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50-State Higher Education Disability Policy Review 2008-2019: A Content Analysis

Abstract

More students with disabilities are present on higher education campuses. This study examines enacted legislation of the 50 United States throughout an 11-year period of students with disabilities in higher education. Racialization of disability and representation in states' legislation is examined. As the student body expands on higher education campuses, diversity comprehensively racially, ethnically and culturally grows. Four major federal laws: Americans with Disabilities Act and Amendments Act, Rehabilitation Act of 1973, and Individuals with Disabilities Education Improvement Act of 2004 form the state disability legislation backbone applicable to postsecondary students. The Individuals with Disabilities Education Improvement Act of 2004 applies to preschool through high school students. Students, formerly special education participants, transitioning to higher education encounter completely different federal regulations for disability accommodations. Each state has built on these federal laws adapting legislation for their students and communities. It was shown there are gaps in legislation (intentional or unintentional) supporting students with disabilities and students of color, and gaps in the literature. A legislative relationship is needed to maintain the rights and equitable participation of students with disabilities. That student has the need and the desire to access academic, social, and professional successes. As diversity expands on campuses and as participation increases in the postsecondary space, data is collected, analyzed and applied. Information based policies regarding students with disabilities are impacted racially, ethnically and culturally. Legislation integrating the intersectionality of these aspects for individuals and groups will develop into (re)made equitable policy. Legislation sans this understanding, risks further marginalizing these students. The legislation showed a predominately medical or deficit orientation. There was little reference to race/ethnicity specifically. Rather, there was a lumping together of various groups as they were addressed in the various statutes. Recommendations include a greater emphasis recognizing, developing and implementing policies the intersectional core of the student as s/he/they transition from secondary into their postsecondary experiences. The use of universal design for learning and the DisCrit framework will benefit the student and higher education institutions.

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In Partial Fulfillment

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by

Marie Orlin

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Advisor: Dr. Ryan Evely Gildersleeve

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ABSTRACT

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access academic, social, and professional successes. As diversity expands on campuses and as participation increases in the postsecondary space, data is collected, analyzed and applied. Information based policies regarding students with disabilities are impacted racially, ethnically and culturally. Legislation integrating the intersectionality of these aspects for individuals and groups will develop into (re)made equitable policy.

Legislation sans this understanding, risks further marginalizing these students. The legislation showed a predominately medical or deficit orientation. There was little reference to race/ethnicity specifically. Rather, there was a lumping together of various groups as they were addressed in the various statutes. Recommendations include a greater emphasis recognizing, developing and implementing policies the intersectional core of the student as s/he/they transition from secondary into their postsecondary experiences. The use of universal design for learning and the DisCrit framework will benefit the student and higher education institutions.

Keywords: content analysis, disability, higher education, policy, racialization, DisCrit, legislation, 50 states

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CHAPTER 1: INTRODUCTION

The study reviews the lack of current knowledge about state policy shaping postsecondary education legislation enacted from 2008-2019 from each of the 50 states. There are very few current examinations of United States legislation focused on postsecondary education and students with disabilities, particularly students of color with disabilities. One study, Turnbull, Stowe, Klein, and Riffel (2012) reported in the “Matrix of Federal Statutes and Federal and State Court Decisions Reflecting the Core Concepts of Disability” (updated from 2001) various federal statutory sources, statute-related federal case law, and other relevant legal cases. Think College is a national organization focusing on inclusive higher education options for people with intellectual disabilities (What is think college? | Think College, n.d.). They published “Policy & Legislative Activity in Postsecondary Education for Students with Intellectual Disability by State” (2017) listing “program legislation”, “reports”, “task forces” and/or items whose “funding status” were affected by state policies during the 2015-2017 timeframe. Only 14 states were included. The 2019 report “Profile of Undergraduate Students: Attendance, Distance and Remedial Education, Degree Program and Field of Study, Demographics, Financial Aid, Financial Literacy, Employment, and Military Status: 2015–16” (2019), is from the National Center for Education Statistics (NCES) updated a similar 2014 report. The current report includes the years 2003–04 through 2015–16. The data contained “estimates of key student demographic characteristics, including sex, race/ethnicity, age,

dependency and family status, family income, marital status, responsibility for dependents, high school completion status, residence while enrolled, citizenship status, parents' education level, and student disability status" (2019, p. 1). There is very little narrative text; predominately, tables are featured i.e. data rather than "information". One review, the Education Commission of the States' (ECS) "50-State review: Constitutional obligations for public education" (Parker, 2016) has limited information about serving students with disabilities. Only nine states' constitutions address students with disabilities in that report. While all of these four examinations of federal and state policy, higher education, and students with disabilities contribute to a body of knowledge, except for the NCES report, there is little data and less information overarchingly considering students with disabilities in higher education. This study's purpose is to review each act, legislative text and statute enacted from 2008 through 2019, all 50 states, regarding students with disabilities in higher education and postsecondary education paths. The legislation was found by searching the National Conference of State Legislatures' (NCSL) website (Education legislation | bill tracking database, higher education, 2020).

Secondly, what is communicated (with and *to* whom) is important. The words employed and the sentences crafted are consequential. And as consequential, is *for* whom the legislation is crafted, i.e. who is the audience? Arguably, equally, what (and who) is *not* included is significant. The words, sentences, and paragraphs as they comprise the language we use, make up legislation. States' constitutional wording, Education Commission of the States (Parker, 2016) notes, affects broad areas in education and varies from state to state. State constitutions overall restrict disability education services

to K-12 students who are “blind, deaf, dumb or mute, handicapped, hearing, mentally insane, and physically disabled” (2016). The words used to describe these disabilities have changed over the course of time in the enacted legislation in this study. In 2013 the Social Security Administration published a final rule adopting a notice of proposed rulemaking published in the Federal Register, replacing the phrase “mental retardation” with “intellectual disability” in their list of impairments (Federal Register :: Change in terminology: “mental retardation” to “intellectual disability”, 2013). Illinois Persons With Disabilities, H 4049 (2015) begins extensive legislation changes (717 pages) “substitute[ing] the term ‘persons with physical disabilities’ for ‘the physically handicapped’ or ‘the physically disabled’” (2015, p. 1) among other comparable changes (see Appendix A for a partial list of terminology changes).

Legislative change occurring at a state’s constitutional level or by statute can, and does, have a systemic and long impact. Each state is allowed to define the specification of what is a disability which in turn effects the students served and those not able to take advantage of services and resources for those with disabilities. The ECS report states, “constitutional language matters” (Parker, 2016, p. 2) regarding funding and court cases. The report is a snapshot of existing state constitutional provisions (2016). For example, a current issue is school choice establishing vouchers and/or tax credits. Arizona’s two “Empowerment Scholarships Account” legislative items (Bill Status Inquiry, Arizona empowerment accounts, 2011; Bill Status Inquiry, Arizona empowerment accounts, 2013) allow students with these scholarships to attend private schools. The Institute for Justice and the American Legislative Exchange Council’s examination of school choice

and state constitutions (School choice and state constitutions, a guide to designing school choice programs, 2007) documents many states' moves towards public support for vouchers and credits. This has grown from none to 17 between 1990 and 2007. Very recently, June 30, 2020, the U.S. Supreme Court struck down the Montana Supreme Court's state constitutional provision prohibiting school vouchers being used for private schools (Totenberg & Naylor, 2020). In this case, religious schools are included in the U.S. Supreme Court's decision; vouchers may be used for private school funding, regardless of the school's religious orientation.

Related is Alabama's constitution mandating the legislature will establish that the public school system organize, maintain, and benefit children between seven and 21 years of age. It also specifies, "Separate schools shall be provided for white and colored children, and no child of either race shall be permitted to attend a school of the other race" (Section 256 :: Alabama constitution :: Alabama law :: US Law :: Justia, n.d.). In both 2004 and 2012 an attempt to add an amendment removing the obsolete segregationist language in the constitution was defeated (Hunter, 2011; Parker, 2016). Hunter also notes that state constitutions commonly included provisions setting up permanent public school funding that now is "archaic" (State constitution education clause language, 2011, p. 1).

For the 2020, November 3 election, Amendment 4 was placed on the statewide ballot.

The constitutional amendment ballot measure reads,

Proposing an amendment to the Constitution of Alabama of 1901, to authorize the Legislature to recompile the Alabama Constitution and submit it during the 2022 Regular Session, and provide a process for its ratification by the voters of this state (Statewide ballot measures | Alabama Secretary of State, 2020)

The measure was approved, 67% to 33%, by the voters (Alabama election results - The New York Times, 2020); changes will be made at the 2022 constitutional convention when legislators are allowed to draft a “rearranged version of the state constitution” (Statewide ballot measures | Alabama Secretary of State, 2020). Removing racist language is one of four changes that could be made. Then, the rearranged draft will be presented for a vote of the people in 2022 or 2023. If the vote is “no” then Alabama could not draft that version of the constitution and the racist language would remain.

Although all the above articles and reports are from the past 11 years, none have reviewed all policies from all states about postsecondary students with disabilities. To address the lack of current knowledge about how state policy has shaped postsecondary education for students with disabilities since 2008, this study will conduct a content analysis of the legislative texts from 2008-2019 for each of the 50 states. The National Conference of State Legislatures’ (NCSL) website (Education legislation | bill tracking database, higher education, 2020) has a searchable database with a wide variety of parameters that may be chosen. The database search results were used as the data for this study.

Context: Federal Policy

State legislative text has evolved, incorporating federal legislation such as the Americans with Disabilities Act of 1990, Sections 504 and 508 of the Rehabilitation Act of 1973, Higher Education Opportunity Act, and the Individuals with Disabilities Education Improvement Act of 2004 (IDEA). A civil rights law, the Americans with Disabilities Act of 1990, prohibits discrimination based on disability. The Rehabilitation

Act of 1973 created and extended civil rights for those with disabilities, Section 504, and set electronic and information technology specifications, Section 508. The Higher Education Opportunity Act (reauthorized eight times between 1968 and 2008) was passed “to strengthen the educational resources of our colleges and universities and to provide financial assistance for students in postsecondary and higher education” [Colter, 2018]). The Individuals with Disabilities Education Improvement Act of 2004 applies to students three through 21 years of age. It ensured students with disabilities received free and appropriate public education (FAPE) via planning and implementation of individualized education program [IEP]. Finally, the Americans with Disabilities Act Amendments Act of 2008 (ADAAA) legislation countered Supreme Court decisions that had limited the scope of the ADA. Each of these acts has contributed to the formation of state legislative text. They are an important backdrop, underpinning state legislation and policy regarding students with disabilities regardless of age.

Other issues

Students with disabilities in higher education. Webb, Patterson, Syverud, and Seabrooks-Blackmore (2008) emphasized the importance of transitioning from high school to higher education in their review of evidence-based practices. The transition can be trying for all students (Bailey, Hughes, & Karp, 2002) but it is particularly so for students with disabilities (Webb et al., 2008). There are numerous challenges and issues students with disabilities encounter. For students who have participated in preschool and kindergarten through 12th grade (PK-12) special education programs, one significant challenge is that wide-reaching difference that exist between PK-12 and postsecondary

services, education, and experiences. As well, specific differences, the difference is an epistemological one. Knowing one system does not carry forward to the subsequent system; there are vast differences between the resources and supports students are entitled to and do receive. In the postsecondary setting, the *knowing* resides with the student. In the primary and secondary school realm, the *knowing* resides with those providing resources and support. There is an overlap of knowledge between pre- and postsecondary services such as Section 504 (discrimination on the basis of a disability), Section 508 (communication technology and accessibility) and ADA(AA). Other overlaps include physical plant specifications, animals on campus, financial considerations, and model(s) of disability perspective. These effect support and services provided and vary from well-integrated to negligible. The primary and secondary schools' policies are defined in the Individuals with Disabilities Education Improvement Act of 2004 (IDEA) and are carried out via a student's individualized education program (IEP). The Individuals with Disabilities Education Act charges states to carry out policies and procedures, guaranteeing that:

All children with disabilities residing in the State, including children with disabilities who are homeless children or are wards of the State, and children with disabilities attending private schools, regardless of the severity of their disability, and who are in need of special education and related services, are identified, located, and evaluated (Sec. 300.111 Child find - Individuals with Disabilities Education Act, (a) (i), 2017).

The above IDEA section clearly states “all children”. Disability does not mean the same in every state (Q & A on Part B of IDEA 2004: Purposes and key definitions | Center for parent information and resources, 2017); different states have different “interpretations” of a child with a disability. And, so do higher education institutions.

This is especially evident in the different requirements of disability documentation at the postsecondary level. The evidence presented must be sufficient to be eligible under the institution's interpretation of the ADA, Section 504, and/or other legal requirements. Accommodations vary as well. To receive services and/or accommodations, the student must document (and pay for that documentation) the need for any disability considerations and modifications. Students who are over 21 years of age (Section 1412 (a) (1) - Individuals with Disabilities Education Act, 2019) are no longer able use the privileges and protections of IDEA. Some states and programs regulations do vary regarding a cut off age. Whether students are continuing to a postsecondary setting, (college/university, vocational or training programs or professional certificate) the Americans with Disabilities Act (ADA) and the Rehabilitation Act of 1973 provide education and protective work measures. Accommodations that were mandated in high school by IDEA no longer apply in higher education. While ADA has been in effect throughout PK-12, the Americans with Disabilities Act of 1990 laws supplant IDEA upon entering higher education. These are an entirely new set of rules and regulations. The "National Joint Committee on Learning Disabilities Report" (2007) notes that there is a disconnect between the laws that dictate secondary and postsecondary access to programs and services for students. Essentially, the student must, on their own, seek out any services and/or accommodations. A student may enter a disability services program via medical documentation and may develop with the institution's disability service office any number of accommodations, i.e. modifications to a classroom space, assistive technology, testing time, web page screen reader, etc.

