
INFORMATION NOTE

Legislation on inclusive education in Taiwan, the United Kingdom and the United States

1. Introduction

1.1 Hong Kong provides special education services for children with special educational needs ("SEN") because of their visual impairment, hearing impairment, physical disability, intellectual disability or other impairment/disability. Students with severe SEN or multiple disabilities are referred to special schools for intensive support services subject to the assessment and recommendation of specialists and parental consent. Other students with SEN are placed in ordinary schools. Since the 1970s, the Government has been providing support for ordinary schools in catering for students with SEN. With the enactment of the *Disability Discrimination Ordinance* in 1996, the Equal Opportunities Commission issued the *Code of Practice on Education* in 2001 to provide schools and educators with practical guidance for developing policies that prevent and eliminate disability discrimination. Meanwhile, the Education Bureau also provides schools with practical guidance on integrated education.

1.2 At present, there is no legislation in Hong Kong that specifically addresses the education of students with SEN. The rights of students with SEN have been an area of concern for the Subcommittee on Integrated Education, particularly whether they should be safeguarded by legislation for their entitlement to the requisite services and support measures. To facilitate the Subcommittee's deliberation, this information note studies the legal framework in Taiwan, the United Kingdom ("UK")¹ and the United States ("US") governing the education of students with SEN in ordinary schools, and the salient features of which are highlighted in the **Table** on pages 4-15.

¹ Education is a devolved matter in the UK, allowing England, Wales, Scotland and Northern Ireland to be responsible for their own education policy. These regions are governed by similar legal framework, notwithstanding the difference in their code of practice. In order to avoid duplication, this information note has made reference to the case of England for the study of legislation on the inclusive education of students with SEN in the UK.

Integrated versus inclusive education

1.3 Hong Kong implements "integrated education", whereas Taiwan, the UK and the US apply "inclusive education". Generally speaking, integrated education is a process of placing students with SEN in ordinary or the so-called mainstream schools.² While also featuring the inclusion of SEN students in ordinary schools, inclusive education is "an approach that looks into how to transform education systems in order to remove the barriers that prevent pupils from participating fully in education".³ In other words, integrated education focuses on fitting SEN students into the existing school arrangement and inclusive education emphasizes on equipping the school environment to fit the needs of SEN students.⁴

1.4 Under the inclusive education policy, schools in Taiwan, the UK and the US all assume the statutory responsibility to actively seek to remove the barriers to learning and participation that can hinder or exclude students with SEN. As such, they have made adjustments with respect to areas such as physical facilities and pedagogic adaptation to cater for the needs of students with SEN.

Legislation on education of students with special educational needs

1.5 Taiwan, the UK and the US have all set out a comprehensive legal framework for the education of students with SEN. In particular, they emphasize elimination of discrimination, early identification/intervention and appropriate education for students with SEN. These places also recognize parents' rights in the whole process and the importance of devising individual education plan ("IEP") for each SEN student. Furthermore, appeal and monitoring mechanisms are also set out in their legislative regime. In Taiwan and the US, the relevant legislation even imposes statutory requirements governing the qualifications of special education teachers and funding arrangements for special education. In comparison, Hong Kong's Education Bureau implements integrated education in accordance with five basic principles covering early identification, early intervention, Whole School Approach, home-school co-operation and cross-sector collaboration.⁵

² See Equal Opportunities Commission (2012).

³ See United Nations Educational, Scientific and Cultural Organization (2014).

⁴ See Equal Opportunities Commission (2012).

⁵ See Education Bureau (2010).

Statutory requirement for individual education plan

1.6 In Taiwan and the US, the statutory entitlement of students with SEN to IEP is enshrined in the relevant legislation. Schools are required to devise appropriate IEPs tailored to the needs of individual SEN students. These IEPs must include information about the student concerned and the educational programme designed, which may include annual goals, teaching strategies, special education and related services, accommodation, needed transition services and measured progress. In the UK, the recently passed *Children and Families Act 2014*⁶ stipulates that each SEN student shall be provided with an "Education, Health and Care plan", which is an individualized plan embracing education, health services and social care provisions.⁷

1.7 IEP is not established as a statutory entitlement for SEN students in Hong Kong. As such, IEP might not be available in all the schools that have implemented integrated education. Under the prevailing policy to adopt the Whole School Approach to cater for student differences, the Education Bureau resorts to the 3-Tier Intervention Model in providing individualized support to students with SEN. Only students with severe learning difficulties are entitled to Tier-3 support⁸, which includes intensive individualized support such as drawing up of an IEP.

⁶ The *Children and Families Act 2014* was passed on 13 March 2014. It will replace Chapter 1 of Part IV of the *Education Act 1996* ("Children with special educational needs") when coming in force on 1 September 2014.

