20 U.S.C. §§ 8061 <i>et seq.</i> – Authorizes federal funding of publicly operated charter schools.</p> <p><b>Ticket to Work and Work Incentives Improvement Act of 1999</b> 42 U.S.C. §§ 1320b–19, 1396 <i>et seq.</i> – Focuses on eliminating economic disincentives to work for persons with disabilities.</p> <p><b>Title XIX (Home and Community-Based Services [HCBS] Waivers</b> 42 U.S.C. § 1396n(b) – Permits the funding of prevocational, educational, and supported employment services not funded by the IDEA or vocational rehabilitation.</p>		

**FAMILY INTEGRITY AND UNITY**

**Definition**—Policy presumes in favor of preserving and strengthening the family as the core unit of society. It recognizes the value to individuals and society of a “home.” It is reflected in services that maintain the family intact; ensure responses to all family members; and respond to the family based on its cultural, ethnic, linguistic, or other socio-economic traits and choices. Related concepts are **family centeredness** and **cultural responsiveness**.

**Constitutional principles**—The substantive due process clauses of the 5th and 14<sup>th</sup> Amendments recognize a fundamental liberty interest of parents in the care, custody, and control of their children.

Federal Statutory Sources	Federal Case Law Related to Statutes	Other Relevant Case Law
<p><b>Child Abuse Prevention and Treatment and Adoption Reform Act</b> of 1978, 42 U.S.C. § 5106a – Provides grants to states for improvement of child protective services programs; includes provision for measures such as prevention, treatment, and research programs.</p> <p><b>Adoption Assistance and Child Welfare Act</b>, 42 U.S.C. §§ 620 <i>et seq.</i> (child welfare services) &amp; §§ 670 <i>et seq.</i>(foster care and adoption assistance), as amended by <b>Adoption and Safe Families Act</b>, 42 U.S.C. §§ 629 <i>et seq.</i> – Helps states develop and expand family support and family preservation service programs. <i>See also Foster Care Independence Act of 1999</i>, 42 U.S.C. 1305 --enhances transition processes in leaving foster care and entering adulthood.</p>		<p><b><i>Troxel v. Granville</i></b>, 530 U.S. 57 (2000) – Fundamental liberty interests include parents’ rights to raise children and to make decisions concerning their care, custody, and control.</p> <p><b><i>Lassiter v. Dept. of Social Services</i></b>, 452 U.S.18 (1981) – Refusal to appoint counsel for indigent parent in a parental status termination proceeding does not violate the 14th Amendment due process clause.</p> <p><b><i>Santosky v. Kramer</i></b>, 455 U.S. 745 (1982) – Before a state may sever completely and irrevocably the rights of parents in their natural child, due process requires that the state support its allegations by at least clear and convincing evidence.</p>

Federal Statutory Sources	Federal Case Law Related to Statutes	Other Relevant Case Law
<p><b>Title XIX (HCBS Waivers) of the Social Security Act</b>, 42 U.S.C. § 1396n(b) – Enables families to keep family members at home and to avoid placement into institutional settings; waives some restrictions against families being reimbursed to provide care.</p> <p><b>Children’s and Communities Mental Health Systems Improvement Act</b>, 42 U.S.C. §§ 290ff <i>et seq.</i> –Provides grants to public and private agencies for the purpose of providing individualized, community-based mental health services to children and their families; is the basis for wrap-around services.</p> <p><b>Family and Medical Leave Act</b>, 29 U.S.C. § 2601 <i>et seq.</i> –Obligates employers to grant leave to employees so they may take leave for medical reasons; for birth or adoption of a child; and for care of child, spouse, or parent who has a serious health condition.</p> <p><b>IDEA</b>, 20 U.S.C. § 1432(4)(E) – Incorporates family counseling, home visits, and social work as early intervention services.</p> <p><b>Keeping Children and Families Safe Act (2003), Title I</b> 42 U.S.C. § 5114 – Emphasizes community-based prevention focused programs designed to strengthen and support families to</p>	<p><b><i>Suter v. Artist M.</i></b>, 503 U.S. 347 (1992) – The Adoption Act neither confirmed an enforceable private right to child protective or family preservation services on its beneficiaries nor created an implied cause of action on their behalf.</p>	<p><b><i>Baltimore v. Bouknight</i></b>, 493 U.S. 549 (1990) – A mother may not invoke the 5th Amendment privilege against self-incrimination to resist an order of the juvenile court to produce her abused child for evaluation.</p> <p><b><i>Lawrence v. Texas</i></b> 539 U.S.558 (2003) – Our laws afford constitutional protection to personal decisions relating to marriage, procreation, contraception, family relationships, child rearing and education. The Texas statute prohibiting sodomy is unconstitutional as an infringement on personal liberty.</p> <p><b><i>Elk Grove v. Newdow</i></b> (U.S. S. Ct., June, 2004) – a father who does not have legal custody of his child lacks standing to challenge a school practice of having students say the Pledge of Allegiance before the start of classes; only the parent who has legal, physical custody of the child has standing to file the challenge.</p>

