

## Chapter 5

# Special Education

### **ABSTRACT**

*Students need support to succeed in school, and students with exceptionalities need more support to succeed. This chapter offers information on special education from the California Education Code, the Chinese Compulsory Education Act, and the Ontario Education Act. It contains sections from the Ontario Education Act and related regulations on special education, as well as information respecting several cases the Supreme Court of Canada heard that dealt with the issue of special education, particularly when it concerned the question of whether special education for students with exceptionalities was a right or privilege. The determinations of the Supreme Court have had a decisive influence on provincial education policies.*

The support provided to students with exceptional needs has been increasing in California, China, and Ontario. California Education Code Title 2 Division 4 Part 30 Chapter 1 Article 1 subsection 56000 (a) states that the Legislature declares that all individuals with exceptional needs have a right to participate in free appropriate public education and special educational instruction and services for these persons are needed to ensure the right to an appropriate educational opportunity to meet their unique needs. The Chinese Compulsory Education Act Chapter 7 section 57 stipulates that no school shall refuse to admit into the regular classroom children and youth with exceptionalities who have the ability of receiving the general education. For those with exceptionalities that have difficulty to study together with the average students there are special schools and classes.

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Ontario Ministry of Education's (2009) Equity and Inclusive Education Strategy defines equity as a state of fair, inclusive, and respectful treatment of all students. While treating students similarly without considering their different socio-economic, racial, and ethnic backgrounds is an important policy of equity and inclusiveness strategy, students with different learning needs must be treated differently so that they are provided the necessary opportunities to achieve similar required learning outcomes. Supporting students with exceptionalities is one of the three common vertical equity measures in financing elementary and secondary education in North America (Imazeki & Reschovsky, 2006; Li, 2016). These three common vertical equity measures are extra financial supports provided to learners from low social-economic families, English language learners, and learners with exceptionalities. The Ontario funding mechanism provides support to all three groups, but the support to students with exceptionalities is the most significant one. The European Agency for Special Needs and Inclusive Education's (2015) vision for inclusive education stated that all learners be afforded meaningful, high-quality educational opportunities in their local community, alongside their peers. The United Nations Educational, Scientific and Cultural Organization (2017) indicated that every learner mattered and mattered equally. Slee suggested six areas of indicators for inclusive education development. Two were the most relevant here: (a) education jurisdictions' legislation and regulations for inclusive education and (b) increasing government budgets for inclusive education (Meijer & Watkins, 2019, p. 708).

The Ontario government expects all students to attend school, when possible, as required by the relevant sections in the Education Act concerning compulsory education. If there are students with exceptionalities, these exceptional needs should be accommodated, whenever possible, through special education programs and services offered through district school boards and schools (Ontario Ministry of Education [OME], n.d., p. 5). Regulation 181/1998 required school boards to consider placing exceptional students into regular classes with appropriate support before the consideration of placing them in a special education class. Where students were placed in special education classes as needed, reasons for doing so must be provided (OME, 2014, p. 10). The same regulation also introduced the individual education plan (IEP), which became the centre piece for offering special education programs and services to students with exceptionalities (OME, 2014, p. 10).

In addition to the Education Act and Regulation 181/1998, district school boards must also follow the Ontarians with Disabilities Act (2001), the Accessibility for Ontarians with Disabilities Act (2005), and the Ontario

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