

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

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*This article sets out the 18 core concepts of policy affecting families who have children with disabilities. It defines each concept, provides a reference to the constitutional principle(s) that undergird the core concept, cites the federal statutes that reflect the core concept, and references the decisions of the United States Supreme Court and other courts interpreting or defining the core concept.*

As we explained in the previous article on the core concepts, our research methodology included an analysis of the federal statutes and selected cases related to these core concepts in the service-delivery sectors of education, child protective services and foster-and-adoption care, and public health and mental health. We report the results of that analysis here. A few words are in order, however, about the limitations and uses of the table that makes up the bulk of this article.

The table is limited in several respects. First, it includes only the federal statutes, not the regulations implementing each statute. For example, it includes the Americans with Disabilities Act of 1990 (ADA) but not the so-called "integration" regulations, despite the fact that the U.S. Supreme Court relied on both, in *Olmstead v. L. C.*, to hold that an unwarranted placement in an institutional or segregated facility violates ADA and its regulations.

Second, it includes only the federal statutes that are directly related to the three service-delivery strands. These strands interact with other service-delivery strands, such as housing, transportation, and employment. We exclude those strands, however, because of the limited scope of our present research.

Third, it includes decisions of the Court, other federal courts, and state appellate courts that interpret the applicable statute or advance the particular core concept. It does not include decisions that relate to other service-sector strands, even though those decisions may well be exactly on point with respect to the core concept. It also does not include all decisions related to the statute, only those that are from the Court or that have been precedent-setting.

A caveat is in order. It might seem that the core concepts are expressed only as legal concepts. In fact, the core concepts are grounded in the law and in other disciplines. The data that we reported in the previous article make that clear. Likewise,

our article on the five models (this issue) demonstrates that a core legal concept is also a core concept in other disciplines and in nonlegal ways of approaching policy.

Given these limitations, what use can be made of the material provided here? First, it offers evidence of the existence of core concepts. The fact that so many statutes, precedent-setting decisions, or both, can be adduced is itself evidence that there is indeed a core concept.

Second, it was a useful device to provide direction for our research respondents in discussing the topic of core concepts. It stimulated their discussion; required them to focus on the three service-delivery sectors to the exclusion of other sectors; and enabled them to confirm, add to, or modify our preliminary list of core concepts and the statutes and cases that manifest them.

Third, it is a useful reference list. It also offers to the person who drafts legislation language that can be used in new or amended statutes (and interpretation of that language), and it connects the policy analyst to language that we use—and that the analyst can use—when applying our "tools" to the analysis of a policy document (see the article on tools in this issue).

Fourth, it provides a taxonomy for classifying new statutes and decisions. It can help the scholar or analyst make one kind of sense out of the ever-changing federal policy scene.

Fifth, it serves the same purpose if the scholar or analyst is concerned about state, rather than federal, law. There is no reason why the listing of core concepts at the federal level cannot be used for the same purpose at the state level; indeed, it can safely be assumed that state laws reflect the core concepts, because in many cases, state law must conform to federal law (either as a matter of the Supremacy Clause, compliance with the 14th Amendment to the U.S. Constitution, or compliance with Congress' spending power).

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**ANTIDISCRIMINATION**

<b>Disability policy core concepts</b>	<b>Constitutional principles</b>	<b>Federal statutory sources</b>	<b>Federal case law related to statutes</b>	<b>Other relevant case law</b>
<p><b>Antidiscrimination</b> (nondiscrimination and antidiscrimination; equal treatment, equal opportunity, sometimes with accommodation; even-handed treatment of similarly situated individuals) 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>5th and 14th Amendments</p>	<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><i>Bowen v. American Hospital Association</i></b>, 476 U.S. 610 (1986) – Sec. 504 of the Rehabilitation Act did not give 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 did 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>Alexander v. Choate</i></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><i>Pa. Dept. of Corrections v. Yeskey</i></b>, 524 U.S. 206 (1998) – state prisons are subject to the ADA as they fall squarely within Title II of the ADA's statutory definition of "public entity."</p>	<p><b><i>City of Cleburne v. Cleburne Living Center</i></b>, 473 U.S. 432 (1985) – discrimination in community placement violates equal protection.</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>Cleveland v. Policy Management Systems Corp.</i></b>, 526 U.S. 795 (1999) – a person may receive Social Security Disability Insurance benefits without necessarily losing ADA protection.</p> <p><b><i>Davis v. Monroe County Board of Education</i></b>, 526 U.S. 629(1999) – local educational agency may be liable for student-on-student trait (sex) harassment.</p> <p><b><i>Sutton v. United Air Lines</i></b>, 527 U.S. 471 (1999), <b><i>Murphy v United Parcel Service</i></b>, 527 U.S. 516 (1999), and <b><i>Albertson's v Kirkingburg</i></b>; 527 U.S. 555 (1999) – the determination whether an individual is disabled, under the ADA, should be made with reference to measures that mitigate the individual's impairment.</p>