There can be many roadblocks to the student; some are institutional and some are personal. For example: students may not know support programs exist. As opposed to the PK-12 education system, postsecondary educational institutions have no obligation to seek out students. Some students do not want to participate any longer with any school special education experiences for a variety of reasons. Some reasons include perceived stigma towards themselves, wanting to be on their own, believing the disability is managed, or not to identify as disabled. Students may not have the funds for documentation to gain access to any disability services. Services themselves may be limited due to budget, technology, knowledge, and understanding of legal requirements. Students may adopt a “wait and see” until s/he/they believe help is needed. There are transition planning strategies that the IDEA via the IEP requires students, parents, and the KP-12 institutions to construct from age 16 onward. These are intended to assist in the transition processes.

The difficulties here may bring one to question the number of barriers that are external to the student. Does how we look at disability effect a path forward? How does how we think about disability affect what the student does? What effect does how we think of disability permeate and is responsible for the student’s experience and success?

Models of disability: medical, social, DisCrit

Evans, Broido, Brown, and Wilke (2017) detail ten models of disability: moral, medical, functional limitations, social, minority group, critical disability theory, critical realism, social justice, disability justice, and an interactionist model in their book covering a range of disability topics. Schnellert et al. (2020) also list human rights

approach, a cultural approach to conceptualizing disability, identity-oriented conception and a political/relational model (Enacting equity in higher education through critical disability studies: A critical community self-study, 2020). There are other models as well. The dominant model is the medical one. Here, disability is a problem to be fixed, to be cured. The disability may be congenital or by an injury acquired accidentally. It may hamper the person's life by completely preventing participation for her/him/them in the activities of daily living. The ADA National Network (What is the definition of disability under the ADA? | ADA National Network, n.d.) notes that "in the context of the ADA, "disability" is a legal term rather than a medical one" however, disability is defined by the ADA as "a person with a disability as a person who has a physical or mental impairment that substantially limits one or more major life activity" (n.d.). Alternatively, the social model of disability views disability as a social construct, i.e. external influences' effects on the individual. A common example is the functionality of "curb cuts". These are accessible for those using a wheelchair but curb cuts also remove a barrier to ease of use for the parent with a stroller. Barriers may be social, environmental, and/or attitudinal. Here the barrier is the context in which the person is present.

An important subset of students with disabilities are students of color. They face a more complex set of challenges and barriers. Disability studies is combined with critical race theory to form "DisCrit" (Annamma, Connor, & Ferri, 2016) The intersection of the two circumstances, disability and race/ethnicity, has developed into its own critical theory branch. As an area of study, "DisCrit explores ways in which both race and ability are socially constructed and interdependent" (2016, p. 13). The convergence of disability

and race/ethnicity was not found in a recent NCES Report “Status and Trends in the Education of Racial and Ethnic Groups 2017” (Musu-Gillette, de Brey, McFarland, Hussar, Sonnenberg, and Wilkinson-Flicker, 2017) report which details U.S. students’ challenges and educational progress. Chapter 5 of that report, “Postsecondary Education”, had no mention of “disabilities” at all. The Pullias Center for Higher Education, noted for its “commitment to improving college access, affordability, and outcomes for marginalized student populations, including first-generation, low-to-moderate income, and students of color” (Posselt, Venegas, Ward, Hernandez, & DePaola, 2017) includes just one mention of “disability”.

DisCrit both builds to and distills down to seven tenets all focused on students with disabilities, singly and as a group, interacting and integrating (or not) with race and ableism located in history and legally in the education system. This system operates with complex and often contradictory policies, and intentions.

Language. Following the introductory paragraph describing the study’s purpose, I described the issue of the words, phrases and sentences used to build legislative text, the importance of which was included in the legislation as well as the audience to whom the legislation is addressed. I also noted the importance of what is not said. Legislative text may be explicit and/or may make references to individuals, groups, actions, and subjects much of which may depend on its context. An blatant example of racism may be seen in the Alabama’s constitution saying “white and colored children, and no child of either race shall be permitted to attend a school of the other race” (Section 256 :: Alabama constitution :: Alabama law :: US Law :: Justia, n.d.). Less obvious language, still

referring to race, may be seen in the CROWN Act (Creating a Respectful and Open World for Natural Hair Act of 2019) legislation, passed in many states, Colorado among them (Race Trait Hairstyle Anti-discrimination Protect, HB20-1048 [2020]) and at the federal level, CROWN Act of 2019 (H.R.5309 - CROWN Act of 2019, 2020). The latter legislation states “people of African descent are deprived of educational and employment opportunities because they are adorned with natural or protective hairstyles . . . ” specifying “Natural Hair” in the act’s title. Still less obvious are microaggressions in what is said and written.

Pierce, a psychiatrist and Harvard University professor, named microaggressions as “subtle, stunning, often automatic, and non-verbal exchanges which are ‘put downs’” (cited by Sue et al. [2007, p. 2]). Sue et al. states the power of “gender, sexual orientation, and disability microaggressions” (2007, p. 14) may be as powerful as racial microaggressions in their discussion of how racial microaggression may affect clinical practice. Kattari (2018) examines ableism as it affects those with invisible disabilities. She notes that ableism is “ingrained in culture and society, in language, in the regulation of bodies, and even in judgments about whether someone is viewed ‘disabled enough’” (2018, p. 487) to be granted access to accommodations. So microaggressions occur for groups of people in largely innocuous ways (Solórzano, Ceja, & Yosso, 2000) and are rare in public as explicit statements or actions. It is rare in legislation as well, and so, difficult to discern. Examples such as those above are unusual. The study examined state legislation looking at both disability and racial references as each group was referenced in the legislative texts.

Content analysis

The study's aim was to develop an informed baseline from which policymakers may guide their decision-making. Content analysis is a method to make "replicable and valid inferences from texts (or other meaningful matter) to the contexts of their use" (Krippendorff, 2003, p. 18) and, as such, was well suited to carrying out a baseline investigation of the legislative text. A content analysis of existing state policy became a starting point for future policymaking. The words, phrases, sentences, and paragraphs used when creating and forming legislative texts embody our beliefs. These documents are a "form of social practice" (Janks, 1997). Apthorpe and Gaspar tell us what and who are included in policies as well as "what and who is ignored and excluded" (1996, p. 6) is critical to framing policy practice. Too often, there are regrets as to what is not said, what is not written, actions that are not taken. Legislative text, here, is no exception. The importance of who is left out of the discussion (Diem, Young, Welton, Mansfield, & Lee, 2014) and who is not on the agenda is noted again and again. Stone (1997) writes that keeping an item from being on an agenda is "effectively to defeat it" (1997, p. 245). All this said, the study examined the legislative text using content analysis for both what was said, and what wasn't.

Research Questions

By critically examining the states' legislative text as primary source material the study explored these questions:

- How is the intersection of postsecondary students with disabilities represented in state policy across all 50 states?

- How is disability constructed in state higher education policy?
- How is disability racialized in state higher education policy?

Summary

Little research exists regarding higher education students with disabilities through state legislation over the last 11 years. The informational gaps present in national reports, governmental and private policies, and legislative text is important. Education is one means to personal accomplishment and participation in society. Identifying patterns and contradictions in laws that both promote, *and* limit educational possibilities will assist with future policymaking and educational planning for students with disabilities. This research's potential contributions to higher education, to students with disabilities and students of color as policy is significant in affecting their educational endeavors and futures and to their communities and society.

CHAPTER 2: LITERATURE REVIEW

Introduction

The literature review includes a review of the student's place in her/his/their educational experience, i.e. how the student with disabilities experiences higher education and suggestions for a more successful experience, and a discussion of the models of disability and how these have contributed to the development of the DisCrit framework. Finally, four federal acts are discussed.

Students with and without disabilities face transitioning from high school to the higher education environment and experience. The experience may be more difficult for the student with disabilities (Webb et al., 2008). The traditional, new to college, first-time student, coming to higher education from high school has adjustment challenges transitioning to the college environment and structure, and may experience stress (Hicks & Heastie, 2008). A student who has used special education/disability services in high school is not automatically entitled to any accommodations received during her/his/their pre-higher education admittance and activities that were mandated by Individuals with Disabilities Education Act (IDEA) (Eckes & Ochoa, 2005). That student's transition is made more difficult for many reasons. Many students with disabilities, seeking out Disability Services Offices, bring with them unique expectations and perspectives. Following a focus on the student's experiences, I review the two predominant ways of thinking of disability (the *medical model* and *social model*), how the variety of federal

laws such as the Americans with Disabilities Act (2009) and Section 504 of the Rehabilitation Act of 1963 (1973) and individual state legislation come into play. As language shapes thought/action (Boroditsky, 2011) and thought shapes action, content analysis will serve as the means to observe and examine words and phrases that are the building blocks of legislative text.

Student Experience

Disability services are available to students to access in one form or another. The Americans with Disability Act requires “some” accommodation for those who are able to document a disability. Finding the services can be difficult. A common first point of contact is the college or university’s website homepage. Retrieving information about any disability services can be trying, requiring many clicks. Pippert, Essenburg, and Matchett’s (2013) study of California State University’s (CSU) websites found that information about disability programs were predominately associated, by 93%, with student services sections of CSU’s website (2013), not where one would think. A mere 30% of university home pages included any “disability content” (2013, p. 8). The student would have to dig deeper for pertinent information. Finding that information is just a first step.

Learning about services’ existence was a stumbling block that took some further time and effort to overcome, Cunninghame, Costello and Trinidad (2016) found in their review of a National Centre for Student Equity in Higher Education report, “Issues and trends for students with disability: Review on NCSEHE - funded research”. That report looked at "participation and performance of students with disability, the various

pedagogical issues impacting their engagement with higher education, and the best approach to developing services to support [Australian] students with disabilit[ies]" (2016, p. 2). Among their recommendations for best practices were (a) the use of universal design for learning, (b) develop and produce various options to differently engage with learning content and spaces, (c) include disability awareness training for all institutional levels, (d) giving students more control and determination to manage disclosure and information regarding their disability, and (e) develop and support student use of disability services concomitantly with other educational support services as well as flexibility in the use of these resources (2016).

Transition Planning

Planning for the transition to college is helpful for students in the areas of self-determination (Thoma & Getzel, 2005), skills and knowledge (U.S. Department of Education, 2017), and for special education and high school transitions professionals who assist students transitioning (Banks, 2013). Ideally, transition planning that is mandated by IDEA from age 16 for special education students, has been in place in the student's secondary school experience. The process includes the parent(s), appropriate high school staff/instructors and the student. Thorough planning would help provide a good fit for both the institution and program. Choices could more easily be made that would take into account knowledge of the student, her/his/their goals and aspirations, and postsecondary options and possibilities (A transition guide to postsecondary education and employment for students and youth with disabilities, 2017).

Transition planning may help the student simply to know that services exist (Cunninghame et al., 2016) as well as what legally mandated resources and accommodations are available, and how to proceed with the process of contacting potential resources. Developing a student's self-knowledge (Thoma & Getzel, 2005; Thoma & Getzel, 2008; Skinner, 2004; Newman & Madaus, 2015; Summers, White, Zhang, & Gordon, 2014) imbues the student with self-advocacy skills and self-determination. Completing a formalized planning program contributed to student success (Garrison-Wade, 2012).

Diversity and inclusion

During their interviews of students with disabilities about their postsecondary perceptions, Yssel, Pak, & Beilke (2016) found self-acceptance of the individual as s/he/they, was important. Emens' (2012) legal study of disabling attitudes found that "others' perceptions of an impairment can be just as meaningful and real as an otherwise limiting impairment" (2012, p. 46). Additionally, it was important to students that acceptance occur at all levels of the institution: faculty, staff, and administration (Hutcheon & Wolbring, 2012). It was common that most initiatives did not include disabilities in promoting diversity goals (Emens, 2012).

Holloway delved into students' concerns using interviews in a small qualitative study, "The Experience of Higher Education from the Perspective of Disabled Students" (2010). Students felt the institution gave the appearance of being inclusive, but they still felt marginalized and disempowered as they experienced being treated "differently" (2010, p. 611).

While the letter of the law was followed, many authors believed (Eckes & Ochoa, 2005; Cory, 2011; Squires, Burnell, McCarty, & Schnackenberg, 2018) the spirit of the law was not followed as Cunninghame et al. (2016) noted in their study about equity. According to Banks (2013) more than good intentions were needed to change a student's experiences.

Documentation

At the postsecondary level, students must provide documentation to disability services offices if the student would like to use those services. Poor clarity exists as to what constitutes sufficient documentation a 2007 National Joint Committee on Learning Disabilities study found as it focused on documentation for students with learning disabilities. The study looked at 100 postsecondary institutions. Among their findings: 67% postsecondary disability service offices preferred specific tests (some examples listed below); 70% of the offices used Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973 terminology when making decisions; 14% used state-based standards, and only 39% of the offices used the individualized education program (IEP) and "504 plan" that students who received special education services had from high school. For those 39%, the documentation was often insufficient to make decisions. Forty-two percent of the service providers mandated one or more "adult-normed" assessments (NJCLD, 2007) such as:

- Arizona Articulation Proficiency Scale, Third Revision
- Clinical Evaluation of Language Fundamentals, Fifth Edition
- Comprehensive Test of Phonological Processing, Second Edition

- Expressive One-Word Picture Vocabulary Test, Fourth Edition
- Neuropsychiatric EEG-Based Assessment Aid (NEBA) System
- Woodcock-Johnson III Tests of Cognitive Abilities

(Tests for Dyslexia and Language Disorders, n.d.).

The assessments each focus on an aspect of disability, whether cognitive, language processing, physical or another component. The tools are instructive in providing documentation.

One issue is that testing tends to be expensive. The Learning Disabilities Association of America estimates the cost of testing is between \$500 - \$2,500 (Adult learning disability assessment process, 2019), and so is often a barrier regarding documentation.

In Banks' study of African Americans male students with disabilities (2013), she suggested that institutions "move beyond" the usual IEP and Section 504 specifications. Banks concluded the whole student should be considered (2013). Griful-Freixenet et al. (2017) cite Wagner, Newman, Cameto, Garza, and Levine (2005) writing that over 50% of students with disabilities discover a personal disability after they begin their higher education years. Documentation may prove to be a barrier to accessing disability service especially for them.