Federal Statutory Sources	Federal Case Law Related to Statutes	Other Relevant Case Law
<p>prevent child abuse and neglect.</p> <p><b>Strengthening Abuse and Neglect Courts (2000)</b>, 42 U.S.C. 670 – Authorizes grants to state and local courts for meeting family permanency goals and expediting cases involving termination of parental rights.</p> <p><b>Promoting Safe and Stable Family Amendments (2001)</b>, 42 U.S.C. § 629 – Assists states to develop, establish, expand, and operate coordinated programs of community-based family support services, family preservation services, time-limited family reunification services, and adoption promotion and support services.</p> <p><b>Children’s Health Act (2000)</b> 42 U.S.C. §§ 290ii <i>et seq.</i> – Title XXXI authorizes funds for programs that assist support groups for adoptive parents, adopted children, and siblings of adopted children. Provides services to the families of individuals diagnosed with alcohol-related birth defects.</p> <p><b>Keeping Children and Families Safe Act (2003)</b>, 42 U.S.C. § 5114 – Title I establishes family-friendly visitation procedures. Requires that citizen review</p>		

Federal Statutory Sources	Federal Case Law Related to Statutes	Other Relevant Case Law
<p>panels provide for public outreach and comment to assess the impact of current practices and policies upon children and families in the community. Directs the Secretary to make grants to programs that demonstrate a commitment to meaningful parent leadership, including parents of children with disabilities and members of other underrepresented or underserved groups.</p> <p><b>Healthcare Safety Amendments (2002),</b> 42 U.S.C. § 254(b) – Expands and improves the quality of health information available to health care providers, patients, and their families, for decision-making.</p> <p><b>Public Health Improvement Act (2000)</b> 42 U.S.C. § 285d-6 (a) – Mandates delivery of essential services to families with a member who has Lupus.</p> <p><b>Families Opportunities Act of the Deficit Reduction Act,</b> 42 U.S.C §§.1396 <i>et seq.</i>, allows states to expand access to Medicaid for low and middle-class families who have children with severe disabilities; creates new community based waivers for children with psychiatric disorders so they can live at home as opposed to institutions; provides immediate Medicaid coverage for newborn babies with disabilities; and under 42 U.S.C. § 701, creates funding for Family-to-Family Information Centers.</p>		

**FAMILY-CENTEREDNESS: SERVICES TO WHOLE FAMILY**

**Definition**—These services respond to the needs of the entire family of a person with a disability in an individualized and appropriate manner. They (a) support families to raise their children with disabilities in the family home, (b) strengthen the role of the family as the primary caregiver, (c) maintain the family’s intactness and unity, and (d) reunite families with their children who have been placed out of the family home.