⁷ Currently, schools are only advised to develop IEPs for students with SEN. These schools may also use alternative methods to record how they meet the students' educational needs.

⁸ Students with other learning difficulties are entitled to Tier-1 or Tier 2 support. Tier-1 support refers to quality teaching in the regular classroom for supporting students with transient or mild learning difficulties. Tier-2 support refers to "add on" intervention for students assessed to have persistent learning difficulties, which may involve small group teaching, pull-out programmes etc.

Table – Legislation on inclusive education in Taiwan, the United Kingdom and the United States

	Taiwan	The United Kingdom	The United States
Background information			
Total number of SEN students	• 103 662 as at October 2013. ⁹	• 1 545 610 as at January 2013. ¹⁰	• 6 573 975 as at fall 2012. ¹¹
Number of SEN students in ordinary schools	• 97 030 or 93.6% of total as at October 2013.	• 1 448 105 or 93.7% of the total as at January 2013.	• 6 184 035 or 94.1% of the total as at fall 2012. ¹²
Legal framework for education of SEN students	<ul style="list-style-type: none"> • Relevant legislation includes: <ul style="list-style-type: none"> (a) <i>Special Education Act</i> 《特殊教育法》; (b) <i>People with Disabilities Rights Protection Act</i> 《身心障礙者權益保障法》; (c) Enforcement Rules (施行細則) of (a) and (b); and (d) regulations promulgated by the Ministry of Education. 	<ul style="list-style-type: none"> • Relevant legislation and guidance include: <ul style="list-style-type: none"> (a) <i>Children and Families Act 2014</i>; (b) <i>Special Educational Needs and Disability Act 2001</i>; (c) <i>Education Act 1996</i>; (d) <i>Disability Discrimination Act 1995</i>; (e) <i>Equality Act 2010</i>; and (f) statutory guidance such as the <i>Special Educational Needs Code of Practice</i> ("<i>SEN Code of Practice</i>")¹³ issued by the Department for Education. 	<ul style="list-style-type: none"> • Relevant legislation include: <ul style="list-style-type: none"> (a) <i>Individuals with Disabilities Education Act</i> ("IDEA"); (b) <i>No Child Left Behind Act of 2001</i>; (c) <i>Code of Federal Regulations, Title 34 – Education</i> ("34 CFR"); and (d) state laws and regulations on special education.

⁹ The figure only covers pre-school to secondary school disabled students with SEN (身心障礙類). Students with SEN studying at post-secondary institutions and gifted/talented students (資賦優異類) were excluded. The latter are also considered as students with SEN in Taiwan.

¹⁰ The figure refers to students with SEN studying at nursery, primary, secondary and special schools.

¹¹ The figure refers to those students aged 3-21 and receiving special education services.

¹² The figure refers to students with SEN attending regular pre-school/early childhood programmes and regular classes.

¹³ The *Children and Families Act 2014* provides for the Secretary of State for Education to issue a code of practice for inclusive education and the power to revise the code from time to time. As such, the Department for Education is expected to issue a new *SEN Code of Practice* on 1 September 2014, the same date when the relevant provisions of the *Children and Families Act 2014* comes into force.

Table – Legislation on inclusive education in Taiwan, the United Kingdom and the United States (cont'd)

	Taiwan	The United Kingdom	The United States
Definition of students with SEN			
Categories of students with SEN	<ul style="list-style-type: none"> Two categories: students with disabilities and gifted/talented students.¹⁴ Disabilities include: <ol style="list-style-type: none"> intellectual disabilities; visual impairments; hearing impairments; communication disorders; physical impairments; cerebral palsy; health impairments; severe emotional disorders; learning disabilities; severe/multiple impairments; autism; developmental delays; and other disabilities. 	<ul style="list-style-type: none"> Currently, a child has special educational needs if he or she has a learning difficulty which calls for special educational provision to be made for him or her. Another category of SEN students will be added from 1 September 2014 onwards. Young person has special educational needs if he or she has a learning difficulty or disability which calls for special educational provision to be made for him or her. 	<ul style="list-style-type: none"> In general, a SEN student is the one who is aged 3-21 and needs special education and related services because he or she is evaluated as having: <ol style="list-style-type: none"> mental retardation; hearing impairments; speech or language impairments; visual impairments; serious emotional disturbance; orthopaedic impairments; autism; traumatic brain injury; other health impairments; or specific learning disabilities. SEN students may also include those who are aged 3-9 and need special education and related services because of developmental delays in one or more of the following areas: <ol style="list-style-type: none"> physical development; cognitive development; communication development; social or emotional development; or adaptive development.

¹⁴ This information note confines the study to SEN students with disabilities.