**ANTIDISCRIMINATION**

Disability policy core concepts	Constitutional principles	Federal statutory sources	Federal case law related to statutes	Other relevant case law
		<p><b>Individuals With Disabilities Education Act of 1990 (IDEA),</b> 20 U.S.C. §§ 1400 <i>et seq.</i>, 1415 (k)—creates zero reject (entitlement to education) principle for students ages 3-21 with disabilities.</p>	<p><i>Bragdon v. Abbott</i>, 524 U.S. 624 (1998)—an individual with HIV, even when not in symptomatic phase, is a qualified person with a disability.</p> <p><i>University of Alabama v. Garrett</i>, 531 U.S. 356 (2001)—the abrogation of state immunity for money damages under Title I of the ADA is unconstitutional.</p> <p><i>PGA Tour, Inc. v. Martin</i>, 121 S. Ct. 1879 (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, in insisting on the "walking requirements" that they apply to all tour competitors, they refuse to allow a professional golfer with a physical impairment to use a golf cart while 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.</p> <p><i>Honig v. Doe</i>, 484 U.S. 305 (1988)—school authorities may not unilaterally exclude a child with a disability from the classroom during the pendency of proceedings concerning the child's education and dangerous or disruptive conduct growing out of the child's disabilities.</p>	<p><i>FPPEEB v. College Savings Bank</i>, 527 U.S. 627 (1999), <i>College Savings Bank v. FPPEEB</i>, 527 U.S. 666 (1999), and <i>Alden v. Maine</i>, 527 U.S. 706 (1999)—federal regulation of activities for which state may be sued in its own courts is unconstitutional.</p> <p><i>Kimel v. Board of Regents</i>, 528 U.S. 62 (2000)—the abrogation of state immunity under the Age Discrimination in Employment Act (ADEA) is unconstitutional.</p>

INDIVIDUALIZED AND APPROPRIATE SERVICES

Disability policy core concepts	Constitutional principles	Federal statutory sources	Federal case law related to statutes	Other relevant case law
<p><b>Individualized and Appropriate Services</b>                      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.</p>	<p>The substantive due process doctrine protects a person from government action that is adverse to a person's life, liberty, or property. As a limit on what government may do, it requires individualized decision-making and thus is relevant to the core concept of individualized and appropriate services; specially designed interventions to maintain or improve the capacity of the particular individual, consistent with the substantive due process and equal protection clauses of the 5th and 14th Amendments.</p>	<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> <hr/> <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>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 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 services.</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>Wyatt v. Stickney</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>Youngberg v. Romeo</b>, 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>

INDIVIDUALIZED AND APPROPRIATE SERVICES

Disability policy core concepts	Constitutional principles	Federal statutory sources	Federal case law related to statutes	Other relevant case law
		<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 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</i> <b>Adoption Assistance and Child Welfare Act</b>, 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>Rehabilitation Act</b>, 29 U.S.C. § 722—provides for vocational rehabilitation services and covers eligibility and individualized plan for employment.</p>		

INDIVIDUALIZED AND APPROPRIATE SERVICES

Disability policy core concerns	Constitutional principles	Federal statutory sources	Federal case law related to statutes	Other relevant case law
		<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>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>		

CLASSIFICATION				
Disability policy core concepts	Constitutional principles	Federal statutory sources	Federal case law related to statutes	Other relevant case law
<p><b>Classification</b> 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.</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> <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. §§ 1381 <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>		