Disclosure

Students were able to pursue, or not, disability services. Research funded by the National Center for student Equity in Higher Education (Australia), Cunninghame et al. (2016) found that there are probably more students with disabilities than students with

disabilities who seek out disability services. Using National Longitudinal Transition Study-2 (NLTS2) data, Newman and Madaus' (2015) results indicated only 35% of students receiving high school special education services informed their college or university that they had a disability. Without informing the school, no disability services nor accommodations could be made available to students. The services special education students received in high school are not automatically provided at the higher education levels. The Individuals with Disabilities Education Improvement Act of 2004 assistance is no longer available following a student's graduation or aging out at 21 years old. Many students, especially those with hidden disabilities, e.g. learning or psychological disabilities (Banks, 2013; Collins & Mowbray, 2005), feared a perceived stigma would negatively impact not only their classwork, but disclosure could affect future employment (Sachs, 2016; Kendall, 2016) and opportunities. In Kendal's (2016) small survey and semi-structured interview of all male students, some students described themselves as having a "condition", not a disability. One student said his "condition" didn't prevent him from doing what he wanted (2016).

Alternatively, some students chose to "reinvent" themselves. Moraña's 2017 article, "We aren't heroes, we're survivors': higher education as an opportunity for students with disabilities to reinvent an identity", studying barriers students found. Some students only sought out disability services when they were having difficulties with their classwork (Yssel et al., 2016). The desire of many students was to be like everyone else, to fit in (Griful-Freixenet et al., 2017) Yssel et al., (2016) heard students say. Even though many studies saw results that indicated greater student retention and persistence

(Cunninghame et al., 2016; Goode, 2006) and students acknowledged that accommodations would have benefited them, the use of disability services were passed over. It is important to note that students' choices and decisions to disclose or not disclose a disability can change with time (Grimes, Southgate, Scevak, & Buchanan, 2018). They found three reasons for this: 1) careful decision-making about who they wanted to be, 2) weighing the pros and cons of disclosure on an on-going basis, and 3) managing and coordinating the process of disclosure (Grimes et al. 2018).

Student Voices and Recommendations

The previous review focused on transition planning, disclosure and documentation. The student is at the center of the conversation. Many researchers (Vickerman & Blundell, 2010; Webb et al., 2008; Hutcheon et al., 2012; Liasidou, 2013), examined disability services programs and interviewed students. The studies were predominately small in scale and scope. In many cases the students participating were self-selected. The students consistently said

1. All voices and lived experiences are to be recognized and valued (Liasidou, 2013).
2. There has been a lack of information which would inform decision-making, (Vickerman & Blundell, 2010).
3. There are a variety of classroom, instructional issues such as faculty attitude, assessment management, accommodations, and lack of understanding the various dimensions of disability climate.

4. The skills of self-determination (Yssel et al., 2016; Thoma & Getzel, 2005; Thoma & Getzel, 2008), self-advocacy and self-knowledge (Skinner, 2004; Hadley, 2011; Eckes & Ochoa, 2005), self-management (Thoma et al., 2005), self-directed (Skinner, 2004) are important.
5. Actual engagement (Hutcheon & Wolbring, 2012) are very important for the student to develop. Quite essentially, students' experiences of "marginalisation and disempowerment" (Holloway, 2010, p. 612) were present in spite of efforts toward appearances of inclusiveness (2010).

Legal obligations were being met, but students interviewed by Eckes and Ochoa (2005) believed that the administration and faculty had a poor understanding of the essence of those obligations.

Faculty Recommendations from Students. Student recommendations from the literature, predominately, had two focuses. The first set of suggestions could broadly be identified as being knowledgeable (Hadley, 2011) i.e. having a basic awareness of various disabilities and their effects on students as well as strategies to mitigate difficulties (Webb et al., 2008). Closely tied to an awareness of the student is an awareness of the instructor's own attitudes, actions and pedagogy. A deficit view of disability contributed negatively, Aquino (2005) found, resulting in not accepting a student's identity as an "overall identity" (2015, p. 317) a representation of her/him/themself. This belief is in line with Grimes et al.'s (2018) hearing students say that teaching, assessment practices and learning objectives (Vickerman & Blundell, 2010) should attend to individual differences rather than lumping students together when more

specialized services were not available (Collins & Mowbray, 2005). Crafting a “one size fits all” (Kendall, 2016) as an alternative does not serve the student well. Learning services should be accessible to all students (Holloway, 2010) and yet balanced to provide individualized support.

A second area of attention was training: awareness (Collins & Mowbray, 2005) and basic information about disabilities (Kendall, 2016) for example. Summers et al. recommended “online, interactive tutorial[s] that offers knowledge about rights, procedures for accessing accommodations, and a self-assessment for students to learn about appropriate accommodations to meet their individualized needs” (2014, p. 245). With training would likely come greater awareness of reasonable adjustments (Kendall, 2016), and understanding of central policies that supported accessible learning environments for all students (Holloway, 2010). More inclusive practices would result (Kendall, 2016). Additionally, some students in the Grimes et al. (2018) study about reasons students not disclosing disabilities believed training surrounding student disclosure would enable the balancing of the student’s right to the depth of her/his/their disclosure and the staff member’s reaction.

Higher Educational Institution Recommendations from Students. On the institution’s end, promoting greater understanding of students through professional development for faculty, staff and administration (Eckes & Ochoa, 2005) would be beneficial. Students interviewed in many studies (Newman & Madaus, 2015; Banks, 2013) believed these three components (transition planning, proactive activities, and farsighted professional development) would enable a better transition. Implementing the

strategies would promote greater academic success and, very importantly, contribute to the college or university's climate, creating greater inclusivity and promoting diversity.

There are overlapping areas among the various issues. One area of significant overlap is the role of the institution to support and encourage staff development. The presence of a central policy (Holloway, 2010) where there was top-down, and bottom-up alignment would benefit the educational institute as a whole. The overall climate that supports all students, especially in terms of accommodations and assistance (Stodden, Brown, & Roberts, Summer 2011) is particularly under administrative heads' supervision. As noted previously, it is key that just paying attention to legal requirements does not support or promote a diverse, inclusive institution. However, "practicing evidence-based policies, curriculum design, pedagogy and assessment" (Grimes et al., 2018) meets many needs of the individual student and the student body as a whole (and arguably higher education), among students with disabilities.

Models of Disability

There are many models of disability. The "moral" model is based on Judeo-Christian principles and philosophy pairing disability with God's punishment or a moral weakness (Miles, 1995; Evans, Broido, Brown, & Wilke, 2017). The most widely known and applied, by default, is the medical model. Historically, the newer social model of disability began in the 1970s (Anastasiou & Kauffman, 2011). Other models include: the personal tragedy model of disability and impairment (Swain & French, 2000); five from Turnbull and Stowe (a) model of human capacity studies, (b) model of public studies, (c) model of cultural studies, (d) model of ethical and philosophical studies, (e) model of

technology studies (2001); the psychological model of Marks (1997) as well as others. One that brings into consideration the intersection of race and social class (Liasidou, 2013) is DisCrit, a theoretical framework which is further discussed below. (See Appendix B, Table 1, Comparison of models of disability [medical and social] and framework[(DisCrit].)

Medical Model

The medical model looks at the person as something that needs healing, *something* that needs “fixing, *something*” that is broken. And as *something* that is not the norm, it may be seen as deviant, abnormal, seen as being deficit. Evans, Broido, Brown, and Wilke (2017) paraphrasing Fine and Ashe (1988/2000) list assumptions of the medical model: (a) disability is located only in the body, (b) a person’s problems are caused by the person’s impairment, (c) disabled persons are “victims” who must learn to handle the circumstances they face, (d) how disabled persons view themselves and compare themselves to others centers around their disabilities, and (e) people who have disabilities need help and support (2017, pp. 57-58).

As the person who is “sick,” is attended to by a medical professional, the focus is biological. If s/he/they doesn’t get “better” it may well be that the patient didn’t follow directions; s/he/they is to blame and responsible for the resulting condition(s). Everything that can be done, must be done. The patient must fight to the end. Regardless, there is the idea ab/normal. It is the person’s limitations where the focus is, the emphasis being biomedical (McColl, James, Boyce, & Shortt, 2016). Student interviews in Hutcheon and

Wolbring's (2012) study focusing on a "biomedical" understanding of disability pointed to the effect on policy as well.

Social Model

The social model of disability developed countering the medical model (Drum, Krahn, Culley, & Hammond, 2005). The social model doesn't conceive that the "problem" is with the individual, rather the problem is created in and by society, a social construct in which environmental barriers separates individuals, marginalizing each one. Furthermore, the context in which disability exists is formed by "historical, political, legal structures and processes, . . . organizations and institutions . . . , and individual and personal trajectories" (Burke, Joseph, Pasick, & Barker, 2009, p. 2). The social context determines the experience.

That context varies from individual to individual and situation to situation (2009). For the student on campus, the classroom, the dorm, each setting provides different possibilities, views and outcomes. The *medical model* does not take into account what/who the individual is, her-, him- or theirs; the *social model* is "co-constitutive" meaning that the influences are inexorably intertwined including even those of which individuals are not aware (2009, p. 2).

DisCrit

A more recent disability framework combines disability studies (Dis) and critical race studies (Cr[i]t) forming the theoretical framework of DisCrit. It joins together a "dual analysis of race and ability" (Annamma, Connor, & Ferri, 2016, p. 16), looking at the intersection of two groups: students of color and students with disabilities. Authors

Annamma, Connor, and Ferri address “structural power of ableism and racism” (2016, p. 15) that they see as limiting access to education. They describe seven tenets of DisCrit illustrating the inter-workings of ableism and racism in education. The tenets bring into focus “operationaliz[ing] what kinds of specific questions and issues can be illuminated from a DisCrit approach” (2016, p. 15). Each of the tenets represents various aspects of the DisCrit framework. The tenets are:

Tenet 1 focuses on ways that the forces of racism and ableism circulate interdependently, often in neutralized and invisible ways, to uphold notions of normality.

Tenet 2 values multidimensional identities and troubles singular notions of identity such as race or dis/ability or class or gender or sexuality, and so on.

Tenet 3 emphasizes the social constructions of race and ability and yet recognizes the material and psychological impacts of being labeled as raced or dis/abled, which sets one outside of the western cultural norms.

Tenet 4 privileges voices of marginalized populations, traditionally not acknowledged within research.

Tenet 5 considers legal and historical aspects of dis/ability and race and how both have been used separately and together to deny the rights of some citizens.

Tenet 6 recognizes Whiteness and Ability as Property and that gains for people labeled with dis/abilities have largely been made as the result of interest convergence of White, middle-class citizens.

Tenet 7 requires activism and supports all forms of resistance (Annamma, Connor, & Ferri, 2016, p. 11).

Annamma, Connor, and Ferri want research to see the “situatedness of people in different environments” (2016, p. 22) looking at how people operate. Further, they ask us to consider how disability and race are interconnected and build one upon the other. Then, how may this framework of thinking effect the policy development and implementation as we move to activism, they conclude.

Legislation

There are four major pieces of federal legislation that provide the basis from which state law is created. I will examine, in historical order, the federal laws providing the backbone to state legislative text.

Rehabilitation Act of 1973

The first item is the Rehabilitation Act of 1973 (specifically Sections 504 and 508). Section 504 addressed students with disabilities in general. Section 508 dealt with communication technology. Evans et al. (2017) noted that the Rehabilitation Act of 1973 was the first piece of legislation that provided equal access for students with disabilities to public and private higher education institutions. Court case rulings, *LaVor and Duncan* state, discussing Rehabilitation Act of 1973, PL 93–12 (1974), were bringing more students with disabilities and students with more severe disabilities into public education. The act’s language directed that organizations receiving federal funds were not to discriminate against disabled “otherwise qualified” students (Evans et al., 2017; *The Civil Rights of Students with Hidden Disabilities Under Section 504 of the Rehabilitation Act of 1973*, 2015). A qualified student is one with disabilities who should be provided the same educational services as those with elementary and secondary school services as students without disabilities or a student who should receive services required by the free appropriate public education section in IDEA regardless of the disability (*Protecting students with disabilities; frequently asked questions about Section 504 and the education of children with disabilities*, 2020). The student’s disability may be visible or hidden. These physical and mental disabilities included but were not limited to learning

disabilities, heart disease, chronic disease (e.g. diabetes, high blood pressure, and ulcers) (The civil rights of students with hidden disabilities under Section 504 of the Rehabilitation Act of 1973, 2020). The legislation applied to organizations receiving federal financial assistance, to programs operated by an executive agency, and the U.S. Post Office (Jones, 2007). This affected most organizations and broadly opened higher education to more students. That student must still meet the individual institution's admission requirements. While the institution may not ask about any disability during any preadmission processes, they are required to provide information about accommodations, services, associated aids, and the school's coordinator of disability services programs should they be asked. Following the student's admission, inquiries may be made regarding any services that may be needed.

Section 508 was originally an amendment to the Rehabilitation Act in 1986, not present at the Act's 1973 inception. Information technology progress required an overhaul resulting in the Federal Electronic and Information Technology Accessibility and Compliance Act in 2000, and a final rule completed in 2016 (II. Rulemaking history - United States Access Board, n.d.). Originally the Act applied to governmental positions. McAlvage and Rice write in an Online Learning Consortium publication, "Access and accessibility in online learning: Issues in higher education and K-12 contexts" (2018) that over time, understandings of the law have expanded. Institutions of higher education have amended policies and their implementation. As recipients of federal funds, the institutions must meet minimum accessibility standards and principles. All content (web-enabled and otherwise) must be perceivable, operable, understandable and robust. More

specifically, to be perceived, the information must be presented in a manner so the user(s) may “sense” the content, i.e. see, touch, and/or hear it for optimal understanding. The user must be able to use the interface. This includes being able to navigate the content and its functionality. A third principle is , the content must be understandable. This refers to the interface, does it make sense, does action on the users part result as expected? Finally, the content must be robust, i.e. can it be reliably interpreted by a wide variety of users, including assistive technologies? Court decisions have included considerations to

1. Too much time taken by higher education institutions to provide suitable accessible materials,
2. Failure to implement corrective website remedies, non-compliance with what developed into Web Content Accessibility Guidelines 2.0 (WCAG 2.0), the overall standard for web accessibility,
3. Lack of a comprehensive institutional policy including training for faculty, staff and administration,
4. Closed captioned video for online course material’s (un)perceivability,
5. Public facing website material not accessible (McAlvage & Rice, 2018).