Table – Legislation on inclusive education in Taiwan, the United Kingdom and the United States (cont'd)

	Taiwan	The United Kingdom	The United States
General principles on education of students with SEN			
General principles on inclusive education	<ul style="list-style-type: none"> • Placement of students with SEN follows the principle of proximity (就近入學). • Provision of special education and related services should be based on the principles of appropriateness (合適性化), individualization (個別化), localization (社區化), accessibility (無障礙) and integration (融合). • Curriculum, teaching materials, teaching methods and assessment for special education should be flexible to the extent that they meet the needs and suit the characteristics of individual SEN students. 	<ul style="list-style-type: none"> • Currently, a SEN child who has a statement of SEN¹⁵ must be educated in an ordinary school unless the arrangement is incompatible with: <ul style="list-style-type: none"> (a) the wishes of the child's parents; or (b) the provision of efficient education for other children. • For a child without a statement of SEN, he or she must be educated in an ordinary school unless under exceptional circumstances. • When the <i>Children and Families Act 2014</i> comes into force in September 2014, an integrated Education, Health and Care plan ("EHC plan") will replace the current statement of SEN. Children and young people with EHC plans must be educated in ordinary schools unless the arrangement is incompatible with: <ul style="list-style-type: none"> (a) the wishes of their parents; or (b) the provision of efficient education for other students.¹⁶ 	<ul style="list-style-type: none"> • To the maximum extent appropriate, students with disabilities, including those in public or private institutions or other care facilities, are educated with other students who are not disabled. • Special classes, separate schooling, or other removal of students with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a student is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

¹⁵ The statement is a document setting out the child's needs and all the extra help he or she should receive, which will be issued after a formal assessment of the child has been made.

¹⁶ SEN children and young people without EHC plan must be educated in ordinary schools in accordance with Article 34 of the *Children and Families Act 2014*.

Table – Legislation on inclusive education in Taiwan, the United Kingdom and the United States (cont'd)

	Taiwan	The United Kingdom	The United States
Identification and assessment of SEN students			
Identification of SEN students	<ul style="list-style-type: none"> Students with SEN should be appropriately assessed, placed and provided with special education as well as related services, subject to their guardian's consent. 	<ul style="list-style-type: none"> An assessment can be requested by a parent or the school (which should consult the parents first).¹⁷ The local authority decides whether to make the assessment. After the assessment, the local authority decides whether to issue a statement of SEN (or to formulate an EHC plan from 1 September 2014). 	<ul style="list-style-type: none"> A parent, a state or local educational agency, or other state agency may request for an initial evaluation. The student concerned must be evaluated in 60 days after his or her parents have given their consent. Once evaluation has been completed, the parents are invited to the school for a meeting to evaluate whether their child is qualified for a special education programme.
Parties responsible for assessment	<ul style="list-style-type: none"> Assessment is conducted by the district-based Committee for Assessment, Placement and Counselling of Students in Special Education (特殊教育學生鑑定及就學輔導會). The committee is set up by local authorities and comprises: <ol style="list-style-type: none"> scholars and experts; educational and school administrators; delegates of teachers' organizations; representatives of parents; professionals of special education; and delegates of related institutions. 	<ul style="list-style-type: none"> Assessment is conducted by the local authorities which will ask for input from: <ol style="list-style-type: none"> the parents; the school; educator; doctor; educational psychologist; social services; and anybody who may be in a position to provide advice.¹⁸ 	<ul style="list-style-type: none"> Assessment is conducted by the state or local educational agency with input from: <ol style="list-style-type: none"> the parents; the regular teacher¹⁹; and at least one person qualified to conduct individual diagnostic examinations, such as a speech-language pathologist, school psychologist or remedial reading teacher.

¹⁷ Under Article 36 of the *Children and Families Act 2014*, a request for assessment can also be made by the young person himself or herself.

¹⁸ Local authorities must also consult the young person when making an education, health and care assessment after the *Children and Families Act 2014* comes into force.

¹⁹ If the student with SEN does not have a regular teacher, he or she can be assessed by a regular classroom teacher qualified to teach a student of his or her age.

Table – Legislation on inclusive education in Taiwan, the United Kingdom and the United States (cont'd)