CLASSIFICATION

Disability policy core concepts	Constitutional principles	Federal statutory sources	Federal case law related to statutes	Other relevant case law
		<p><b>End Stage Renal Disease program</b>, 42 U.S.C. § 1395rr— creates entitlement to medical care funding using an existing program that serves a similar group of beneficiaries with chronic health-care needs who otherwise might not receive care.</p> <p><b>IDEA</b>, 20 U.S.C. § 1414(a)(b)(c) requires nondiscriminatory evaluations to determine whether child has a disability and if so, the child's educational needs.</p>		

CAPACITY BASED SERVICES

Disability policy core concepts	Constitutional principles	Federal statutory sources	Federal case law related to statutes	Other relevant case law
<p><b>Capacity-Based Services</b>            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.</p>		<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> <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>, 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>		

EMPOWERMENT/PARTICIPATORY DECISION-MAKING

Disability policy core concepts	Constitutional principles	Federal statutory sources	Federal case law related to statutes	Other relevant case law
<p><b>Empowerment/Participatory Decision-Making</b>                      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 (<i>see</i> 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.</p>	<p>These parallel the concept and principles of <b>autonomy</b>.</p>	<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 § 1431 <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

Disability policy core concepts	Constitutional principles	Federal statutory sources	Federal case law related to statutes	Other relevant case law
<p><b>Service Coordination and Collaboration</b>                      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).</p>		<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)(vii)- 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> <p>Child Health Act, 42 U.S.C. §§ 290bb–39 <i>et seq.</i>—requires interagency response to children with co-occurring disorders (dual diagnoses).</p>		<p><b>R.C. v. Nachman</b>, 969 E Supp. 682 (M.D. Ala. 1997)—resulted in a consent decree establishing a comprehensive array of services for children in foster care based on an established set of goals and objectives.</p>

PROTECTION FROM HARM

Disability policy core concepts	Constitutional principles	Federal statutory sources	Federal case law related to statutes	Other relevant case law
<p><b>Protection From Harm</b> 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.</p>	<p>Protections of the 4th and 8th Amendments (unreasonable seizure; cruel and unusual punishment); also 1st, 5th, and 14th Amendments (substantive due process)</p>	<p><b>Adoption Assistance and Child Welfare Act of 1980</b> (PL. 96-272), as amended by the <b>Personal Responsibility and Work Opportunity Reconciliation Act of 1996</b> (a.k.a. <b>Child Care and Development Block Grant Amendments of 1996</b>) (PL. 104-193), <b>Adoption and Safe Families Act of 1997</b> (PL. 105-89), <b>Child Support Performance and Incentive Act of 1998</b> (PL. 105-200), 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>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</b> (2000), 42 U.S.C §§ 14601 (b) <i>et seq.</i>—strengthens criminal background checks and law</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> <p><i>DeShaney v. Winnebago</i>, 489 U.S. 189 (1982) § 1983 (civil rights violation)—liability does not attach in absence of physical custody by state.</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 the very fundamentals of due process.</p> <p><i>Franklin v. Gwinnett</i>, 503 U.S. 60 (1992), and <i>Davis v. Monroe</i>, 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>

PROTECTION FROM HARM

Disability policy core concepts	Constitutional principles	Federal statutory sources	Federal case law related to statutes	Other relevant case law
		<p>enforcement capacities of state and local government; <b>Child Abuse Prevention and Treatment Act</b> (1988, as amended), 42 U.S.C. § 5101, 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)(B)—requires functional behavioral assessment and behavioral intervention plan.</p>		

LIBERTY

Disability policy core concepts	Constitutional principles	Federal statutory sources	Federal case law related to statutes	Other relevant case law
<p><b>Liberty</b> 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 <b>autonomy</b>. Also associated with the core concept of liberty is the core concept of <b>integration</b>: A person cannot experience integration unless he or she also experiences liberty.</p>	<p>1st, 5th, and 14th Amendments (substantive due process)</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> <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><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><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 the very fundamentals of due process.</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> <p><i>Durflinger v. Artiles</i>, 234 Kan. 484 (1983)—a physician has a duty to use reasonable and ordinary care and discretion when recommending that a committed patient be discharged; this duty is owed to the patient and the public.</p>