To rectify accessibility issues, McAlvage and Rice recommended using universal design for learning, training for faculty and staff about the ADA, and to be mindful as to the necessity of accessibility.

The focus of the Rehabilitation Act of 1973 was the *impact* of the disability rather than solely the *presence* of an impairment, again expanding the number of those who experienced tacit discrimination, discrimination which included limiting higher education

opportunities. Additionally, the provision for “reasonable accommodation” was included in the act. Subsequent laws such as the Americans with Disabilities Act of 1990 drew from this act expanded the definition of disability and thereby increasing the number of people covered by the legislation (Evans, Broido, Brown, & Wilke, 2017).

Americans with Disabilities Act of 1990

In 1990 the Americans with Disabilities Act (ADA) was signed into law. The definition of disability was further expanded and detailed. Major life activities now included, e.g. seeing, hearing, reading, learning, concentrating and thinking as well as major bodily functions such as neurological, digestive and/or endocrine systems (ADA requirements: Testing accommodations, n.d.). Protection and legal recourse were further established for students with disabilities who believed discrimination was occurring. Title II and Title III expanded their scope to include state and local governments, and private institutions since they were determined to be place of public accommodation, respectively.

Postsecondary institutions were required to provide “reasonable accommodations” such as

1. Making physical changes (e.g. ramp installation, classroom/workspace modification),
2. Providing accessible and assistive technologies (e.g. accessible software, website screen readers, textbook audio capability),

3. “Accessible communication” (e.g. sign language interpreters, closed captioning and/or transcripts of video resources, large print or Braille documents),
4. “Policy enhancements” (e.g. work schedules, service animals)
(Accommodations - Office of Disability Employment Policy, n.d.).

The various accommodations facilitate coursework and participation, improving learning outcomes. Regardless of the accommodations, the course’s essential features must be maintained. This tension between the student’s need to learn and to succeed had to be balanced not only within the institutional standards and state requirements, but also the law’s intent. Conflicts over policies may be arbitrated. Evans et al. (2017) observed that courts generally defer to the faculty as long as there is a written protocol (2017).

Individuals with Disabilities Education Improvement Act of 2004

This replaced the Education for All Handicapped Children Act (EAHCA or EHA)) specifically deals with PK-12 students (Metzler, 2010). The importance of including this act in this review is there are components that are critically different from those in higher education. IDEA directs school districts to seek out students; the college student must reach out to benefit from any disability services as well as self-identify as a person with a disability. The school district is responsible for testing; the postsecondary student must pay for and prove s/he/they has a disability. In elementary through high school, modifications may be made to the student’s curriculum; essential components of the curriculum must remain intact for higher education classes (Evans, Broido, Brown, & Wilke, 2017).

Americans with Disabilities Act of 2008 Amendments Act

The fourth act, ADA Amendments Act of 2008 (ADAAA), which importantly addressed four U.S. Supreme Court rulings which “sharply narrowed the broad scope of protection Congress originally intended . . . eliminating protection for many individuals whom Congress intended to protect” (29 CFR Appendix to Part 1630, Interpretive guidance on Title I of the Americans with Disabilities Act, 2016). Congress expanded the list of major life activities which now included the phrase “major bodily functions” (2016). This and other specifications reaffirmed what Congress saw as ADA’s “express purpose(s)” to eliminate discrimination, to stipulate strong enforceable standards and overall to reinstate the protections lost through court rulings.

Evans et al. (2017, p. 120) remark that law is dynamic, that there is the letter of the law and the intent of the law (Schriner, 1990). The intent of the law, overall, is to complement each group’s goal(s). Stone states the letter of the law, its vagueness can serve “important symbolic functions” (1997, p. 289) being at once the “expression of community ideals” and “convey[ing] tough determination and commitment to eradicating a problem” (1997, p. 289).

Summary

The literature review began by looking at various aspects of the student with disabilities experiences in higher education focusing on planning for the transition from secondary school to a postsecondary institution. One way thoughtful and thorough planning increases the chances of student success is by encouraging disclosure of a disability as a means to procure help from disability services offices. I reviewed research

in which students expressed thoughts about inclusion and diversity as well as the importance of being heard by their instructors and the institution of higher education. Students also had concerns about disclosure that could, by self-choice, limit their use of disability services. The environment, culture and institution's support of the student with disabilities is largely constructed by a deficit model, i.e. the medical model in which the person with a disability is in need of "fixing". Moving forward in time as well as in a person-centered focus, the social model places the emphasis on society limiting the student. Higher education has not stepped forward. The student must document her/his/their qualifications to receive disability services by providing proof that there is a problem to be "fixed". DisCrit conceives society's role doubly, negatively impacting students of color with disabilities.

Federal legislation has provided a base for state legislation. The acts were built upon, were challenged by court decisions up to and through the Supreme Court, and were rebuilt. The Americans with Disabilities Act and later the ADA Amendments Act of 2008 which broadened the definition and characteristics of disability did much to further student opportunities for academic, career, and life success. Individual states developed laws building on the acts to further support students as they develop and reach educational goals and self-sufficiency.

CHAPTER 3: METHODOLOGY

Introduction

The study comprehensively investigates higher education legislative policies regarding students with disabilities of the 50 United States over the last 11 years. Policymakers use numbers and statistics to enumerate options when developing policy. It is understanding the challenges and engaging in dialog across many interests and ideologies that will foster equitable and democratically based, socially just outcomes. These research questions queried, first, the intersection of postsecondary students with disabilities. How are these students represented in state policies? Second, how is disability constructed in state higher education policy and finally how is disability racialized in state higher education policy? The answers were as varied as the number of students who would benefit from well-considered answers. Close examination of the legislation makes probable a transformation from the current inequities. Policy action creates the space for achieving social justice goals, valuing inclusion, respecting diverse communities' cultural norms, and recognizing the normative roles of privilege and power (Krippendorff, 2003).

All of these interacting and intersecting components have facilitated transformative research (Mertens, 2009; Núñez, Hurtado, & Galdeano, 2015). Furthermore, Mertens states using qualitative methods for research “provide[s] an in-depth description” (2009, p. 225). I used content analysis to examine the legislative texts.

Content Analysis Method

Content analysis has many assets making it suitable for qualitative research. Krippendorff (2003) writing about the method, praised its ability to “transcend traditional notions of ideas of symbols, contents and intents” (2003, p. xvii). It is an observational process as well as unobtrusive. I used content analysis, systematically to look for patterns in surface and underlying words and phrases, searching for manifest and latent content respectively (Slapin & Proksch, 2014; Kondracki, Wellman, & Amundson, 2002; Erlingsson & Brysiewicz, 2017). Krippendorff sums the basic accomplishment of content analysis is producing inferences that are intended to answer research questions (2003, p. 30).

The importance of careful content analysis planning cannot be overstated. Potter and Levine-Donnerstein (1999) see design as an important challenge, a point in time where decisions are made about the type of content to be analyzed and what role theory will take in the study. Krippendorff states that content analysis’ point “is not to study observable behaviour or common interpretations, but to answer questions concerning . . . large-scale social phenomena that escape individuals’ unaided perceptions, or evidence in court for something otherwise difficult to ascertain” (2003, p. 179). Content analysis is well suited for the large body of legislative text deriving evidence that indicates the construction of disability and racialization in state-level legislation.

Types of content

There are three types of content: manifest, latent and projective . Manifest content is the text’s surface meaning. For example, the word “blind” is chosen here to illustrate

the many manifest meanings (see Appendix C). Blind can play the role of three parts of speech: adjective, verb and noun. Combined, blind has 33 different uses only three of which may refer to a disability. It is the context in which the word occurs that latent meaning occurs. Coding this type of content is largely clerical (Potter & Levine-Donnerstein, 1999); words and phrases may be taken at face value as they are counted. Krippendorff (2003) cautions, counting always renders “something” but that something doesn’t necessarily refer to anything.

Alternatively, latent content meaning is found underlying surface messages (Potter & Levine-Donnerstein, 1999). One type of latent content, Potter and Levine-Donnerstein (1999) note focuses on patterns occurring in the actual content. For example, again using the word “blind”, approximately 10 of 33 words have a negative connotation referring to vision. A second type of latent content Potter and Levine-Donnerstein discuss is projective content. Coders, as they label and organize data, bring with them their subjective schema. S/he/they may understand “blind” to mean “a lightly built structure of brush or undergrowth, especially one in which hunters conceal themselves”, a duck blind, or possibly a type of window covering, a venetian blind (Dictionary: blind, n.d.). If the coder is a hunter, the context in which blind is found will determine blind’s meaning. If the coder is an interior decorator, s/he/they may take blind as a window covering. The coder uses their schema; meaning is created for them. Since it is meaning I sought, I addressed the legislative text, ultimately, as latent content. Admittedly, regarding my reading of the legislative text as projective content, I did bring in my knowledge and

perspective. I discuss this in Chapter 5 regarding credibility, dependability and confirmability.

Process

To begin the process of content analysis, Kaid and Wadsworth's (1989) procedural steps include the following:

1. Develop research questions,
2. Select the sample,
3. Define categories,
4. Outline coding system and train coders,
5. Implement coding procedure,
6. Determine validity and reliability,
7. Analyze coding findings.

Develop the research questions. As noted earlier, there is very little research that reviews individual state higher education legislation applying to students with disabilities. Research questions one and two looked at what legislation do states have that includes students with disabilities in postsecondary situations. What does that legislation say and how does it treat the students? Two models of disability (medical and social) guided the reading for these questions. The third question addressed any racialization that policies contain. I used DisCrit as a comparison point to consider overarching theory looking at each of seven tenets (see Appendix D). The categories (evidence of disability, federal legislation, and language related to race and ethnicity) were constructed with the research questions fully in mind.

Select the sample. Legislative text was the data. I chose the National Conference of State Legislatures (NCSL) to acquire enacted state policy relative to higher education and disability legislative text. The National Conference of State Legislatures' database (Education legislation | bill tracking database, higher education, 2019) was selected because it has (a) a comprehensive database, (b) a well-structured search functionality, and (c) and is a well-regarded information source. The default searchable dates spans 11 years' time period of developments such as major changes in (a) state funding (Chakrabarti, Gorton, & Lovenheim, 2017), (b) the Great Recession (December 2007–June 2009, (US Business Cycle Expansions and Contractions | NBER, 2020) see Appendix E, Figure 1), (c) equity/affirmative action, (d) an increase attendance by students of color (Santiago, Laurel, Martinez, Bonilla, & Labandera, 2019; de Brey, Musu, McFarlan, Wilkinson-Flicker, Diliberti, Zhang, Branstetter, & Wang, 2019), and (e) college preparation.

One may also search for specific topics. To find as much legislation as possible, I chose the following topics:

Table 2

National Conference of State Legislators Database Topics and Rationale for Topics Using “Disability” as Keyword

Topic	Rationale
Admissions and enrollment	Students enrolled, qualifications, differences in policy
Adult education	Postsecondary students, programs
College preparation	Students affected by IDEA
Community and junior colleges	Postsecondary students
Competency-based education (2019*)	Programs, qualifying for programs and/or admission
Credit for prior learning (2019*)	Programs, classes
Dual enrollment	Students in high school transitioning to postsecondary
Equity/affirmative action	Students with disabilities, students of color
Financial aid and affordability	Socioeconomic status
Other/miscellaneous	Catchall
Research (2015*)	Catchall
Transfer/articulation	Specifications for transfer, higher education institutions collaboration/interactions
Undocumented students	Students of color, English language learners
Veterans (2014*)	Considerations for veterans regarding ADA, ADAAA and Rehab Act
Vocational/technical education	Special programs, focus on employment
Workforce development	Focus on employment

*The year the topic was added to the NCSL database

The earliest year date parameter available was 2008. I chose full years from 2008-2019. The NCSL database has since added a separate section “Postsecondary Bill Tracking” (2020) separate from Education Legislation | Bill Tracking (Education

legislation | bill tracking database, higher education, 2019). See Appendix F, Figure 2, that illustrates the NCSL search page and one sample result. From the search results I was able to locate the legislation using various Google searches for the legislation itself as well as going to specific states' websites.

Define categories. Classical content analysis authors, Holsti (1969), Neuendorf (2001), and Krippendorff (2003) all agree regarding the importance of well-constructed categories which “*reflect the investigator’s research question[s]*” (emphasis in original) (Holsti, 1969, p. 95). It was straightforward to choose the initial variables from keywords in the research questions: (a) postsecondary and higher education, (b) disability and disabilities, (c) each state, (d) federal legislation, (e) race and ethnicity (Collecting race and ethnicity data from students and staff, n.d.), and (f) year legislation enacted. These are general or overall “groupings” Krippendorff described (2003, p. 167). As groupings, they do not have intrinsic value(s) but do contain specific items with specific values; they are “unit[s] of analysis” (Kaid & Wadsworth, 1989, pp. 203-204). Additionally, the above groupings’ items are specific, i.e. manifest data: a count, i.e. a presence, or not, of an item (Krippendorff, 2003).