	Taiwan	The United Kingdom	The United States
Identification and assessment of SEN students (cont'd)			
Frequency of re-assessment	<ul style="list-style-type: none"> The Committee for Assessment, Placement and Counselling of Students in Special Education should re-assess the adequacy of placement each year. If there are any changes to the disabilities of the SEN student or any other special needs, teachers, parents or the SEN student concerned can apply for re-assessment. 	<ul style="list-style-type: none"> Local authorities must review a child's statement of SEN at least once a year. They should also consider informally reviewing the statement for a child under five at least every six months to ensure that the provision continues to be appropriate to the child's needs. For a student who was not previously issued with a statement of SEN, re-assessment will only be conducted if his or her parents make such a request. Local authorities must comply with the request unless they have already made a statutory assessment within six months of the date of the request or unless they conclude, upon examining all the evidence provided to them, that a statutory assessment is not necessary. Under the <i>Children and Families Act 2014</i>, local authorities must review individual EHC plans every 12 months. Besides, a re-reassessment must be made if a request is made by the child's parent, the young person concerned or the school. Local authorities may also secure a re-assessment at any other time if they think fit.²⁰ 	<ul style="list-style-type: none"> A re-evaluation shall occur at least once every three years, unless the parents and the local educational agency agree that a re-evaluation is unnecessary. But it shall not be more frequent than once a year unless the parents and the local educational agency agree otherwise.
School arrangements for inclusive education			
Designated unit or personnel for inclusive education	<ul style="list-style-type: none"> Schools should set up a designated unit to take charge of special education, which is tasked with recruiting special education teachers, related professionals, teaching assistants, and aides to students with SEN. 	<ul style="list-style-type: none"> Schools should identify a staff member to act as the Special Educational Needs Coordinator ("SENCO"). He or she is responsible for: <ol style="list-style-type: none"> overseeing the day-to-day operation of the school's SEN policy; coordinating provision for students with SEN; liaising with teachers, parents and other professionals in respect of students with SEN; advising and supporting fellow teachers and staff; and overseeing the records of all students with SEN.²¹ 	<ul style="list-style-type: none"> No specific requirement.

²⁰ For a child under five, the draft new *SEN Code of Practice* also advises local authorities to consider reviewing his or her EHC plan at least every three to six months to ensure that the provision continues to be appropriate.

²¹ The *Children and Families Act 2014* imposes a statutory duty on schools to prescribe SENCO as "having responsibility for co-ordinating the provision for pupils with special educational needs". See Department for Education and Department of Health (2013).

Table – Legislation on inclusive education in Taiwan, the United Kingdom and the United States (cont'd)

	Taiwan	The United Kingdom	The United States
School arrangements for inclusive education (cont'd)			
Accommodation and other support	<ul style="list-style-type: none"> Schools should provide students with SEN with the following support services: <ul style="list-style-type: none"> (a) educational auxiliary devices; (b) appropriate teaching materials; (c) assistance in learning and living; (d) rehabilitation services; (e) family support services; (f) access to campus; and (g) other support services. Assessment of students with SEN should be flexible to the extent that it meets their needs and characteristics. In addition, all schools and test centres should provide appropriate test services, support and resources to students with SEN. 	<ul style="list-style-type: none"> Schools must not treat disabled students less favourably than others. They must make "reasonable adjustments" to ensure that disabled students are not at a substantial disadvantage. Schools must also prepare accessibility strategies and plans for (a) increasing the extent to which disabled students can participate in the schools' curriculums, (b) improving the physical environment of the schools for the purpose of increasing the extent to which disabled students are able to take advantage of education and associated services provided by the schools, and (c) improving the delivery to disabled students of information which is provided in writing for students who are not disabled. The <i>Equality Act 2010</i> extends the "duty to make adjustments" to include the requirement for schools to provide auxiliary aids and services to disabled students.²² 	<ul style="list-style-type: none"> Support services may include positive behavioural interventions and supports, and supplementary aids and services.²³ All children with disabilities are included in the general state and district-wide assessment programmes with appropriate accommodations and alternate assessments where necessary and as indicated in their respective IEP.

²² The draft new *SEN Code of Practice* also includes "working with the head teacher and school governors that the school meets its responsibilities under the *Equality Act 2010* with regard to reasonable adjustments and access arrangements" as one of the key responsibilities of the SENCO.

²³ Supplementary aids and services may include interpreter services, assistive technology devices and services, consulting teachers, environmental adaptations, note takers and modifications to the regular class curriculum.

Table – Legislation on inclusive education in Taiwan, the United Kingdom and the United States (cont'd)

	Taiwan	The United Kingdom	The United States
Individual education plan ("IEP")			
IEP is mandatory for all SEN students	<ul style="list-style-type: none"> Yes. IEP should be developed a month after the enrolment of new students or prior to the beginning of a new semester for existing students. 	<ul style="list-style-type: none"> Currently not mandatory as schools are only advised to develop IEP for individual SEN students. When the <i>Children and Families Act 2014</i> comes into force on 1 September 2014, each SEN student shall be provided with an EHC plan that serves as an individualized plan embracing education, health services and social care provisions. 	<ul style="list-style-type: none"> Yes. At the beginning of each school year, each local/state educational agency or other state agency shall have an IEP for each SEN student.
Contents of IEP	<ul style="list-style-type: none"> IEP should include the following information: <ol style="list-style-type: none"> the student's current status of abilities and family background; needs in special education and related services, and the corresponding support strategies; learning goals in school year and semester, and the method, date and criteria for assessing such goals; interventions and administrative support for students with emotional and behavioural problems; and transition counselling and services. 	<ul style="list-style-type: none"> IEP should include information about: <ol style="list-style-type: none"> the short-term targets set for or by the student; the teaching strategies to be used; the provision to be put in place; when the plan is to be reviewed; success and/or exit criteria; and outcomes (to be recorded when IEP is reviewed).²⁴ 	<ul style="list-style-type: none"> IDEA requires certain types of information to be included in IEP: <ol style="list-style-type: none"> present levels of educational performance; measurable annual goals; the progress of the student concerned towards meeting the annual goals; special education and related services; participation with non-disabled students; and individual appropriate accommodations or alternate assessment.