LIBERTY

Disability policy core concepts	Constitutional principles	Federal statutory sources	Federal case law related to statutes	Other relevant case law
		<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>Beck v. KU Psychiatry Foundation</i></b>, 580 F Supp. 527 (D. Kan. 1984)—one who takes charge of a person whom he knows or should know to be likely to cause bodily harm to others if not controlled is under a duty to exercise reasonable care to control the person to prevent him from doing such harm.</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

Disability policy core concepts	Constitutional principles	Federal statutory sources	Federal case law related to statutes	Other relevant case law
<p><b>Autonomy</b> 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 <b>privacy and confidentiality,</b></p>	<p>Autonomy, choice, consent, privacy, and liberty as grounded in the 1st and 14th Amendments</p>	<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; § 1414(d)(1)(A)(vii) provides for student participation in postsecondary planning.</p>		<p><i>Natanson v. Kline</i>, 186 Kan. 393, <i>Reh'g den.</i>, 187 Kan. 186 (1960)— a physician violates his duty to his patient and subjects himself to liability for malpractice if he makes no disclosure of significant facts within his knowledge that are necessary to form the basis of an intelligent consent by the patient to proposed treatment.</p> <p><i>Canterbury v. Spence</i>, 464 F.2d 772 (1972)—provider/physician disclosure must be guided by what a reasonably prudent patient would want to know.</p> <p><i>Strunk v. Strunk</i>, 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><i>Superintendent v. Saikwicz</i>, 373 Mass. 728 (1977)—both the doctrine of informed consent and the constitutional right of privacy protect the right of a patient to refuse medical treatment in appropriate circumstances; in the case of an incompetent patient, the right may be asserted by a guardian.</p>

AUTONOMY

Disability policy core concepts	Constitutional principles	Federal statutory sources	Federal case law related to statutes	other relevant case law
				<p><i>Inre: Lee Ann Grady</i>, 170 N.J. Super. 98, <i>vacated by</i> 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>

PRIVACY AND CONFIDENTIALITY

Disability policy core concepts	Constitutional principles	Federal statutory sources	Federal case law related to statutes	Other relevant case law
<p><b>Privacy and Confidentiality</b>  <i>Privacy</i> 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. <i>Confidentiality</i> 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.</p>	<p>Privacy rights protected by the 1st and 14th Amendments</p>	<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><i>Tarasoff v Regents</i>, 17 Cal.3d 425 (1976)—therapists have a duty to protect or warn when there is a foreseeable danger posed by one of their patients.</p> <p><i>Washington v. Glucksberg</i>, 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><i>Vacco v. Quill</i>, 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> <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 the very fundamentals of due process.</p>

INTEGRATION

Disability policy core concepts	Constitutional principles	Federal statutory sources	Federal case law related to statutes	Other relevant case law
<p><b>Integration</b> 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 <i>inclusion</i>. 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 <b>liberty</b>.)</p>	<p>"Integration" or "least restrictive/drastring environment/means"—as grounded in the 1st, 5th, 10th, and 14th Amendments. Also grounded in antidiscrimination laws.</p>	<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</b>; P.L. 92-223) of the <b>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>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>Rehabilitation Act</b>, 29 U.S.C. §§ 794 <i>et seq.</i>— same as ADA, but applies only to federally assisted programs.</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>	<p><b>Sacramento City Unified School Dist., Bd. of Educ. v. Rachel H. By and Through Holland</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>Olmstead v. L.C.</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>City of Cleburne v. Cleburne Living Center</b>, 473 U.S. 432 (1985) discrimination in community placement violated equal protection doctrine.</p> <p><b>Heller v. Doe</b>, 509 U.S. 312 (1993)—application of the least restrictive alternative principle is not mandatory in civil commitment proceedings.</p>

PRODUCTIVITY AND CONTRIBUTION

Disability policy core concepts	Constitutional principles	Federal statutory sources	Federal case law related to statutes	Other relevant case law
<p><b>Productivity and Contribution</b> 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.</p>	<p>Antidiscrimination and equal protection. The constitutional principles of antidiscrimination and equal protection do not themselves explicitly support the core concept of productivity and contribution. Without these principles, however, people with disabilities are constrained in their opportunities and abilities to be productive and contributory. These principles thus are the means by which the core concept is realized.</p>	<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>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>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> (1994; P.L. 103–227), 20 U.S.C. §§ 5801 <i>et seq.</i>–sets national goals that lead to postsecondary employment for all students</p>		