Table 3*Original categories from reading and subcategories added*

Original categories	Added subcategories
Postsecondary, higher education	high school, post-secondary, college, university
Disability, disabilities	autistic; blind; cognitive, intellectually, or developmentally disabled; deaf; dyslexia; emotional/mental (includes PTSD); non-ambulatory; non-verbal/nonverbal; and specific learning disability
Each state	No additions
Original categories	Added subcategories
Federal legislation (“Rehabilitation Act of 1973”, “Individuals with Disabilities Education Act of 1975” and “Americans with Disabilities Act of 1990” and “ADA Amendments Act of 2008”)	Individualized Education Program
Race and ethnicity	American Indian or Alaska Native, Asian, Black or African American, Native Hawaiian or Other Pacific Islander, and White, and Hispanic or Latino present in “Collecting Race and Ethnicity Data from Students and Staff” (National Center for Education Statistics, n.d.) English language learners, ethnicity, Indian, Native Americans, race, and Tribal
Year legislation enacted	No additions

Subcategories emerged during the (re)reading and were added. The subcategories were useful by adding first, more content to consider, and second, by linking together the words into phrases which formed latent data, from which meaning could be derived.

The research questions called for drawing inferences from the many readings of the legislative text. Krippendorff notes three types of inferences:

1. Deductive: come to a logical conclusion being implied, specifics abstracted to generalizations,
2. Inductive: conclusion is probably correct, i.e. developing from a generalization to similar types,
3. Abductive: developing conclusions, answers to research questions, from evidence/phenomena not directly observable (Krippendorff, 2003, pp. 36-38).

Krippendorff states abductive inferences are central to content analysis (2003).

Neuendorf includes the components of “analytical categories; cumulative, comparative analysis; and the formulation of types or conceptual categories” (2001, p. 6). She believes methods using these approaches are “empirical and detailed and in fact are more precise and challenging than most content analyses” (2001, p. 7) for interpretative analysis. For example, “handicap” was replaced with “disability” (See Appendix A for examples of language changes) . The subcategories cognitive, intellectually, or developmentally disabled were also stated as “mentally retarded” in some legislation. Devlieger, himself, used the term, mentally retarded, discussing handicap and disability. The term has language and cultural meaning existing in a historical and culturally determined context (1999).

Outline of coding system and implementing coding procedures. The coding occurred in five steps. An Excel spreadsheet was developed with the following fields: region, state, title, disability (as word present, yes=1 present), number of times “disability” appeared in the text, count, summary, political party, year, definition (present or not), topic/category, problem/issue, solution, race/ethnicity included (1=yes), race/ethnicity context , task force (present, charge, funding), comment, miscellaneous, and URL. A second workbook resulted from detailed readings with these fields:

Each time the legislation included any of the above items, it was ticked off in the appropriate column. The first and second readings missed some keywords and phrases. I had planned on using qualitative research coding software, e.g. MAXQDA, Dedoose, Nvivo or ATLAS.ti. Another option was to use Wordscores. It is an automated content analysis application that can be used for comparing policy positions, legislative text and ideological statements. The software compares the chosen text (legislation) to other pre-analyzed similar text (Alla, et al., 2018; Lowe, 2008). I determined the body of comparable legislative text was insufficient to make adequate comparisons and derive useful results. To further explore the text and catch omissions, I used Adobe Acrobat Pro DC. It is possible to search all legislation for specific words and choose “stemming”. (Stemming finds words that have parts [the stem] of word specified in the search. For example, searching for “disability” also returns “disable”, “disabled”, “disabilities” and similar other words [Searching PDFs, n.d.]) The results include the line of text in which the word was found which may be saved as a PDF or comma separated values (.csv) file. The .csv file results can be sorted, filtered, and combined for specific concepts and analysis when saved as an Excel file.

Validity and reliability. Holsti (1969) addresses reliability and validity by emphasizing the importance of sampling and its dependence on its design. The sample must be “free of idiosyncrasies which may bias findings” (1969, p. 133). As discussed above, the sample design’s parameters are in keeping with the research questions and are drawn directly from the NCSL database. Different data are influenced by database structural changes and that another year has passed.

Simply, “validity concerns truths” Krippendorff (2003, p. 212) states. For content analysis to matter, to mean anything outside the scope of this study, the sampling design and reliability all linked together; one is not independent of the others (Neuendorf, 2001). This interworking is the content, i.e. the legislative text. It is important, Krippendorff (2003) counsels, that the analyst make sense of the data, recognizing “data are read by and make sense to others, and they [readers] proceed by reference to contexts of their own” (2003, p. 42). So, while I bring my bias, positionality and history to each phase of the research project, the choice of categories contributes to the success of building validity as Holsti (1969) suggests. The categories and divvying up the content among the them may contribute to, or weaken the results. Of the many types of validity that Holsti (1969), Krippendorff (2003), and Neuendorf (2001) describe are six kinds of validity: (a) face (the obvious or common truth), (b) social (the research findings are accepted because of their importance to “public discussion of important social concerns”[Krippendorff, 2003, p. 314]), (c) external (whether the study results may be generalized outside this study), (d) empirical (how the data/evidence contribute to the research process steps), (e) content (whether the measurement tool includes the components that make up the concept being measured), and (f) predictive (the ability of the measurement tool to predict future events for which evidence is unavailable). These were considered individually and in conjunction with one another.

For example, consider face validity and "structural racism". There is a long history of events demonstrating structural racism even before the deaths of Breonna Taylor, George Floyd, Ahmaud Arbery, and many more. Both the face and social validity

of structural racism are valid. The validity is derived from the public and current events. It is my hope that the results may be generalized, taken as a starting point of variables to measure, i.e. have external validity. To that end, content validity is central to the study, accomplished by the data sample, development of the categories, consideration of the context and audience, and multiple, careful (re)readings of the legislative texts.

One factor affecting a study's reliability, Holsti (1969) continues, is the quality and kind of data examined. In this case, because the data source is restricted solely to legislative text, this was not an issue. Key points to reliability also include the coder's capability, insight and experience. Addressed previously above (see "Outline of coding system and implementing coding procedures") and below ("Role of theory") is the development of categories. The quality and efficiency of data evaluation improved during the study's analysis because (re)reading and refined attention to the content and familiarity with legislative text and structure improved. What Holsti characterizes as "coding is essentially a mechanical task" (1969, p. 142), developed during the course of the study becoming more organic, i.e. more relevant and less formulaic.

Coding finding analyses. Hsieh and Shannon's (2005) article discusses three approaches to content: conventional, directed, and summative which may be used to interpret text. One qualitative content analysis process method describes the conventional approach in which codes are derived from the data (2005) as the text is read and (re)read. Codes are intended to answer the questions: who, what, when and how. The words and phrases are then sorted into themes. Those are grouped into "meaningful clusters" (Hsieh & Shannon, 2005, p. 3) or themes. Themes answer why, how, by what means, and in

what way. Definitions emerge from which an analyst makes specific inferences (Krippendorff, 2003). The findings are summarized and discussed in Chapter 5 as Hsieh and Shannon (2005) suggest using thick descriptions, i.e. “context so that a person outside the culture can make meaning of the behavior [as opposed to]: [t]hin description[s] stating facts without such meaning or significance” (Ray, 2011). In contrast, the directed content approach uses existing theory and/or previous research to develop the initial coding system. The coding scheme is amended as the coding continues, all of which contribute to and refine the existing theory. Rather than regarding the sample text as a whole, the third approach, summative, begins by identifying and looking at single words and includes interpreting latent content, and determining if any patterns emerge. This would provide “contextual meaning” (Hsieh & Shannon, 2005, p. 1286). The summative approach depends on credibility to demonstrate trustworthiness (2005).

Inferences. The researcher is guided by “if-then” statements, these “amount[ing] to ‘rules of inference’” (Krippendorff, 2003, p. 35). He details the types: deductive, inductive and abductive inferences (2003). I made inductive inferences moving from general to specific. Here the results are “similar kinds” (2003, p. 36) i.e. there is general agreement among the patterns the meaningful clusters that develop. The inferences have the “probability of being correct” (2003, p. 43), although according to Krippendorff (2003) not necessarily logically conclusive regarding the content’s interpretation.

Role of theory. The presence, or not, of the theory largely determines the type of content analysis applied to the content. It is important that the researcher(s) making

decisions consider the role of theory (Potter & Levine-Donnerstein, 1999). The research questions often presume or come to content analysis with a theory guiding the analysis and/or a evaluating the hypothesis. Directed content analysis is an appropriate choice where there is an existing theory or there has been prior research (1999). Ravitch & Riggan's discussion of conceptual framework (2017) states "frameworks [may be] fashioned by the researcher for the purposes of the study at hand" (2017, p. 12). The research questions' purpose is to focus on students with disabilities and racialization of disability. Disability studies (DS) is an inter- and multidisciplinary approach bringing various disciplines, e.g., the humanities, sciences and social sciences, together to explore models and theories that use political, economic, cultural, and social conditions coalescing to define disability. The field applies to both individuals and groups. Destigmatizing disease, impairment and illness not only for the measurable and visible (largely medical) aspects but also for the hidden disabilities drives disability study's inquiry (What is Disability Studies? | Society for Disability Studies, n.d.). Annamma, Connor, and Ferri's (2016) research has noted that critical race theory does find commonality with DS's components of sociology and interdisciplinary approach (Morfin, Perez, Parker, & Lynn, 2006) and commitment to social justice (Yosso & Solórzano, 2005). Few theories, however, examine how DS and CRT interact together Annamma, Connor, and Ferri (2016) observe. Both DS and CRT have contributed to this study but it is the integration of them via DisCrit that best serves addressing the research questions.

Summary

Using content analysis provided a highly structured plan from which decisions about how to connect the research questions began. The decision to use manifest content contributed to a fuller understanding of the words and phrases. Krippendorff wrote, “counting units of text . . . will always yield something, but this does not guarantee that the results will refer to anything” (2003, p. 35). Stone discussed numbers as “norms and symbols” (1997, p. 167) saying how a measure is interpreted is more important than how many there actually are (1997). Korstjens and Moser (2018) suggest strategies to ensure trustworthiness helping to make sure that “something” is actually “something”. All these authors caution the analyst, the researcher, to view, not only the pieces and parts. Applying the processes holistically brought the results beyond mere recording and counting to substantive concepts.

CHAPTER 4

Introduction

There are 77 legislative texts in this study having been written by 31 states. The legislation may be categorized into separate areas: evidence of disability, federal legislation, and workforce development. While other areas emerged, these may be the most pertinent to assisting developing policy most applicable to today's world. Following these areas, the representation of race and ethnicity will be discussed. As a group, the 77 texts benefited by grouping similar characteristics together.

Evidence of disability

Thirty-one states have legislation. (See Appendix G). The legislation covers many topics addressing specific disabilities from, Illinois', "Persons With Disabilities, H 4049", 2015; Wisconsin's, "Instructional Materials for Students With Disabilities, A 322", 2012; essential finance legislation e.g. Minnesota's, "State Finances, H 2749", 2016, and Arizona's "Arizona Disabilities Act and Income Tax Subtraction [and additions from AZ gross income], H 2214, Amending Sections", 2017. Nineteen states have no legislation matching the study's parameters. Much of the terminology used for specifying disability is very general in the legislation, most often referencing other statutes. For example, Arizona is very specific referring to disabilities, although it does so by referencing another statute (Arizona: 15-761 - Definitions [Arizona Revised Statutes Title 15. Education § 15-761], n.d.) (See Appendix H.) Iowa specifies "significant

disabilities”, stating in its appropriations of funds for the Vocational Rehabilitation Services Division

For [the] purposes of optimizing the job placement of individuals with disabilities, the division shall make its best efforts to work with community rehabilitation program providers for job placement and retention services for individuals with *significant disabilities* (emphasis added) and most *significant disabilities* (emphasis added). (Iowa Legislature: Chapter 1163 (SF2415), 2018, p. 4).

The scope of “significant” is not defined nor is the specific disability. Arizona’s “Education Omnibus, H 2190” (2016), on the other hand, references other legislation to define dyslexia saying it is a “child with a disability as defined in section 15-761” (2016, p. 29). Later in the legislation, dyslexia is defined as a “brain-based learning difference that impairs a person's ability to read and spell, that is independent of intelligence and that typically causes a person to read at levels lower than expected” (2016, p. 29).

Establishing reporting requirements is one goal for California’s, “Public Postsecondary Education: Reporting Requirements, A 1182” (2009). It includes establishing common definitions and “uniform formats” for students with disabilities (2009, p. 5). A medical basis is established in the Rehabilitation Act of 1973 and Americans with Disabilities Act of 1990 (ADA) use the common characteristics of “(1) has a physical or mental impairment that substantially limits one or more ‘major life activities,’ (2) has a record of such an impairment, or (3) is regarded as having such an impairment” (Frequently asked questions - general | U.S. Department of Labor, n.d.). An “impairment” is, for example, an immune and/or special sense organs disorder or condition. A major life activity may include “caring for oneself” in terms of “major life activities”, e.g. “musculoskeletal, . . . normal cell growth” (Questions and answers on the

final rule implementing the ADA Amendments Act of 2008, n.d.). Medically, impairment, disorder, and condition are implicitly deficit. As deficit, (ab)normal is synonymous. The ADA specifies once hired, an employer may require a medical examination related to job performance or safety issues verified by documentation to be granted any accommodations. Comparably, a student seeking admission may not be asked if they have a disability but are required to prove a disability to access disability services and accommodations. Higher education offices of disability services generally require documentation of a disability for any kind of accommodation or admittance to a program such as Arkansas's Building Better Futures Program (Bill Resource: Amend provisions of the Arkansas code concerning the Building Better Futures Program and the Building Better Futures High School Program, 2017, p. 6). Rhode Island uses "normal" referring to students who are "within the age range . . . for elementary and secondary education, who is functionally limited to such an extent that *normal* educational growth and development [emphasis added] is prevented" (Bill Resource: Rhode Island, Chapter 173, 2016 -- S 2391 Substitute A, enacted 06/28/2016, An Act Relating to Education, 2016, p. 1; Bill Resource: Rhode Island, Chapter 185, 2016 -- H 7050 Substitute A, An act relating to education, 2016, p. 1). "Normal" is not defined; it is equated to being "able". The reference to "normal" is a hallmark of the medical model of disability and represents, fully, an "ableist" point of view. Fiona Campbell, studies in ableism (SIA) scholar, submits that "an ableist orientation is a belief that impairment or disability is *inherently* [emphasis in original] negative and at its essence is a form of harm in need of amelioration, cure or indeed exculpation" (2013, p. 6).