**Constitutional principles**—No direct constitutional basis

Federal Statutory Sources	Federal Case Law Related to Statutes	Other Relevant Case Law
<p><b>IDEA</b>, 20 U.S.C. §§ 1436 <i>et seq.</i> (Part C)                      – Authorizes funding of services to families of infants and toddlers (birth to 3);                      20 U.S.C. § 1414(d)—provides for related services that include services to a student’s family.</p> <p><b>Title XIX (HCBS Waivers) of the Social Security Act</b>, 42 U.S.C. § 1396n(b) –                      Enables families to keep family members at home as opposed to institutional setting; waives some restrictions against families being reimbursed for non-medical services.</p> <p><b>Supplemental Security Income for the Aged, Blind, &amp; Disabled of Title XVI of the Social Security Act</b>, 42 U.S.C. §§ 1381 <i>et seq.</i> – Provides cash benefits to families who meet federal poverty standards and whose children have severe disabilities.</p>		<p><b><i>Nevada v. Hibbs</i>, 538 U.S. 721 (2003)</b> –                      State employees may sue a state for its failure to comply with the Family and Medical Leave Act. (See also “Accountability.”)</p> <p><b><i>Ragsdale v. Wolverine Worldwide</i>, 535 U.S. 81 (2002)</b> –                      If an employee takes leave from work that counts as FMLA leave, the employer is not obligated to inform the employee that the leave is FMLA leave unless the employee can show they would not have taken the leave if they had known it counted against their FMLA total.</p>

Federal Statutory Sources	Federal Case Law Related to Statutes	Other Relevant Case Law
<p><b>Title V (Maternal and Child Health Services Block Grant</b> 42 U.S.C. §§ 701-709 – Authorizes grants to states to increase access to quality maternal and child health services; to reduce the incidence of preventable childhood diseases and disabilities; to increase immunization rates; to expand the availability of rehabilitative services to blind disabled children; to minimize the debilitating effects of genetically linked conditions; to promote family-centered, community-based, coordinated care for children with special health-care needs and to facilitate community-based services for them and their families.</p> <p><b>Family and Medical Leave Act</b>, 29 U.S.C. §§ 2601 <i>et seq.</i> – Obligates employers to grant leave to employees so they may take leave for medical reasons; for birth or adoption of a child; and for care of a child, spouse, or parent who has a serious health condition.</p> <p><b>Families Opportunities Act of the Deficit Reduction Act</b>, 42 U.S.C §§.1396 <i>et seq.</i>, (see also <b>Family Integrity and Unity</b>).</p>		

## CULTURAL RESPONSIVENESS

**Definition**—These services respond to the beliefs, values, interpersonal styles, attitudes, cultural, ethnic, linguistic, or other socioeconomic traits of the person or family and thereby have a great likelihood of ensuring maximum participation of and benefit to the person or family.

**Constitutional principles**—5<sup>th</sup> and 14<sup>th</sup> Amendment (under a theory of equal protection, it is illegal to discriminate solely on the basis of a person’s or family’s ethnic, linguistic, racial, or cultural origins).

Federal Statutory Sources	Federal Case Law Related to Statutes	Other Relevant Case Law
<p><b>Indian Child Welfare Act</b>, 25 U.S.C. § 1901 <i>et seq.</i> – Gives preference to prospective Native American adoptive parents over non–Native prospective adoptive parents.</p> <p><b>IDEA</b>, 20 U.S.C. § 1414(b) – Requires nondiscriminatory evaluations; 20 U.S.C. § 1414(d)(3)(B)(ii) – requires consideration of the special factor of limited English proficiency; 20 U.S.C. § 1415(b)(4) – requires notices in parents’ native language; 20 U.S.C. § 1436 requires IFSP that takes into account family’s concerns.</p> <p><b>Developmental Disabilities Assistance &amp; Bill of Rights Act</b>, 42 U.S.C. § 15001(8) – Requires culturally competent services.</p> <p><b>Title VI of the Civil Rights Act of 1964</b>, 42 U.S.C. §§ 2000d <i>et seq.</i> – Prohibits intentional discrimination, denial of benefits, and exclusion from participation on the basis of race, color, or national origin.</p>	<p><b><i>Mississippi Band of Choctaw Indians v. Holyfield</i></b>, 490 U.S. 30 (1989) – The Indian Child Welfare Act extended jurisdiction to children domiciled on Indian Reservations. A child is deemed to have the domicile of their mother and tribal courts can make placement determinations in the best interest of the child. State and tribal courts have concurrent jurisdiction of Indian children not domiciled on reservations.</p> <p><b><i>Alexander v. Sandoval</i></b>, 532 U.S. 275 (2001) – There is no private right of action to enforce disparate -impact regulations promulgated under Title VI.</p> <p><b><i>Lau v. Nichols</i></b>, 414 U.S. 563 (1974) – By failing to establish a program to deal with the complaining students’ language problem, a school district violated the Civil Rights Act of 1964.</p>	