PRODUCTIVITY AND CONTRIBUTION

Disability policy core concepts	Constitutional principles	Federal statutory sources	Federal case law related to statutes	Other relevant caselaw
		<p><b>Improving America's Schools Act</b> (1994; P.L. 103–382), 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> (1995; P.L. 105-278), 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> (PL. 106–170, 113 Stat. 1860), 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>; 1971; R.L. 92–223) of the Social Security Act, 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

Disability policy core concepts	Constitutional principles	Federal statutory sources	Federal case law related to statutes	Other relevant case law
<p><b>Family Integrity and Unity</b> 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 socioeconomic traits and choices. Related concepts are <b>family centeredness</b> and <b>cultural responsiveness</b>.</p>	<p>The substantive due process clauses of the 5th and 14th Amendments recognize a fundamental liberty interest of parents in the care, custody, and control of their children.</p>	<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>, P 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. <i>See also Foster Care Independence Act of 1999</i>, P.L. 106–169, 113 Stat. 1822- enhances transition processes in leaving foster care and entering adulthood.</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 and to avoid placement into institutional settings; waives some restrictions against families being reimbursed to provide care.</p>		<p><i>Troxel v. Granville</i>, 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><i>Lassiter v. Dept. of Social Services</i>, 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><i>Santosky v. Kramer</i>, 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> <p><i>Baltimore v. Bouknight</i>, 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><i>Suter v. Artist M.</i>, 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>

FAMILY INTEGRITY AND UNITY

Disability policy core concepts	Constitutional principles	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 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> (1993; PL. 103-3),<sup>29</sup> U.S.C. §§ 2601 <i>et seq.</i>— obliges 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)- lists family counseling, home visits, and social work as early intervention services.</p>		

FAMILY CENTEREDNESS: SERVICES TO WHOLE FAMILY

Disability policy core concepts	Constitutional principles	Federal statutory sources	Federal case law related to statutes	Other relevant case law
<p><b>Family-Centeredness: Services to Whole Family</b>                      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.</p>		<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, 42</b> 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.</p> <p><b>Supplemental Security Income for the Aged, Blind, &amp; Disabled of Title XVI of the Social Security Act, 42 U.S.C.</b> §§ 1381 <i>et seq.</i>— provides cash benefits to families who meet federal poverty standards and whose children have severe disabilities.</p> <p><b>Title V (Maternal and Child Health Services Block Grant; 1963; P.L. 88-156),42 U.S.C. §§ 701-709</b>—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 and disabled children; to minimize the debilitating effects of</p>		

FAMILY CENTEREDNESS:SERVICES TO WHOLE FAMILY

Disability policy core concepts	Constitutional principles	Federal statutory sources	Federal case law related to statutes	Other relevant case law
		<p>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>— obliges 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>		

CULTURAL RESPONSIVENESS

Disability policy core concepts	Constitutional principles	Federal statutory sources	Federal case law related to statutes	Other relevant case law
<p><b>Cultural Responsiveness</b>                      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.</p>	<p>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.</p>	<p><b>Indian Child Welfare Act</b> (1978; PL. 95–608), 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>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>Mississippi Band of Choctaw Indians v. Holyfield</b>, 490 U.S. 30 (1989)–tribal jurisdiction for purposes of the Indian Child Welfare Act extends even to Native American children who have never been physically present on a reservation.</p> <p><b>Alexander v. Sandoval</b>, No. 99–1908, <i>slip op.</i> (U.S. April 24, 2001)–there is no private right of action to enforce disparate -impact regulations promulgated under Title VI.</p>	<p><b>Lau v. Nichols</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>

ACCOUNTABILITY

Disability policy core concepts	Constitutional principles	Federal statutory sources	Federal case law related to statutes	Other relevant case law
<p><b>Accountability</b>                      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).</p>	<p>Procedural due process under the 5th and 14th Amendments.</p>	<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>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>Jackson v. Indiana</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> <p><b>Addington v. Texas</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>Parham v. J.R.</b>, 442 U.S. 584 (1979)—for the commitment of minors by their parents, an independent review must be held (may be judicial or administrative).</p> <p><b>Lassiter v. Dept of Social Services</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>Santosky v. Kramer</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>