A social vs. medical approach to regarding educational achievement assessment is used by Florida's Senate Bill 1908 (2008). Florida requires educational achievement assessment "include universal design principles and accessibility standards that will prevent any unintended obstacles for students with disabilities while ensuring the validity and reliability of the test" (2008, p. 36). The social model "depathologizes disability by focusing on the social environment rather than internal ailments or injuries (Evans, Broido, Brown, & Wilke, 2017, p. 63). Only Florida has legislation, "Senate Bill 1908" (2008). that seems to see disability differently from the medical model. Elsewhere in that Florida legislation, forming a school advisory council requires "business and community citizens who are representative of the ethnic, racial, and economic community served by the school" (2008, p. 13). The legislation specifies a balanced broad group that is more inclusive, encompassing various social groups, not limited to education professionals.

The Washington, "Student Groups Achievement, H 3212", (2008), legislation recognizes students as diverse groups of learners and individuals needing research-based practices focusing on diversity including gender, race, ethnicity, economic and "special needs" students as well as those with disabilities. While much of the emphasis is on the primary and middle grades, secondary students are included in school-to-work transition programs and promoting life-long learners. The legislation goes on to focus on developing community involvement and outreach that could form a relationship between higher education, the school-to-work transition programs, and implementation of research. The second part of the legislation creates the position of an "education ombudsman". This person would provide extensive outreach to many members of the

learning community including the state parent teacher association, parents who don't have a history of involvement with their children's education, parents of special education students, and English language learners (2008).

Federal legislation

Four legislative acts underlie state legislation: the "Rehabilitation Act of 1973" (Rehab Act), "American Disabilities Act of 1990" (ADA) (and the "ADA Amendments Act, 2008" (ADA(AA)) mitigated some Supreme Court decisions interpretations of the ADA), and the "Individuals with Disabilities Education Act" (IDEA). Eleven legislative items reference the Rehab Act, eight reference ADA(AA). Finally, only three statutes include reference to both Rehab Act and ADA(AA). (See Appendix I.) States that reference the Americans with Disabilities Act and the Rehabilitation Act of 1973, see Appendix J, Individuals with Disabilities Education Act (IDEA), and Individualized Education Programs (IEP) Legislation.

The "Rehabilitation Act of 1973" (Rehab Act) and ADA(AA) apply to only adults; IDEA applies to PK12 students. I have included IDEA because 19 statutes use it to reference, define or base higher education program participation on IDEA requirements. The Individualized Education Program (IEP) derives from IDEA. (It is important to note, however, that overall IDEA/IEP documentation often is insufficient to meet a postsecondary schools' documentation requirements. Higher education institutions differ as to the type of documentation required to access disability services.) The IEP specifies program requirements detailing support, accommodations and help to which students are entitled. Once a student graduates from high school, or turns 21 or 23

(depending on the program), they lose IDEA coverage. The ADA/(AA) and/or Rehab Act now apply to any accommodations s/he/they may require. Twenty-two statutes include IEPs either separately or in conjunction with the ADA/(AA) to reference disabilities, or to qualify students for higher education accommodations. Only three statutes include and/or reference the Rehab Act. Sixty-seven statutes reference neither IDEA or IEPs in the legislative text. There may be a variety of reasons that IDEA/IEPs are not included in the legislation. For example, the “California, Public Postsecondary Education: Reporting Requirements CA A 1182”, (2009), is specifically about biennial reporting on state-funded services including campus-by-campus enrollment, retention, transition, graduation rates including categorical funding of those programs. While pertaining to higher education students with disabilities, the focus is not on students qualifying for or participation for assistance and/or programs.

State Legislation

Scholarships

Seven legislative items provide scholarships for students. Two such statutes are from Oklahoma “Lindsey Nicole Henry Scholarships for Students with Disabilities Program Act, H 3090”, (2012) and “Lindsey Nicole Henry Scholarships, S 301”, (2017). The scholarship remains in force until the student returns to a public school, graduates from high school or reaches the age of 22, whichever occurs first. A specific disability is not specified. Students may attend private school of choice for students qualified with IEP under IDEA. Instructors are required to have a baccalaureate degree or three years of experience. A Special Education Statewide Cooperative Task Force (Oklahoma: Bill

information, H 3090, 2012, p. 13), has various membership representation including those employing, those working with and representing students with disability, higher education disability coordinator and a technology school district representative, all of whom are appointed by the Governor. The second statute pertains more to qualifying for scholarship participation, finance and governance of the school. New Mexico's "Disabilities Students Lottery Scholarships, S 179", (2019), allows certain students with disabilities to receive legislative lottery tuition scholarships for higher education. It spells out "qualified" as in school and student. The disability type is not specified. The student is required to attend "full time" with some exceptions to what "full time" means that are deemed as reasonable and appropriate, based on student's disability needs (Bill Resource: New Mexico, Chapter No. 33, SB 179, Relating to higher education; allowing certain students with disabilities to receive legislative lottery tuition scholarships, 2019). This is decided by a department (not specified at which level the department exists), the student and the public higher education disability services office. Notably, it includes the student and their immediate support providers (those most familiar with the student's needs), and the institution's disability services (2019). Utah's "Carson Smith Scholarship Amendments, SB 153" (2018) is for students with disabilities to attend private school. Included in the legislative is the requirement that instructors are required to hold a BA or higher degree, have previous experience, and "have the necessary special skills, knowledge, or expertise that qualifies them to provide instruction . . . to the special needs students taught" (2018, p. 6).

Delaware, HB 326, “Advance Scholarship Program” (2018) is focused on individuals with developmental disabilities. These students don't have the same opportunities, the legislation notes, so the focus is to give them the opportunity to have a higher education experience. The stated purpose is largely to become more self-sufficient and independent as well as being less reliant on the state for support (2018). To further the financial independence and for students not to be encumbered by finances, a plus of the program is that payments made to the higher education institutions are grants to the students; the awards are not loans.

The Arizona, “School Tuition Organizations, H 2328” (2014) legislation enacted later than the two Empowerment Scholarship Account legislative items, also qualifies students for its program via Section 504 of the Rehabilitation Act of 1973. A student may also qualify by having been in the program previously including those who may have been in foster care.

Adult education

Maine (“Adult Learner Career Pathways, S 617”, [2012]), New York (“Referrals To State Adult Service Agencies, S 1692”, (2017)) and Minnesota (“State Finances, H 2749”, (2016)) address aspects of adult education although not specifically in, or to the higher education institution setting. The Maine legislative text reworded the definition of “Adult learners with disabilities” (2012, p. 2) from a deficit implication in which the

program focuses on individuals who cannot benefit from a regularly scheduled adult education course [emphasis added] because of a disability and are found . . . to be capable of benefiting from a course for adult learners with disabilities designed to help adults learn basic life skills [emphasis added] through practical instruction related to their needs and goals (2012, p. 2)

to students qualifying under IDEA (who have not received a regular high school diploma), Rehab Act or ADA not yet aged 16 through 20. The definition for “adult education” is amended to language that contains no negative connotations. It is one of the few programs not restricted to serving only adults younger than 26, the highest age referenced in other legislation in the study. Here, adult education is primarily for those over the “compulsory school age” (2012, p. 2) and must include at a minimum three of the following: “basic literacy instruction or instruction in English as a second language, high school completion courses, college transition courses; career pathways services; and enrichment courses” (2012, p. 2). Other programs include, all adult learners career pathways services, adult workforce training, career and retraining, and technical education. Funding is also included for state administration of education programs, support for volunteers, literacy and professional development, software and data collection (2012).

The New York program, “Referrals To State Adult Service Agencies, S 1692”, (2017), is restricted to students who are younger than 19 and in residential programs by various committees or multidisciplinary teams charged with making recommendation to a state agency that determines and then recommends the level of adult services. While disability is not defined or listed, one member of the team making recommendation is a representative of a developmental disability department. The legislation assumes only developmental disabilities, not other disabilities like those with quadriplegia (Bill Resource: New York, referrals to state adult service agencies, 2017).

The Minnesota, 2016, “State Finances, H 2749” statute, is very broad ranging. There are 35 articles in the legislation. Some of the articles are directly related to higher education and students with disabilities, e.g. higher education, state departments and veterans, teachers, and self-sufficiency and lifelong learning. Other legislative articles deal with education in general including education excellence, special education, early childhood education, general education, charter schools, and also technology such as facilities and broadband. Equity, and chemical and mental health services are two additional articles in the legislation all of which, arguably, apply to the research questions as the relationships range from a young child's education through the adult life-long learning, and self-sufficiency through mental health. Equity of, and through state policy, education, facilities, and technology spans race and socio-economic levels (Bill Resource: Minnesota, state finance, Chapter 189--H.F. No. 2749, 2016).

Items specifically addressed in Minnesota’s wide range of amendments and additions, and in the original text itself, is aid to students. This aid is directly related to IDEA and the IEP requirements. As per IEPs, no later than 9th grade students participate in future planning of transitioning to postsecondary activities be they higher education, career training and/or joining the workforce directly. To this end, school districts must facilitate the exploration of educational, college and career interests, and student's aptitudes for students with intellectual disabilities enrolled in comprehensive transition and postsecondary programs meet standards approved by the Office of Higher Education (Bill Resource: Minnesota, state finance, Chapter 189--H.F. No. 2749, 2016).

Arizona, “Schools and Reading Disability Screening, S 1461”, (Arizona-2015-SB1461- chaptered, 2015), legislation’s relation to postsecondary students with disabilities is present in two aspects although not specifically stated as such. As a few other states do, Arizona includes training for educators specifically for students with disabilities. One aspect here is that training for certificated teachers and administrators (e.g. screening, intervention, accommodations for students, using technology, and advocating for students with dyslexia training) may count the coursework for continuing education credits. Arizona does define one disability, dyslexia, here. Dyslexia is specifically defined as “mean[ing] a brain-based learning difference that impairs a person's ability to read and spell, that is independent of intelligence and that typically causes a person to read at levels lower than expected” (Arizona-2015-SB1461- chaptered, 2015, p. 2). While the legislation concentrates on primary grade levels, specifically, third grade students, the knowledge and skills are applicable to all grade levels. Strategies for improving reading competency for intervention and remediation developed by the state board of education include summer school, intensive reading instruction at various times of the day and online reading instruction. The student in a special education program may have these options among others in her/his/their IEP.

The second point refers to students ages between sixteen and twenty-one not being denied admittance to high school even though the person does not “hold” a certificate from eighth grade. Students would have the opportunity to complete high school and go on to experiences after secondary school be they higher education and/or work (Arizona-2015-SB1461- chaptered, 2015). The legislation states there is a “good

cause exemption [to grade promotion] if the pupil is an English learner or a limited English proficient student . . . and has had fewer than two years of English language instruction” (2015, p. 1). The student participating in the special education program may include a specification that a parent/guardian may agree with the IEP team that grade promotion is the correct course to take. Recourse is available should parent/guardian disagree. For the English language learner, neither consultation nor additional support is included in this legislation although it may be present in other Arizona legislation (2015).

Another extensive statute is Illinois’, “GED Testing and Certificates, H 4336”, (Bill Status of HB 4336 98th General Assembly, ILC S1315, 1510, 2014). The part referring specifically to IDEA “Sec[tion] 26-2. Enrolled pupils below 7 or over 17 [years]” (Bill Status of HB 4336 98th General Assembly, ILC S1315, 1510, 2014, p. 37). Parents/ guardians, specifically, “any person having custody or control of a child [less than 7 or older than 17] . . . and enrolled . . . in kindergarten through 12” (2014, p. 37). will be denied reenrollment, if the child has dropped out and is older than 19 (among other specifications). Reenrollment may be denied for just one semester for those between 17 and 19 years old except for students who are covered under IDEA or ADA (Bill Status of HB 4336 98th General Assembly, ILC S1315, 1510, 2014). The exception for students with disabilities may be applied to all covered students. Students without disabilities are not provided the same latitude to reattend high school and potentially graduate.

Accessibility is the key focus of Wisconsin’s “Instructional Materials for Students With Disabilities, A 322”, (Wisconsin, Assembly bill 322, 2012) legislation. It sets out

procedures used to meet instructional materials needs of students with disabilities.

Procuring resources is done through a disability services office as per the ADA or the Rehab Act. The student must document her/his/their disability, visually impaired or blindness. The definition also includes those with a specific learning disability as well as other physical conditions that preclude use of required instructional material in a standard print format (2012).

Transition

Two Massachusetts statutes, (“Disabled Students, S 285”, (Session Law - Acts of 2008 Chapter 285, the 191st General Court of the Commonwealth of Massachusetts, 2008), and “University Students With Disabilities, H 3720”, (Massachusetts: Bill H 3720, 2012)) include a student’s planning and transition process as required by her/his/their IEP. The 2008 legislation extends the opportunity for student participation to age 14 as appropriate for the situation (Session Law - Acts of 2008 Chapter 285, the 191st General Court of the Commonwealth of Massachusetts, 2008). The “University Students with Disabilities” legislation discusses transition services, rules developed for a specialist teacher endorsement in this area, and development of regulations by the elementary and secondary education [school] boards (Massachusetts: Bill H 3720, 2012). Disability is not defined in either legislative texts. The IDEA federal legislation requires participation among the IEP Team, parent(s) and student. The student, if older than 16, is required to participate. The statute does allow younger students (14 year olds) to attend the meeting as deemed appropriate.