Federal Statutory Sources	Federal Case Law Related to Statutes	Other Relevant Case Law
<p><b>Children’s and Communities Mental Health Systems Improvement Act of 1994</b>, 42 U.S.C. §§ 290ff <i>et seq.</i> – Requires that services be provided in the context that is most culturally appropriate for the child and family; requires communication in the most effective manner possible.</p> <p><b>Keeping Children and Families Safe Act (2003)</b>, 42 U.S.C. § 5114 – Mandates services and materials for families whose members are not proficient in English.</p> <p><b>Public Health Improvement Act (2000)</b>, 42 U.S.C. § 285d-6(a) – Mandates research to determine the reasons underlying the elevated prevalence of Lupus in African-American and other women.</p>		

## ACCOUNTABILITY

**Definition**—This term refers to various methods of achieving the specified outcomes of services. It includes procedural safeguards (legal accountability via procedural due process), direct or proxy representation by attorneys or others at the individual and system level, recovery of actual or punitive damages and attorney fees, fiscal incentives and disincentives built into services, independent peer or other professional evaluations (e.g., accreditation), internal and nonindependent professional evaluation or oversight (e.g., ombudsman or human rights committees), recipient and consumer evaluations, legislative and budgetary oversight processes, financial management and reporting, management techniques (e.g., service linkages, service coordination, “care/case” management), and capacity-building and program improvement activities (e.g., personnel development, research, technical assistance, model development, information and training, and similar activities).

**Constitutional principles**—Procedural due process under the 5th and 14th Amendments

Federal Statutory Sources	Federal Case Law Related to Statutes	Other Relevant Case Law
<p><b>IDEA</b>, 20 U.S.C. § 1415 –Provides for procedural (due process) safeguards, including notice, opportunity for mediation, administrative hearing, and judicial review; 20 U.S.C. § 1416—authorizes withholding of federal funds.</p> <p><b>ADA</b>, 42 U.S.C. §§ 12101 <i>et seq.</i> – Provides for administrative and judicial remedies, including private cause of action, damages, and attorney fee recovery.</p> <p><b>Americans with Disabilities Amendments Act of 2008</b>, P.L. 110-325  <b>Rehabilitation Act</b>, 29 U.S.C. §§ 794 <i>et seq.</i> – Provides administrative and judicial remedies similar to those of the ADA.</p>	<p><b><i>Gisbrecht v. Barnhart</i></b>, 535 U.S. 789 (2002) – Courts should approach attorney fee determination in Social Security disability hearings by first looking at contingent fee agreement and then testing them for reasonableness. No agreement may exceed the statutory ceiling of 25% of past due benefits.</p>	<p><b><i>Chevron v. Echazabal</i></b>, 536 U.S. 73 (2002) – Refusal to hire does not constitute discrimination under ADA if the job would exacerbate a person’s disability.</p> <p><b><i>Frew v. Hawkins</i></b>, 540 U.S. 431 (2004) – The 11<sup>th</sup> amendment does not bar enforcement of a federal consent decree agreement between the state and its citizens to uphold a federal statute mandating healthcare for children.</p> <p><b><i>Jackson v. Indiana</i></b>, 406 U.S. 715 (1972) – A person’s civil commitment violated the equal protection clause because he was subjected to a more lenient commitment standard and a more stringent standard of release and was committed solely on account of his incompetency to stand trial.</p>