²⁴ According to the draft new *SEN Code of Practice*, the contents of EHC plan should specify, among other things, any need for: (a) support facilities and equipment and specific staffing arrangements; (b) modifications to the application of the National Curriculum; (c) exclusions from the application of the National Curriculum and proposed substituted provision; (d) residential accommodation; and (e) arrangements for setting shorter term targets and monitoring progress.

Table – Legislation on inclusive education in Taiwan, the United Kingdom and the United States (cont'd)

	Taiwan	The United Kingdom	The United States
Individual education plan (cont'd)			
Parties responsible for developing IEPs	<ul style="list-style-type: none"> The development of IEP should involve: <ol style="list-style-type: none"> school administrators; special education and related teachers; the student concerned and his or her parents; related professionals; and related personnel invited by the student's parents. 	<ul style="list-style-type: none"> IEP should be developed by: <ol style="list-style-type: none"> the SENCO; class teacher; subject teacher; and external specialist, if necessary. IEP should be discussed with the student concerned and his or her parents. 	<ul style="list-style-type: none"> IDEA requires the IEP team to comprise at least the following persons: <ol style="list-style-type: none"> the parents of the SEN student; not less than one regular education teacher of the student; not less than one special education teacher or, where appropriate, not less than one special education provider (i.e. related service provider) of the student; a representative of the local educational agency; an individual who can interpret the instructional implications of evaluation results; at the discretion of the parents or the local educational agency, other individuals who have knowledge or special expertise regarding the SEN student concerned; and whenever appropriate, the SEN student concerned.
Frequency of review	<ul style="list-style-type: none"> IEP should be reviewed at least once each semester. 	<ul style="list-style-type: none"> IEP should be reviewed at least twice a year.²⁵ 	<ul style="list-style-type: none"> IEP should be reviewed at least once a year.
Transition plan	<ul style="list-style-type: none"> Schools in each educational phase should offer complete and continuous transition counselling and services. Transition plan is included in IEP. 	<ul style="list-style-type: none"> The annual review of statement of SEN in year 9 and the years after must include a transition plan.²⁶ Transition plan is included in the statement of SEN (or the EHC plan). 	<ul style="list-style-type: none"> Beginning not later than the first IEP to be in effect when a student turns 16, or younger if determined appropriate by the IEP Team, and updated annually thereafter. IEP must include appropriate measurable post-secondary goals related to training, education, employment, and where appropriate, independent living skills; and the transition services needed to assist the student in reaching those goals.

²⁵ For children under five, IEP should be reviewed at least three times a year.

²⁶ Year 9 is the third year of secondary school and incorporates students aged 13-14.

Table – Legislation on inclusive education in Taiwan, the United Kingdom and the United States (cont'd)

	Taiwan	The United Kingdom	The United States
Qualification of special education teachers			
Subject to statutory requirement	<ul style="list-style-type: none"> Yes. All the personnel and administrators responsible for the provision of special education services in (a) special schools and (b) regular schools with special education classes should have "special education background", i.e. completion of three or more credit hours of special education courses. 	<ul style="list-style-type: none"> No. Nevertheless, anyone who wants to teach in maintained schools²⁷, including special schools, needs to attain the Qualified Teacher Status ("QTS"). All those seeking QTS must have basic knowledge and skills in the field of SEN. Teachers of classes with hearing-impaired and visually-impaired students must obtain additional qualification. 	<ul style="list-style-type: none"> Yes. Each person employed as a special education teacher in elementary school, middle school, or secondary school should be highly qualified, which means he or she is appropriately and adequately prepared and trained and equipped with the knowledge and skills to serve children with disabilities.
Rights of parents of SEN students			
Rights entitled	<ul style="list-style-type: none"> Parents of students with SEN have the rights to: <ol style="list-style-type: none"> attend the meetings to deal with the students' assessment and placement; and file an appeal if they have any grievances about their child's assessment, placement or counselling services. 	<ul style="list-style-type: none"> Parents of students with SEN have the rights to: <ol style="list-style-type: none"> have their child educated in accordance with their wishes; ask for assessment, re-assessment or review of their child's educational needs; be given notice when a local authority decides to make an assessment; appeal against the decision of the local authority; be involved in the development of their child's statement of SEN (or EHC plan); and be provided with advice and information about matters relating to the educational needs of their child.²⁸ 	<ul style="list-style-type: none"> IDEA requires that parents of students with SEN participate in each step of the special education process with the right to: <ol style="list-style-type: none"> receive notice of assessment and placement for their child; give informed consent before conducting any evaluation and provision of special education and related services to their child; and participate in all meetings concerning their child's special education.