Arkansas's, Building Better Futures Program, H 1308, (Bill Resource: Amend provisions of the Arkansas code concerning the Building Better Futures Program and the Building Better Futures High School Program, 2017) is present in both secondary and postsecondary settings. The program's purpose affords students with intellectual disabilities the opportunity to extend career potential through education and job training. This is done in inclusive and age-appropriate settings. Inclusive is not defined in the legislative text nor are the specifications for an intellectual disability. One may presume, as with other institutions' programs, that the students are in traditional classrooms and programs. The postsecondary program must be accredited by the Higher Learning Commission of the North Central Association of Colleges and Schools. As a comprehensive transition and postsecondary program (CTP), it must also have the approval of the United States Department of Education. The student must be both an Arkansas resident and a US citizen or lawful permanent resident. Delaware, Kentucky, and Minnesota (mentioned above) also have comprehensive transition postsecondary programs. The program may be degree or nondegree, and/or certificate or noncertificate. It is for students with an intellectual disability. The disability is characterized by significant limitations to intellectual and cognitive functioning as well as age appropriate, adaptive behaviors such as "every day skills and tasks" to manage for themselves, i.e. independent living skills (34 CFR § 668.231 - Definitions, 2017). Additionally, the definition includes the specification that the student

who is currently, or was formerly, eligible for special education and related services under the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. 1401), including a student who was determined eligible for special education or related services under the IDEA but was home-schooled or attended private school (2017)

Again, the importance of IDEA, the PK-12 federal legislation is a key component to students' with disabilities higher education program participation. The descriptor "developmental" is used as well as cognitive and intellectual disability. A comprehensive transition postsecondary program includes advising and curriculum development. The institution determines at least one half of the student's participation with a focus on academic components by any one or more of the following with students with and without disabilities: auditing a class whether credit bearing or non-credit and/or participating in internships or work-based training (2017). The focus is on active, authentic experiences with students who do not have disabilities whether they are in class, on campus or living arrangements. The majority of Delaware's, HB 326, "Advance Scholarship Program" (2018) is duplicated from the Code of Federal Regulations, 34 CFR § 668.232 - Program eligibility statute (2010).

The Kentucky legislation (Bill Resource: Kentucky, An act relating to postsecondary financial aid for students with intellectual disabilities, HB 158, 2016) specifically applies to financial aid for students with intellectual disabilities. Eligible students for the "Kentucky Educational Excellence Scholarship" (2016, p. 1) may qualify by having received an alternative high school diploma, or attended a Kentucky public high school and enrolled in a CTP program in a state higher education institution. The 2016 legislation specified a scholarship of \$500 for enrolling in at least six hours each academic term. The student may qualify for the scholarship for eight academic terms only. This legislation does not address the student's future independence, career potential or job training. The lengthy Minnesota (Bill Resource: Minnesota, state finance, Chapter

189--H.F. No. 2749, 2016) statute defines "satisfactory academic progress" the same as Code of Federal Regulations, title 34, sections 668.16(e), 668.32(f), and 668.34,

except that a student with an intellectual disability . . . enrolled in an approved CTP . . . is subject to [that] institution's published satisfactory academic process standards for that program as approved by the [Minnesota] Office of Higher Education (2016, p. 5).

The last two statutes are smaller parts of statutes that encompass broader purposes, and further rules and regulations. Each of these are more focused on smaller details. The Minnesota legislation does not link performance with any other specification or consequence.

Workforce

Delaware, HB 326, "Advance Scholarship Program" (2018) is also focused on individuals with developmental disabilities but also has a workforce component noting those with a "college credential will promote their economic self-sufficiency and result in demonstrable economic benefits to the State in the form of a more diverse, well-prepared workforce that is less reliant on government" (2018, p. 1). Illinois, in this particular legislation, focuses efforts on supporting persons with developmental disabilities with a "stable, well-trained direct support workforce [that] is critical to the well-being of these individuals [persons with developmental disabilities]" (Illinois, Public Act 099-0143, House Bill 4049, 2015, p. 115) referring to direct support of caretakers. The recognition to support those caretakers contributes to the well-being of each party. Maine's "Adult Learner Career Pathways, An Act To Enhance Career Pathways for Adult Learners, S 617", (2012) includes a specific section of workforce training and retraining. The legislation specifically includes those with disabilities. Four different groups of learners

are addressed: preparatory learners, supplemental learners, certificate learners and those pursuing career pathways. From learning new skills, related to any employment or “wage-earning” activity, to credential programs, importantly here, for adult learners, a participant’s age does not exclude her/him/them from taking part (2012).

The Day Training and Habilitation Grant Program Minnesota has established in its “State Finances, H 2749”, (2016), legislation is to ensure those with disabilities have choices for “competitive, meaningful, and sustained employment in the most integrated setting” (2016, p. 102). This legislation begins with creating a commissioner of employment and development. Unlike much other legislation that creates task force-like divisions, this legislation does not specify task force membership. The training providers include those approved by community rehabilitation suppliers, and centers for independent living. Community and business partnerships, both public and private, are to be included in policy implementation and development of “employment outcomes” (2016, p. 102). The Fair Labor Standards Act is cited specifying employment pay at least minimum wage and in keeping with non-discrimination standards; employees will receive the “level of benefits paid by the employer for the same or similar work performed by workers without a disability” (2016, p. 102).

Disability specific

The Kentucky, “Act Relating to Autism Spectrum Disorders, SB 185, 16 RS” (2016) has created two councils: Advisory Council on Autism Spectrum Disorders and the Commonwealth Council on Developmental Disabilities (Bill Resource: Kentucky, An act relating to autism spectrum disorders, S 185, 2016) and both are under the auspices of

the Office of Autism. Both councils include persons with autism, and developmental and intellectual disabilities, respectively. The act, for the most part, delineates the councils' members. The intention is to strengthen collaboration among the local, regional and state-level groups as each coordinates with families, those self-advocating and support groups, and state agencies. There is an emphasis on systemic change, change based on evidence-based practices regarding early screening and identification, early intervention, and standards of care not only for youth but throughout the individual's lifetime.

Additionally, the act includes the goal of "planning for future workforce development" (2016, p. 3).

Appointed by the governor, the Ohio, "Opportunities for Residents with Disabilities, S 144, [cognitive disability]", (2018) replaced the "Opportunities for Ohioans with Disabilities" legislation. The Council members include an individual representing a parent training and information center as per IDEA (Statute and Regulations (IDEA), n.d., p. 2). A majority of the members of the council must be individuals with disabilities who are not employed by the Opportunities for Ohioans with Disabilities Agency. Council members included are a vocational counselor, business person, attorney, vocational rehabilitation services, secondary or higher education representative, an individual advocate on behalf of those with physical, cognitive, sensory, or mental disabilities, and a representative from the Department of Education. These agencies and individuals are to collaborate with the governor's office of workforce transformation. Part of their charge is to examine how eligibility is determined, how effective in scope services are. Following a review of the state goals and priorities

regarding vocational rehabilitation and their impact, the group will make recommendations. Besides the collaborative efforts, the council will conduct a program evaluation of those served by vocational rehabilitation programs. The effectiveness of services of the various organizations and employment outcomes will be assessed through a yearly report. In addition to the collaboration, coordinating with other entities to increase the number of those receiving vocational rehabilitation services is included. Broadly, the charge is to perform other duties consistent with RA1973 thus the vocational focus.

It is interesting that the legislation specifies the office can't interfere with election for a partisan political purpose" (Bill Resource: Ohio, Opportunities for Residents with Disabilities, S 144, 2018, p. 7). No rationale is given for this specification. Other measures are included, e.g. firefighter and fire safety inspector training committee which is about half of the bill's content.

General legislation/Other

The Maine Proficiency Education Council made recommendations that were codified in the "Accreditation Standards Status: Enacted - Act No. 489, S 660", 2015, addressing concerns proficiency in content areas via a "system of learning results" (Maine, Title 20-A: education, part 3: elementary and secondary education, Chapter 222: standards and assessment of student performance, 2020). These apply to kindergarten through 12th grade and may include "a core of standards". The legislation acknowledged that "[t]he system must be adapted to accommodate children with disabilities" (2020, p. 5). The student with disabilities may earn a diploma by demonstrating proficiency in the

state standards in a number of pathways with multiple types of evidence consistent with her/his/their IEP standards (Bill Resource: Maine, An act to implement certain recommendations of the Maine Proficiency Education Council, 2016, p. 2). Earning the diploma would demonstrate postsecondary readiness as well as an official credential for employment.

Maine's 2014 Veterans' Services Laws (126th Maine Legislature, Second regular session, an act to amend the veterans' services laws, 2014) also addresses proficiency, as above, specifying that students "must be allowed to demonstrate proficiency by presenting multiple types of evidence, including but not limited to teacher-designed or student-designed assessments, portfolios, performance, exhibitions, projects and community service" (2014, p. 32). This focus on being able to demonstrate proficiency, in many ways, is indicative of some effect of the social model. That is, success is not measured by one static method such as multiple choice questions.

Arkansas has one of two statutes in the study restricting corporal punishment on a child with disabilities, "Corporal punishment, S 381", (Arkansas, SB381 as engrossed on 03-07-2019 10:26:14, 2019). Teachers and administrators may administrate corporal punishment according to the district's policy. They are immune from civil liability if the school district's written rules in the student discipline policy are followed. They are not immune from civil liability, however, if administrator or teachers use corporal punishment on "*intellectually disabled, non-ambulatory, non-verbal, or autistic* [emphasis in original] (2019, p. 2).

Mississippi, “Corporal punishment, H 1182” (2019) legislation amended section 37-11-57, Mississippi code of 1972, which prohibited the use of corporal punishment in public schools to discipline a student. A teacher, assistant teacher, principal, and/or assistant principal are not liable for that action unless excessive force or cruel and unusual punishment (neither are defined) was used. Reasonable “corporal punishment” (also undefined), physical force to maintain discipline, enforce school rule, self-protection or protection of other students from disruptive students is permitted (Bill Resource: Mississippi, corporal punishment, H 1182, 2019, p. 2). However, public school teacher, assistant teacher, principal, assistant principal or other school personnel are prohibited from using corporal punishment on any student with a disability. There is no immunity. A "student with a disability" is one with an individualized education plan or Section 504 plan. One or both assures appropriate accommodations are received (Section 504, Rehabilitation Act of 1973, (29 U.S.C. § 701), 1973).

Utah, “Special Education Amendments, H 317” (2018) legislation makes a few changes that include the wording on ages of students and the definition of blind. The State Board of Education is responsible for students with disabilities entitled to a free, appropriate public education (FAPE) as described in Section 53E-7-202 (2019); in the custody of an equivalent agency of a Native American tribe; being held in a juvenile detention facility, state legislature separate budgets categories for those in custody or under jurisdiction of various state agencies (the Division of Substance Abuse and Mental Health; and the Division of Services for People with Disabilities) (Bill Resource: Utah, special education amendments, 317, 2018, p. 2). All students with disabilities, who are

between the ages of three and 22 years old, but younger than 22 years old and have not graduated from high school with a regular diploma, are entitled to FAPE the same as the IDEA specifications (Section 1412 (a) (1) - Individuals with Disabilities Education Act, 2019). The changes in definition extends the qualifying age from “through 21” to “but younger than 22” (2018, p. 4). "Functional blindness" is defined as a “visual impairment that renders a student unable to read or write print at a level commensurate with the student's cognitive abilities” (2018, p. 4). It is notable here, as with much other legislation, that services end after the student reaches 22 or age 21 at the end of the academic year.

Utah, “Student Support Amendments, H 373”, (2019), focuses on mental health. The bill amends provisions related to student support and health services. The State Board of Education is authorized to distribute money to local education agencies (LEA) s as per formula to be developed. Amounts appropriated are detailed. One change was the name of the School Safety and Crisis Line to the SafeUT Crisis Line however grant program repealed. The SafeUT Crisis Line however does set up the University Neuropsychiatric Institute to charge a fee for the use of the SafeUT Crisis Line to those other than State Board of Education or a local education agencies. The legislation enacts other provisions related to student mental health support.

The Utah Schools for the Deaf and the Blind is included with other definitions as opposed to the Utah, “Education Reporting Requirements” (2019) where the council developed a program to fulfill some purpose. The LEA governing board duties include informing and promoting awareness. The commission is to coordinate and a charge fee

for the SafeUT Crisis Line. The legislation applies to primary and secondary grades including wide-ranging standards and procedures for the development of remedial discipline plans for students who cause a disruption in the classroom, on school grounds, on school vehicles, and/or in connection with school-related activities or events (2019).

Arizona's, "Arizona Disabilities Act and Income Tax Subtraction [and additions from AZ gross income], Amending Sections, H 2214", (2017), legislation emphasizes tax credits on gross income for costs/expenditures related to 529 College Savings Plans that benefit donors tax-wise. The contributions may be applied to costs going towards meeting ADA requirements, credit for providing qualified interpreters, and for providing other methods of accommodations to hearing-impaired persons. The focus is on audio accommodations, although also a tax credit for visual accommodations is acceptable. However, if the contributor has ADA violations, there are no tax credits (2017).

The Iowa, "Student Aid Funding And Operation, FY 2018-2019 appropriations department for the blind, S 2415" (Iowa Legislature: Chapter 1163 (SF2415), 2018) focuses on (a) Department for the Blind, (b) the College Student Aid Commission, (c) Department of Education (as opposed to many states, this department also oversees Career and Technical Education Administration, Vocational Rehabilitation Services Division, a Postsecondary Summer Classes Program for High School Students, and Community Colleges), (d) State Board of Regents (oversees State University Of Iowa, University Of Northern Iowa, State School for the Deaf, and Iowa Braille and Sight Saving institutions), (e) Workforce Training Programs, and (f) renovations to comply with ADA. In the Vocational Rehabilitation Services Division, the persons specifically

addressed are those with “significant disabilities and most significant disabilities” (2018, p. 4) although “significant” and “severe” are not defined. To function more independently, “persons with severe physical or mental disabilities” (2018, p. 4) are included in the appropriation for salaries and support not to exceed one full-time equivalency position. Money is appropriated for a broad range of uses, mostly focusing on secondary and postsecondary students.

Florida “Postsecondary Education, H 7237”, (2010) legislation calls for the creation of a Higher Education Coordinating Council. Whereas many other states’ task forces include a person with disabilities and/or their representatives on the task forces’ board, this legislation does not. This task force is “committed to developing and enhancing world class workforce infrastructure necessary for Florida's citizens to compete and prosper in the ever-changing economy of the 21st century” (2010, p. 26) a goal reiterated in many states’ policies.