ACCOUNTABILITY

Disability policy core concepts	Constitutional principles	Federal statutory sources	Federal case law related to statutes	Other relevant case law
				<p><i>DeShaney v. Winnebago</i>, 489 U.S. 189 (1982)—§ 1983 (civil rights) liability does not attach in absence of physical custody by the state.</p> <p><i>Baltimore v. Bouknight</i>, 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><i>Heller v. Doe</i>, 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

Disability policy core concepts	Constitutional principles	Federal statutory sources	Federal case law related to statutes	Other relevant case law
<p><b>Professional and System Capacity</b>                      A service system should have the capacity to implement any one or more concepts as appropriate for that system.</p>	<p>As is 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 (as required by such Supreme Court cases as <i>Youngberg v. Romeo</i>, 457 U.S. 307 (1982)).</p>	<p>See all statutes identified above.</p> <p><b>IDEA</b>, 20 U.S.C. Part B (§ 1412 sets state eligibility standards, § 1413 sets local eligibility standards, § 1414 explains student rights and educators' response); Part C (§ 1435 establishes statewide system, § 1438 regulates use of funds); Part D (§§ 1451 <i>et seq.</i> provides for nation-wide improvement activities, including State Program Improvement grants).</p>		

PREVENTION AND AMELIORATION

Disability policy core concepts	Constitutional principles	Federal statutory sources	Federal case law related to statutes	Other relevant case law
<p><b>Prevention and Amelioration</b> Prevention services seek primary, secondary, and tertiary prevention of disability.</p>	<p>Strictly speaking, there is no constitutional right to government services in the education, human and social services, and health service-delivery sectors. In interpreting the <b>Developmental Disabilities Assistance and Bill of Rights Act</b> (42 U.S.C. §§ 15001 <i>et seq.</i>), however, the Supreme Court held, in <b>Youngberg v. Romeo</b> (457 U.S. 307 (1982)), that a person with a developmental disability who is in state custody (there, institutionalized) has a right to receive services to prevent the deterioration of the person's pre-existing functioning capacity. (<i>See</i> the core concept of liberty for a different reference to the Act and the case.) Likewise, in <b>DeShaney v. Winnebago</b> (489 U.S. 189)(1989), the Court held that when a person is in the physical custody of the state, the person has a right to be protected from harm caused by the state. (<i>See</i> the core concept of <b>protection from harm</b>). Arguably, the <b>Romeo</b> approach (that there is an constitutional right to certain kinds of habilitative services) and the <b>DeShaney</b> approach (that there is a constitutional right to be protected from harm) support a theory, albeit attenuated, that there is a constitutional claim to prevention.</p>	<p><b>Title V (Maternal and Child Health Services Block Grant)</b> (1963; PL. 88–156), 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>(1965; PL. 89–97), 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>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</p>		

PREVENTION AND AMELIORATION

Disability policy core concepts	Constitutional principles	Federal statutory sources	Federal case law related to statutes	Other relevant case law
		<p>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> (1997; P.L. 105–33), 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 primary care (immunization, well-baby, and well-child care).</p> <p><b>Health Insurance Portability and Accountability Act</b> (1986; PL. 104–204), 29 U.S.C. §§ 1181 <i>et seq.</i> &amp; 42 U.S.C. §§ 300gg <i>et</i></p>		

PREVENTION AND AMELIORATION

Disability policy core concepts	Constitutional principles	Federal statutory sources	Federal case law related to statutes	Other relevant case law
		<p><i>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> (1996; PL. 104–204), 29 U.S.C. § 1185a &amp; 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> (1986; P.L. 99-272), 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 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</i></p>		

PREVENTION AND AMELIORATION

Disability policy core concepts	Constitutional principles	Federal statutory sources	Federal case law related to statutes	Other relevant case law
		<p><i>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>		

*Note.* The term *services* refers to the statutes authorizing various activities by government entities, the regulations implementing the statutes, the appropriations that fund the services, and the entities' programs and operations (collectively, the service provider system).