Federal Statutory Sources	Federal Case Law Related to Statutes	Other Relevant Case Law
	<p><b><i>Sims v. Apfel</i></b>, 530 U.S. 103 (2000) – In a Social Security benefits claim, the claimant does not have to exhaust all issues in a hearing before the Social Security Appeals Council in order to preserve and litigate them in the federal courts.</p> <p><b><i>U.S. Airways v. Barnett</i></b>, 535 U.S. 391 (2002) – “See Antidiscrimination.”</p> <p><b><i>Alabama v. Barrett</i></b>, 531 U.S. 356 (2001) – “See Antidiscrimination.”</p> <p><b><i>Buckhannon v. West Virginia</i></b>, 532 U.S. 598 (2001) – In order to secure the award of attorney fees in an ADA and FHA case as a “prevailing party,” a litigant must secure either a court judgment on the merits of a case or a court-approval consent decree. There must be a change in the legal relationship of parties; securing a change of policy or practice, absent a court order or consent decree, is not sufficient to qualify as a prevailing party.</p> <p><b><i>Barnes v. Gorman</i></b>, 536 U.S. 181 (2002) – Punitive damages are not available in ADA discrimination cases. Congress has not explicitly authorized such damages, and traditional contract law does not do so, either.</p>	<p><b><i>Addington v. Texas</i></b>, 441 U.S. 418 (1979) – Order of commitment was vacated and remanded for a determination of whether the proof of appellant’s mental illness and dangerousness to himself and others could be proven by more than a preponderance of the evidence.</p> <p><b><i>Parham v. J.R.</i></b>, 442 U.S. 584 (1979) – For the commitment of minors by their parents, an independent judicial or administrative review must be held.</p> <p><b><i>Lassiter v. Dept of Social Services</i></b>, 452 U.S. 18 (1981) – Refusal to appoint counsel for indigent parent in parental status termination proceeding did not violate the 14th Amendment’s due process clause.</p> <p><b><i>Santosky v. Kramer</i></b>, 455 U.S. 745 (1982) – Before a state may completely and irrevocably sever the rights of parents in their natural child, due process requires that the state support its allegations by at least clear and convincing evidence.</p> <p><b><i>DeShaney v. Winnebago</i></b>, 489 U.S. 189 (1982) – § 1983 (civil rights) liability does not attach in absence of physical custody by the state.</p> <p><b><i>Baltimore v. Bouknight</i></b>, 493 U.S. 549 (1990) – A mother may not invoke the 5th Amendment privilege against self-incrimination to resist an order of the</p>

Federal Statutory Sources	Federal Case Law Related to Statutes	Other Relevant Case Law
	<p><b><i>Nevada v. Hibbs</i></b>, 528 U.S. 721 (2003) – State employees may sue a state for actual monetary damages to enforce the FMLA. In FMLA cases, Congress explicitly abrogated state immunity.</p> <p><b><i>Schaffer v. Weast</i></b>, 546 U.S.49 (2005) – Party seeking relief in an administrative hearing under IDEA bears the burden of persuasion.</p> <p><b><i>Winkelman, et al. v. Parma City Schools</i></b>, 127 S. Ct. 1994 (2007) – Parents have independent, enforceable rights under IDEA and can assert those rights in federal court on any matter related to their child’s entitlement to a Free Appropriate Public Education (FAPE).</p> <p><b><i>Arlington School District v. Murphy</i></b> 548 U.S. 291 (2006) – Prevailing party in an action under IDEA may not collect expert witness fees, beyond \$40 per day and travel expenses, because expert witness fees are an “expense” and not a “cost” and IDEA does not explicitly allow for expenses.</p>	<p>juvenile court to produce her abused child for evaluation.</p> <p><b><i>Heller v. Doe</i></b>, 509 U.S. 312 (1993) – Application of the least restrictive alternative principle is not mandatory in civil commitment proceedings.</p>

**PROFESSIONAL AND SYSTEM CAPACITY-BUILDING**

A service system should have the capacity to implement any one or mre concepts as appropriate for that system.

