

Submission of the Hong Kong Association for Specific Learning Disabilities**Legal issues on Disabilities and Special Education**

Children with disabilities often need special educational services. Ordinances are present in many developed countries to protect these children's access to education that is appropriate to them. Ordinances from UK and USA are quoted below.

United Kingdom:**Special Educational Needs and Disability Act 2001**

Part 1 of this Act amends the 1996 Education Act in order to strengthen the right of children with special educational needs to be educated in mainstream schools. It requires Local Education Authorities (LEAs) to make arrangements to provide parents of children with special educational needs with advice and information, and means of resolving disputes with schools and LEAs. Part 2 of this Act amends sections of the 1995 Disability Discrimination Act.

A new Special Educational Needs Code of Practice 2001 that includes new rights and duties introduced by this Act came into force in January 2002.

<http://www.dfes.gov.uk/sen>

United States:**Section 504 of Rehabilitation Act 1973****Americans with Disabilities Act (ADA) 1990****Individuals with Disabilities Education Act (IDEA) 1990**

Section 504: Civil rights legislation for persons with disabilities which substantially limit one or more of such persons' major life activities, including learning. It prohibits discrimination against these individuals by stating that "No otherwise qualified individual with a disability, shall solely by reason of her or his disability be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance (29 U.S. C. A. § 794); and schools must afford students with disabilities with equal opportunities to gain the same benefits as students without disabilities.

ADA: Civil rights legislation for individuals with disabilities which applies to almost every entity in the United States, regardless of whether it receives federal funds. It covers titles focusing on various aspects of disability discrimination: 1) in employment areas, 2) in state and local governmental entities, including schools, and 3) in public accommodations, including restaurants, department stores, banks etc. Entities could be required to make reasonable accommodations or modifications necessary to ensure persons with disabilities access to goods and services.

Further features of Section 504:

1. Section 504 and ADA cover those who have “substantial limitations in one or more life activities” as a result of physical or mental impairments, with Specific Learning Disabilities included as a condition under mental and psychological impairment.
2. They require that nondiscrimination and provision of free, appropriate public education (FAPE) be made available to eligible students.
3. For schools to provide an appropriate education for students who are protected under Section 504 and the ADA, accommodations and modifications are generally necessary. Accommodations can be implemented in special education classrooms or general education classes. Examples include accommodations in seating arrangements, testing modifications, homework modifications, the use of readers or taped materials and accommodations in attendance policies.
4. If a relationship is present between disability and a performance or behavior, then the student cannot be disciplined, suspended or expelled as for students without the disability.

Individuals with Disabilities Education Act (IDEA):

Children with disabilities that fit into specified disabilities categories that require special education are qualified for services under IDEA, which are accompanied by federal funds. The Act aims at "ensuring access to the general curriculum to the maximum extent possible and having high expectations for these children". It is divided in 4 parts: Part A describes the purpose of the law. Part B describes direct service aspects of this act to children with disabilities ages 3 through 21, include funding, evaluations, eligibility, due process, disciplining of students, individual

education programs (IEPs) and others. Part C). Part C describes services to "Infants and Toddlers with Disabilities" including early identification. Part D National Program provides discretionary grants to institutions of higher education and other non-profit organizations to support research, dissemination, personnel development and parent-training etc.

IDEA requires public schools to locate and identify children with disabilities who need specialized education. Parents need to understand the law, learning about IEPs and about how to be their children's advocate in obtaining the free appropriate education that the law entitles them to.

<http://www.ed.gov/offices/OSERS>

High Stakes Public Examinations

Hong Kong's students are faced with public examinations in various stages of their education, with the Form Five School Leaving Certificate Examination often being viewed one with the most severe consequence for those who do not pass it. Several issues have to be addressed for students with specific learning disabilities (SLD) in facing high stakes public examinations.

1. Are children with SLD even expected to take the examination, or are expectations so low that taking the secondary school exit examination not considered a likely situation for them.
2. Are there alternative assessments available to those who, because of limited direct support all along, cannot reach the requirements of standard papers. More than one level on a subject is desirable so that the student can manage the requirements at these specified lower levels.
3. Are there appropriate accommodations being provided on exit examinations. A review of policy documents in the 47 states of U.S.A. which administer state-wide examinations showed that accommodations for examinations can be organized into four categories. These should be considered by IEP teams in assessing what types of accommodations are required for individual students:
 - (a) Timing/Scheduling Accommodations
 - (b) Setting Accommodations
 - (c) Presentation Accommodations
 - (d) Response Accommodations.

It is recommended that all the above aspects be seriously considered by the Department of Education in regular within-school examinations, as well as by the Hong Kong Examination Authority in high stake examinations such as the Form 5 O-Levels and Form 7 A-Levels public examinations.

Reference: PEER Project, Federation for Children with Special Needs
Http://www.ldonline.org/ld_indepth/special_education/peer_accommodations.html

“Whether Undiagnosed Dyslexia is a significant factor in Juvenile Delinquency”

英國於 1999 年，兩位教育心理學家(Education Psychologists) Gavin REID & Jane KIRK 進行了一項研究，探討未經診斷而又有「特殊學習障礙」的青少年罪犯，他們的犯罪情況與一般青少年罪犯所佔的比率。有關之研究在愛丁堡 Polmont Young Offenders Institution 進行，從 4 0 0 名未足 2 0 歲的青少年罪犯當中抽出 5 0 位，透過電腦程式進行測試，結果發覺有「特殊學習障礙」的青少年罪犯所佔的比率為 5 0 %。

這些青少年罪犯在知悉自己有「特殊學習障礙」後，除了感到極度震驚外，更抱怨社會怎麼一直沒有人去關心及幫助他們，令他們在成長的里程中飽受同學、老師及學校的排斥，採取放棄態度，最後導致誤入歧途。

當中：8 2 %	曾經逃學
8 3 %	曾被學校要求停學
超過 5 0 %	被逐出校

另外根據 1998 年愛丁堡當地警務署所作出的調查，發現偷竊的罪犯當中有 4 0 % 曾經逃學，而偷車的罪犯當中亦有 3 0 % 屬曾經逃學之青少年。

透過以上之調查，明顯發現「特殊學習障礙」與青少年罪犯確實有明顯的關係。他們都是未能及早被診斷出有「特殊學習障礙」，以至在學校成績低落，不單得不到有效針對性教育，更飽受歧視及誤解。為了脫離痛苦的校園生活，他們唯有展開逃學生涯。試想像逃學的青少年在街上流連的情景，那種被遺棄；被放逐的感覺更令這班少年踏上不歸路！這是一個非常嚴重的社會問題，到底現時本港的青少年罪犯當中，有多少名「特殊學習障礙」人士一直也被忽視，缺乏照顧？希望政府能抱前瞻性的態度，立刻展開行動去探索；去預防的這類嚴重問題的發生。

資料來源：UK Channel 4 Series : Dyslexic Criminals