²⁷ Maintained schools are funded by local authorities.

²⁸ The *Children and Families Act 2014* and the draft new *SEN Code of Practice* also emphasize the participation of parents in the whole process, especially in decision making, during which they should be provided with information and support.

Table – Legislation on inclusive education in Taiwan, the United Kingdom and the United States (cont'd)

	Taiwan	The United Kingdom	The United States
Appeal mechanism			
Appeal channels	<ul style="list-style-type: none"> Parents of students with SEN can file an appeal with the Ministry of Education or the local authorities against any decision made on matters relating to the assessment, placement and counselling services provided to their child. Each local authority is empowered to set up its own Appeal Committee for Special Education Students (特殊教育學生申訴評議會) to deal with the appeals received. The Committee is composed of scholars and experts in special education, educational and school administrators, professionals of special education, delegates of teachers' and parents' organizations, and experts in law and psychology. 	<ul style="list-style-type: none"> Parents of student with SEN can appeal to the First-tier Tribunal²⁹ against (a) the decision made by local authorities on refusing to make an assessment or to issue a SEN statement, or (b) the contents of the statement per se. The hearing will usually be attended by up to three tribunal members: a Chair who is a Tribunal Judge, and two specialist members. Under the <i>Children and Families Act 2014</i>, parents or the young person may lodge an appeal with the First-tier Tribunal. They may only do so after contacting an independent mediation adviser and discussing with the adviser whether mediation might be a suitable way of resolving the disagreement.³⁰ 	<ul style="list-style-type: none"> Parents can file a due process complaint to the state educational agency with respect to any matters relating to the identification, evaluation, or educational placement of their child, or the provision of a free appropriate public education to their child. Within 15 days of receiving notice of the complaint and prior to the initiation of a due process hearing, the local educational agency must first convene a resolution meeting with the parents and the relevant member(s) of the IEP Team who have knowledge of the facts identified in the complaint. If the local educational agency has not resolved the complaint to the satisfaction of the parents within 30 days of the receipt of the complaint, the due process hearing may occur. The hearing will be conducted by the state educational agency.
Deadline for filing an appeal	<ul style="list-style-type: none"> The parents should file the appeal within 20 days from the date of receiving the decision. 	<ul style="list-style-type: none"> At present, the parents should file the appeal no later than two months after the local authorities notify them the decision. This time limit will still apply under the <i>Children and Families Act 2014</i>. 	<ul style="list-style-type: none"> The parents should file the complaint no later than two years after the date they knew about the alleged violation that forms the basis of the complaint, or the explicit time limitation for presenting such a complaint as stipulated by the state.

²⁹ The First-tier Tribunal is part of the court system of the UK, comprising seven chambers being structured around different areas. Special Educational Needs and Disability is dealt with by the "Health, Education and Social Care Chamber" of the First-tier Tribunal.

³⁰ It is for the parents or young person to decide whether to go to mediation. If not, they will be issued with a certificate by the mediation adviser to proceed with their appeal within one month.

Table – Legislation on inclusive education in Taiwan, the United Kingdom and the United States (cont'd)

	Taiwan	The United Kingdom	The United States
Monitoring mechanism			
Monitoring authorities	<ul style="list-style-type: none"> Local authorities (city or county governments) and the Ministry of Education. 	<ul style="list-style-type: none"> Local education authorities, the Office for Standards in Education, Children's Services and Skills ("Ofsted")³¹, and the Secretary of State for Education. 	<ul style="list-style-type: none"> State educational agency and the Secretary of Education.
Means to monitor the implementation of inclusive education	<ul style="list-style-type: none"> Local authorities evaluate the implementation of special education in schools below senior high level at least once every three years. The Ministry of Education evaluates the implementation of special education by the local authorities at least once every three years. 	<ul style="list-style-type: none"> Any person authorised by a local education authority shall be entitled to have access at any reasonable time to the premises of any school for the purpose of monitoring the special educational provision made in pursuance of the SEN statement for the child at the school.³² Ofsted inspectors also look closely at schools' SEN policies and practices. Through their examination of and reports on the education system, they also monitor and evaluate the impact of the <i>SEN Code of Practice</i> and other measures on schools and local education agencies.³³ The Secretary of State for Education can intervene where local education authorities or maintained schools³⁴ are acting unreasonably or failing to fulfil a statutory duty, or where local education authorities are failing to perform their functions to an adequate standard.³⁵ 	<ul style="list-style-type: none"> The state educational agency is responsible for ensuring that (a) the requirements of IDEA are met; and (b) all educational programmes for children with disabilities in the state are under the general supervision, and meet the educational standards, of the state educational agency. The Secretary of Education monitors the implementation of IDEA through oversight of the general supervision conducted by the states. In particular, the Secretary requires each state to monitor the local educational agencies located in the state, using quantifiable and qualitative indicators as are needed to adequately measure performance.