**Definition**—As in the case with the core concept of prevention, there is no dear constitutional right to competent professional intervention. There is, however, a judicial doctrine that requires courts to defer to the expertise of professionals. Sometimes called “the doctrine of presumptive validity” (professionals’ decisions are presumed to be valid) or “judicial deference” (judges should defer to professionals in the areas of professionals’ competence), this doctrine arguably advances the core concept of professional capacity: The doctrine is insupportable if the professionals themselves do not have the capacity to make professionally defensible judgments 457 U.S. 307 (1982).

Federal Statutory Sources	Federal Case Law Related to Statutes	Other Relevant Case Law
<b>IDEA</b> , 20 U.S.C. Part B (§ 1412 sets state eligibility standards, § 1413 sets local eligibility standards, § 1414 explains students rights and educators’ response); Part C (§ 1435 establishes statewide systems, § 1438 regulates use of funds); Part D (§§ 1451 <i>et seq.</i> provides for nation-wide improvement activities, including State Program Improvement grants).		

## PREVENTION AND AMELIORATION

**Definition**—Prevention services seek primary, secondary, and tertiary prevention of disability.

**Constitutional principles**—No direct constitutional basis

Federal Statutory Sources	Federal Case Law Related to Statutes	Other Relevant Case Law
<p><b>Title V (Maternal and Child Health Services Block Grant)</b> 42 U.S.C. §§ 701–709 – Authorizes grants to states to increase access to quality maternal and child health services; to reduce the incidence of preventable childhood diseases and disabilities; to increase immunization rates; to expand the availability of rehabilitative services to children who are blind and children with disabilities; to minimize the debilitating effects of genetically linked conditions; to promote family-centered, community-based, coordinated care for children with special health-care needs, and to facilitate community-based services for them and their families.</p> <p><b>Title XVIII (Medicare)</b> 42 U.S.C. §§ 1395 <i>et seq.</i> – Funds a specific class of health-care services for elderly individuals and persons with disabilities, with the objective of preventing further disability.</p>		<p><b><i>Chevron v. Echazabal</i></b> 536 U.S. 73 (2002) – See “Antidiscrimination.”</p>

Federal Statutory Sources	Federal Case Law Related to Statutes	Other Relevant Case Law
<p><b>Title XIX (Medicaid)</b>, 42 U.S.C. §§ 1396 and 1396d (Title XIX) authorizes grants to states to provide medical assistance programs for families of dependent children and for individuals who are elderly, blind, or disabled; requires means-testing (income/ poverty); authorizes HCBS vices (<i>see integration</i>); provides for early periodic evaluations, diagnoses, and treatments (EPSDT) and for other measures required under the medical assistance program to correct or ameliorate defects, physical and mental illnesses, and conditions discovered by the screening process; requires services to be sufficient in scope and duration to treat the condition.</p> <p><b>Title XX (Social Services)</b> (1974; P.L. 93–647), 42 U.S.C. §§ 1397 <i>et seq.</i> – Authorizes funds and programs to prevent inappropriate institutional care; fosters self-sufficiency in families to reduce dependency; seeks to remedy neglect, abuse, and exploitation; aims to prevent or reduce institutionalization.</p> <p><b>Title XXI (SCHIP)</b> 42 U.S.C. §§ 1397aa <i>et seq.</i> – Authorizes grants to states to provide child health assistance to uninsured, low-income children; requires coordination of health-care delivery and payment programs; focuses on providing preventive and</p>		