³¹ Ofsted inspects and regulates services which care for children and young people, and those providing education and skills for learners of all ages.

³² A similar provision is set out in the *Children and Families Act 2014* which stipulates that a person authorised by a local authority is entitled to have access at any reasonable time to the premises of schools and institutions for the purpose of monitoring the education or training.

³³ According to the draft new *SEN Code of Practice*, Ofsted-registered early years providers have a duty to promote equality of opportunity for children in their care, including support for children with SEN or disabilities. Ofsted can consider complaints from parents about early years providers and schools but only where the complaint is about the early years provision or the school as a whole, rather than in relation to individual children, and where the parent has tried to resolve the complaint through the early years provider's or school's own complaints procedure. Ofsted can respond to a complaint by bringing forward an inspection, or it could decide to look at the matters raised when next inspecting the school.

³⁴ In the UK, some special schools are local education authority maintained schools.

³⁵ According to the draft new *SEN Code of Practice*, if disagreements have not been resolved at the local level, complaints can be made to the Secretary of State against the governing body of a maintained school or a local authority for acting unreasonably or failing to carry out one of its statutory duties, including their SEN duties. The Secretary of State can issue directions governing the exercise of a power or the performance of a duty by the governing body of a maintained school or a local authority.

Table – Legislation on inclusive education in Taiwan, the United Kingdom and the United States (cont'd)

	Taiwan	The United Kingdom	The United States
Funding arrangements			
Funding of special education	<ul style="list-style-type: none"> Each year the Taiwan government shall allocate not less than 4.5% of its budgeted expenditure on education to special education. For local governments, they shall set aside no less than 5% of their education budgets for special education. 	<ul style="list-style-type: none"> No specific requirement. 	<ul style="list-style-type: none"> Federal funding is provided to each state under the "Grants to States" programme to help them finance the additional costs of providing special education and related services to SEN students. The level of funding allocated to a particular state is based on the number of children with disabilities identified as residents of that state. A state may receive up to 40% of the average per pupil expenditure in public elementary schools and secondary schools. In order to be eligible for federal funding, each state is required to submit an annual plan to the Secretary of Education which contains a set of assurance stating that it has policies and procedures in place as required by IDEA.

Prepared by Yuki HUEN
17 April 2014
Tel: 2871 2127

Information notes are compiled for Members and Committees of the Legislative Council. They are not legal or other professional advice and shall not be relied on as such. Information notes are subject to copyright owned by The Legislative Council Commission (The Commission). The Commission permits accurate reproduction of information notes for non-commercial use in a manner not adversely affecting the Legislative Council, provided that acknowledgement is made stating the Research Office of the Legislative Council Secretariat as the source and one copy of the reproduction is sent to the Legislative Council Library.

References

Taiwan

1. Ministry of Education. (2013) *Education Statistics The Republic of China 2013 Edition*. Available from: https://stats.moe.gov.tw/files/ebook/Education_Statistics/102/102edu.pdf [Accessed April 2014].
2. *Special Education Net*. (2014) Available from: <http://www.set.edu.tw/> [Accessed April 2014].
3. 《身心障礙及資賦優異學生鑑定辦法》，2013年，網址：<http://law.moj.gov.tw/LawClass/LawAll.aspx?PCode=H0080065> [於2014年4月登入]。
4. 《身心障礙者權益保障法》，2011年，網址：<http://law.moj.gov.tw/LawClass/LawAll.aspx?PCode=D0050046> [於2014年4月登入]。
5. 《特殊教育法》，2013年，網址：<http://law.moj.gov.tw/LawClass/LawAll.aspx?PCode=H0080027> [於2014年4月登入]。
6. 《特殊教育法施行細則》，2012年，網址：<http://law.moj.gov.tw/LawClass/LawAll.aspx?PCode=H0080032> [於2014年4月登入]。
7. 《特殊教育學生申訴服務辦法》，2011年，網址：<http://law.moj.gov.tw/LawClass/LawAll.aspx?PCode=H0080063> [於2014年4月登入]。

The United Kingdom

8. *Children and Families Act 2014*. Available from: http://www.legislation.gov.uk/ukpga/2014/6/pdfs/ukpga_20140006_en.pdf [Accessed April 2014].
9. Department for Education. (2011) *Support and aspiration: new approach to special educational needs and disability A consultation*. Available from: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/180836/DFE-00046-2012.pdf [Accessed April 2014].
10. Department for Education. (2013) *Children with Special Educational Needs 2013: An Analysis*. Available from: <https://www.gov.uk/government/publications/children-with-special-educational-needs-an-analysis-2013> [Accessed April 2014].
11. Department for Education and Department of Health. (2013) *Draft Special Educational Needs (SEN) Code of Practice: for 0 to 25 years*. Available from: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/251839/Draft_SEN_Code_of_Practice_-_statutory_guidance.pdf [Accessed April 2014].
12. Department for Education and Skills. (2001a) *Inclusive Schooling*. Available from: <http://webarchive.nationalarchives.gov.uk/20130401151715/https://www.education.gov.uk/publications/eOrderingDownload/DfES-0774-2001.pdf> [Accessed April 2014].
13. Department for Education and Skills. (2001b) *Special Educational Needs Code of Practice*. Available from: <http://webarchive.nationalarchives.gov.uk/20130401151715/https://www.education.gov.uk/publications/eOrderingDownload/DfES%200581%20200mig2228.pdf> [Accessed April 2014].

-
14. Department for Education and Skills. (2001c) *Special Educational Needs Toolkit*. Available from: <http://webarchive.nationalarchives.gov.uk/20130401151715/https://www.education.gov.uk/publications/eOrderingDownload/DfES-0558-2001-2.pdf> [Accessed April 2014].
 15. *Disability Discrimination Act 1995*. Available from: <http://www.legislation.gov.uk/ukpga/1995/50/data.pdf> [Accessed April 2014].
 16. *Education Act 1996*. Available from: <http://www.legislation.gov.uk/ukpga/1996/56/data.pdf> [Accessed April 2014].
 17. *Equality Act 2010*. Available from: <http://www.legislation.gov.uk/ukpga/2010/15/data.pdf> [Accessed April 2014].
 18. *Special Educational Needs and Disability Act 2001*. Available from: <http://www.legislation.gov.uk/ukpga/2001/10/data.pdf> [Accessed April 2014].

The United States

19. *Code of Federal Regulations, Title 34 – Education*. Available from: <http://www.gpo.gov/fdsys/pkg/CFR-2009-title34-vol1/content-detail.html> [Accessed April 2014].
20. *IDEA Data Center*. (2014) Available from: <http://www.ideadata.org/> [Accessed April 2014].
21. *Individuals with Disabilities Education Act*. Available from: <http://www.gpo.gov/fdsys/pkg/PLAW-108publ446/html/PLAW-108publ446.htm> [Accessed April 2014].
22. Legislative Analyst's Office. (2013) *Overview of Special Education in California*. Available from: <http://www.lao.ca.gov/reports/2013/edu/special-ed-primer/special-ed-primer-010313.pdf> [Accessed April 2014].

-
23. *No Child Left Behind Act of 2001*. Available from: <http://www2.ed.gov/policy/elsec/leg/esea02/107-110.pdf> [Accessed April 2014].
 24. U.S. Department of Education. (2014) *Building the Legacy: IDEA 2004*. Available from: <http://idea.ed.gov/> [Accessed April 2014].

Hong Kong and others

25. Education Bureau. (2010) *Operation Guide on the Whole School Approach to Integrated Education*. 2nd edition. Available from: http://www.edb.gov.hk/attachment/en/edu-system/special/support/wsa/ie%20guide_en.pdf [Accessed April 2014].
26. Education Bureau. (2012) *Progress of Implementing Integrated Education in Ordinary Schools and the Way Forward*. Paper submitted to the Panel on Education of the Legislative Council for discussion on 10 July 2012. LC Paper No. CB(2)2518/11-12(01).
27. Education Bureau. (2013) *Response to the Equal Opportunities Commission's Report of the Study on Equal Learning Opportunities for Students with Disabilities under the Integrated Education System*. Paper submitted to the Subcommittee on Integrated Education of the Legislative Council for discussion on 19 February 2013. LC Paper No. CB(4)410/12-13(03).
28. *Education Bureau*. (2014) Available from: <http://www.edb.gov.hk> [Accessed April 2014].
29. Equal Opportunities Commission. (2012) *Study on Equal Learning Opportunities for Students with Disabilities under the Integrated Education System*. Available from: http://www.eoc.org.hk/EOC/Upload/ResearchReport/IE_eReport.pdf [Accessed April 2014].
30. United Nations Educational, Scientific and Cultural Organization. (2014) *Inclusive Education*. Available from: <http://www.unescobkk.org/education/inclusive-education/> [Accessed April 2014].