Federal Statutory Sources	Federal Case Law Related to Statutes	Other Relevant Case Law
<p>primary care (immunization, well-baby, and well-child care).</p> <p><b>Health Insurance Portability and Accountability Act</b> 29 U.S.C. §§ 1181 <i>et seq.</i> &amp; 42 U.S.C. §§ 300gg <i>et seq.</i> – Restricts the ability of insurers to prolong the start of care for preexisting medical conditions and to disrupt existing care arrangements (fosters continuity of care).</p> <p><b>Mental Health Parity Act</b> 42 U.S.C. § 300gg-5 – Requires employers to offer or create comparable physical health and mental health benefits; increases the likelihood that mental health services will be of sufficient intensity and duration to provide real improvements in mental health.</p> <p><b>Emergency Medical Treatment and Active Labor Act</b> 42 U.S.C. § 1395dd – Requires medical treatment facilities to provide stabilizing medical care; prevents patient transfers to facilities not capable of meeting the patient’s health-care needs.</p> <p><b>Child Abuse Prevention and Treatment Act</b>, 42 U.S.C. § 5106a – Provides grants to states for improvement of child protective services programs; includes</p>		

Federal Statutory Sources	Federal Case Law Related to Statutes	Other Relevant Case Law
<p>provision for measures such as prevention, treatment, and research programs.</p> <p><b>Adoption Assistance and Child Welfare Act of 1980</b>, P. L. 96–272, 42 U.S.C. §§ 620 <i>et seq.</i> (child welfare services) &amp; §§ 670 <i>et seq.</i> (foster care and adoption assistance), as amended by <b>Adoption and Safe Families Act</b> (P L. 105-89), 42 U.S.C. §§ 629 <i>et seq.</i> – Helps states develop and expand family support and family preservation service programs</p> <p><b>IDEA</b>, 20 U.S.C., Ch. 33, Parts B (20 U.S.C. §§ 1411 <i>et seq.</i>) establishes students’ rights to FAPE and C (20 U.S.C. §§ 1431 <i>et seq.</i>) – Explains services for infants and toddlers (B and C as secondary or tertiary prevention).</p> <p><b>Child Abuse Prevention and Enforcement Act (2000)</b>, 42 U.S.C. § 3711 – Authorizes delivery of timely and accurate criminal history information to child welfare agencies involved in placement of children in foster care.</p> <p><b>Children’s Health Act of (2000)</b>, 42 U.S.C. §§ 290ii <i>et seq.</i> – Expands research, dissemination of information, and public</p>		

Federal Statutory Sources	Federal Case Law Related to Statutes	Other Relevant Case Law
<p>education in the areas of autism and developmental disability clusters, fragile X syndrome, juvenile arthritis and related conditions, childhood diabetes, childhood asthma, birth defects, infant hearing loss, childhood epilepsy, childhood cancers and secondary conditions, traumatic brain injury, auto-immune diseases, muscular dystrophy, Tourette syndrome, childhood obesity, childhood lead poisoning, Hepatitis C, and heritable disorders. Also authorizes funding for training of school personnel to recognize symptoms of childhood and adolescent mental disorders, refer family members to appropriate mental health services, train emergency services personnel to identify and respond to persons with mental illness, and educate teachers and school personnel regarding community resources for people with mental illness.</p> <p><b>Children’s Health Act (2000)</b>, 42 U.S.C. §§ 290ii <i>et seq.</i> – Authorizes free immunizations against preventable diseases.</p>		

Federal Statutory Sources	Federal Case Law Related to Statutes	Other Relevant Case Law
<p><b>Rare Diseases Act (2002)</b>, 42 U.S.C. § 283h – Establishes the Office of Rare Diseases to coordinate research and education of diseases affecting fewer than 200,000 Americans.</p> <p><b>Prenatally and Postnatally Diagnostic Conditions and Awareness Act</b>, P.L. 110-374, This law amends the Public Health Service Act to increase the provision of scientifically sound information and support services to patients receiving a positive test diagnosis for Down syndrome or other prenatally and postnatally diagnosed conditions.</p>		