Race/Ethnicity

The third research question asks “How is disability racialized in state higher education policy”? What does racialization mean? The following will query the legislative text attempting, in Chapter 5, to draw insights and entertain policy possibilities.

I looked for many words that may represent race in the legislation including, African American/Black, English Language Learner, Ethnicity, Hispanic, Indian/American Indian, Latino, Native Americans/N[ative] Hawaiian/Alaska N[ative] , Race, Tribal, and White. These appeared in 20 different legislative items (Appendix K).

Reiterating Krippendorff's statement that just because one can count a word or phrase does not indicate that it means something (2003). On the other hand, Stone notes, "one common way to define a policy problem is to measure it" (1997, p. 163). A story can be told, Stone notes as she makes four points about "hidden stories in numbers". The four assertions she makes are, first, phenomenon at least need to be frequent enough to bother counting; second, that the thing (in this study, words/phrases and legislation) are identifiable and have clear boundaries (albeit, marginally on occasion); third, a community is formed as "shared characteristics or problems among individuals [are drawn] into a group" (1997, p. 174), and fourth, solving a conflict may occur via arithmetic much in the same way information results from data.

I will point out the presence (or not) of terms and terminology having to do with race and ethnicity as synonymous words. A nuanced discussion of the differences and similarities of race and ethnicity would add further depth to the dialog but would require greater context of the social, political, and cultural intricacies of the words' meanings. There are 19 different legislative items from 10 states (Arizona, Arkansas, Florida, Illinois, Iowa, Louisiana, Minnesota, Utah, Virginia, and Washington). Nineteen states had no legislation that matched the criteria for selection. It is here an extensive context would assist inferences. Chapter 5 attempts to advance those inferences that may inform policymakers' thoughts toward developing actionable legislation, legislation that would be in service of, specifically higher education students of color with disabilities, and equitable education outcomes. Arguably, the resulting legislation would benefit all students.

A second aspect of this analysis are three federal legislative items that underpin states' legislative foundations. These are the Rehabilitation Act of 1973 (RA1973) most specifically Section 504 and Section 508, the Americans with Disabilities Act of 1990 (as amended with ADA Amendments Act of 2008) (ADAAA), and the Individuals with Disabilities Education Act (IDEA). Inexorably connected to the federal legislation are the models of disability. In this analysis, two models of disability, medical and social, are applied to classify the legislation. Unquestionably, a binary distillation of dozens of models (Evans, Broido, Brown, & Wilke, 2017) the one or the other (and occasionally both) are useful as one might develop alternatives to existing legislation. More often than not, disability is not defined in state legislation. Without describing any of the federal policies, note that when they are included a default medical model is being applied. Finally, DisCrit as a theoretical launching point for decision making and activism may (re)center a legislative starting point.

Terminology

I looked for many words that may have represented race in the legislation including, race, African American, American, black, English language learner, ethnic, ethnicity, Hispanic, Indian, Indian nation, indigenous American, Latina, Latino, Latinx, native American, race, and white. A word search through the legislative texts resulted in 12 documents that included “race”, 12 including “ethnicity”, and five each of “Hispanic”, “Latino”, “African American”, and “black”. There were overlapping race and ethnicity statutes. African American, black, Hispanic and Latino overlap some. The occurrences of African American and black were identical, matching text for text. Therefore, these two

terms were combined as one. There were no occurrences of Latina or Latinx. I did not look for nor discriminate between black or Black. I did search for “white” as a term making the assumption that white is the default.

Summary

The legislative texts that met the query parameters yielded 95 items. Of these 95, 77 texts qualified for analysis after a second set of parameters were applied. Each statute had to include some mention of higher and/or postsecondary education, and disability. The role of higher education varied from simply collecting data, and providing physical space, to program innovation and a focus on economic support and growth. The role of disability in the legislation varied from being the core issue of equity and education, to a means to distribute money to private schools.

Federal legislation’s effect on the state legislation was present throughout much of the state legislation even if it was not explicitly stated in the text. The reach of the federal acts affected students of all ages. The Individuals with Disabilities Education Act applies specifically to those aged 3–21. Some states extended benefits to students aged 22. The Achieving a Better Life Act (ABLE) (Vermont, Bill status S.138 (Act 51), 2015) works with those whose disability onset is up to age 26. There is a huge epistemological gap, that is, a gap of knowing between students exiting from IDEA jurisdiction to that of the ADA.

Whereas all 77 legislative texts addressed the role of higher education and disability regarding the student and state legislation, race and ethnicity (expressed as color and indigenous status via location, Appendix K) appeared in 26 legislative texts.

For the most part, race/ethnicity appeared in the context of one large group, e.g. “Asian, Black or African American, Hispanic or Latino, Native Hawaiian or Other Pacific Islander” (Appendix L), “race or ethnicity, by education level within gender, and by race or ethnicity “, or even more generally combined with other groups “discrimination based on race, color, religion, sex, creed, ancestry, national origin, or physical or mental disability handicap”. Phrases referring to either group included “without regard to . . .”, “discrimination against students and employees in . . . public education system prohibited; equality of access required” (Florida, A bill to be entitled an act relating to postsecondary education, 2010), “discriminate on the basis of . . . “, and other phrases that included “discrimination”. Overt racism or racialization of students with disabilities was not present.

CHAPTER 5

Introduction

The study regarded nation-wide state level enacted legislation from 2008–2019 pertaining to postsecondary students with disabilities. During the analysis of 77 legislative texts, answers to the research questions pointed to the importance of the federal acts underlying the state statutes, the deficit construction of disability by lawmakers and educational institutions alike, and the importance of workforce development employment. These categories will be summarized below. The third research question queried the racialization of disability in the legislation. Racialization is the concept “refer[ing] to the processes by which a group of people [are] defined by their ‘race’” (Race, racialization and racism, 2020; Schaefer, 2008) Racial issues are very present in society today, however evidence of more than cursory attention to race is elusive in the legislation.

Federal legislation

The first category included three federal acts: Rehabilitation Act of 1973 (RA1973), Americans with Disabilities Act of 1990 (ADA), and Individuals with Disabilities Education Act of 1990 (IDEA). The ADA and RA1973 apply to adults as opposed to IDEA which applies to children with disabilities ages 3 through 21 (Statute and regulations (IDEA), n.d.) or high school graduates. The differences and

consequences between the legislation are significant and impactful to personal, education, career and professional, and societal goals.

Disability

Seventy-seven state legislative texts that specifically addressed disability and higher education were examined. Of the 50 states, 31 states had statutes. Over half, 41, of the legislative texts studied did not mention any of the disabilities included in the study (autism, blindness, cognitive/intellectual/developmental disability, deafness, dyslexia, emotional/mental [including PTSD], non-ambulatory, non-verbal/nonverbal, and specific learning disability) in their content. Thirty-five states do not define disability. A deficit view of disability suffuses the requirements for disability program participation. Those requiring accommodations are required to document a disability, submitting the request and documentation that may or may not be granted. Additionally, many of the texts associate “suffer” with a disability.

Race/Ethnicity, an emergent category

The third research question, racialization of disabilities in higher education, was difficult to pinpoint. The words and phrases: African American/Black, Asian, English Language Learner, Ethnicity, Hispanic, Indian/American Indian, Latino, Native Americans/Native Hawaiian/Alaska Native , Race, Tribal, and White (Appendix K) appeared in various legislation. These designations were used in 10 states in 24 legislative texts. White, referring to race, was the most infrequently used appearing in four different statutes as was English language learners. Race and ethnicity were the most commonly used words in referring to groupings of people.

Purpose

The purpose of the study was to look at the policies regarding higher education students with disabilities across the 50 states. The NCES “Characteristics and Outcomes of Undergraduates With Disabilities” report references a 2016 report by Snyder, de Brey, and Dillow that students with disabilities are one of the largest minorities, 11% of 2011–2012 undergraduates (Hinz, Arbeit, & Bentz, 2017, p. 1). One characteristic that makes them the largest group is that disability is not well defined. It was important to ask how disability is included in the legislation and further how the legislation regarded higher education students with disabilities.

Discussion & Implications

Research questions

The research questions largely dealt with the “construction” of disability, the characteristics of the legislation, and the words that come together to structure rules and requirements. The first research question asked: how is the intersection of postsecondary students with disabilities represented in state policy across all 50 states? The second question asked: how is disability constructed in state higher education policy? Finally, the third question asked: how is disability racialized in state higher education policy? To note again, the legislation reviewed for this study are constricted to certain parameters. The statutes examined were limited to specific years (2008-2019), status (enacted) and scope (“postsecondary” and/or “disability” must have appeared in the text). Thus, there is no/little consideration of preceding or follow-up legislative actions or effectiveness (or not) of the legislation nor of the context in which it was written and enacted.

Overarchingly, the legislation predominately “saw” able students, white students, male students, and middle class students, i.e. normatively. The following discussion engages the research questions, explores implications, and finally summarizes why this matters.

Intersection of postsecondary students with disabilities in state higher education policy

This research question was best answered by looking specifically at results that were limited to considering postsecondary and pre-higher education legislation applying to students with disabilities. Forty-six of the legislative texts refer specifically to higher education. Only two of those texts have definitions for disability. The IEP is used slightly more often than IDEA to qualify students for program participation (see Appendix I); the ADA and RA1973 (see Appendix J), comparatively, are rarely used.

Overall, the perspectives of the student with disabilities was negative. By perspectives, I mean the entities with whom the student is connected and with whom the student interacts. “Student” may be constituted as an individual with a disability(ies) or as “students”, a group disabilities with a disability(ies). Some programs applied to only specific groups with autism, blindness, deafness, and/or intellectual/developmental/cognitive disabilities. Importantly, those with disabilities are as varied individuals as the whole of people, not solely with one aspect to their presence. Keeping with the concept of intersectionality (different from the wording to the research question’s use of intersection), the person and her/his/their disability(ies) are not additive. The person exists as a whole, a union, a synthesis of characteristics, lived experiences, context, and societal expectations and norms. Those with disabilities are no different.

A medicalized perspective continues to pervade how those with disabilities are regarded. The Illinois, “GED Testing and Certificates, H 4336”, (2014) states “Disabled person” means “a person who suffers from a physical or mental impairment that substantially limits one or more major life activities” (2014, p. 143) implying a victim i.e. one done to, rather than one having agency regarding their activities and futures. Mississippi had legislation that supported students granting them an Occupational Diploma which allowed the student to pursue career path programs. The legislation was rescinded (without stated rationale) for those not pursuing a baccalaureate degree (Bill Resource: Mississippi, regular session, S 2432, 2017). One may infer from this statute its action is exclusionary, limiting future choices and possibilities.

The social model, one in which systemic barriers impact the individual and in which social viewpoint imposes restriction on the individual, and for that matter, on groups with disabilities is less common in the legislation considered. The Illinois “Persons With Disabilities Act” (Illinois, Public Act 099-0143, house bill 4049, 2015) legislation’s wide-ranging act changes all occurrences of the phrase “physically handicapped” to “persons with physical disabilities”. Also changed are all occurrences of “the handicapped”, “handicapped persons”, or “handicapped individuals” to “persons with disabilities”. The legislation calls for changing all occurrences of “handicapping condition” to “disabling conditions” as well as defining many of the disabilities using more updated verbiage. Another example in this legislation is

the term “mental retardation” shall be considered a reference to the term “intellectual disability” . . . the term “mentally retarded person or a similar reference” shall be considered a reference to a person with an intellectual disability the term “intellectually disabled” (2015, p. 1).

The role of language as one regards individuals is well and long-noted. An undated press release from the Special Olympics' website featured an article entitled "The 'R'-Word Remains Prevalent Across Social Media" relating the prevalence of negative posts and derogatory slurs about those with intellectual disabilities throughout social media (The 'R'-word remains prevalent across social media, n.d.).

States such as Delaware ("Advance Scholarship Program, H 326", 2018) and Colorado "Program, S 196", (Bill Resource: Colorado, Pilot Program for Inclusive Higher Education for Students with Intellectual and Developmental Disabilities, Article 75, S 196, 2016)) wrote legislation to develop completely inclusive college experiences for students with intellectual/developmental/cognitive disabilities. The statues mandating standardized testing for admission requirements are waived as well. Florida, "Next Generation School Standards, S 1908" (Senate Bill 1908 (2008) - the Florida Senate, 2008) exempts adult students with disabilities from demonstrating basic skills required from state curriculum frameworks for career education programs (Florida Statutes, Title XLVIII, Chapter 1004, K-20 education code, 2019). Due to the "Next Generation School Standards" (2019) legislation, assessment development will include universal design [for learning] principles and accessibility and must be usable on all technology platforms. The objective here is to remove "unintended obstacles for students with disabilities" (Senate Bill 1908 (2008) - the Florida Senate, 2008, p. 35). These specifications ensured comparable, valid and reliable assessment results for all students. The emphasis of accessibility on all technology platforms, an important component of Section 508 of the Rehabilitation Act of 1973 (Section 508 of the Rehabilitation Act - 29 U.S.C. § 798, n.d.)

helped ensure this. Washington’s “Creating Extended Learning Opportunities, S 6673”, 2008 (Washington, An act relating to learning opportunities to assist students to obtain a high school diploma, 2008) works with high school students with disabilities not on track to graduate by extending learning and providing other opportunities to facilitate postsecondary success (2008) works with high school students with disabilities not on track to graduate. This is accomplished by extending learning and providing other opportunities to facilitate postsecondary success.

DisCrit was examined in the literature review, Chapter 2. It was the third model, actually more than a theory, it is an intersectional framework. It joins together a “dual analysis of race and ability” (Annamma, Connor, & Ferri, 2016, p. 16), looking at the intersection, melding the study of two groups: students of color and students with disabilities. The Washington legislation included an outreach program targeting non-English speaking students, African-American, Native American, Asian, Pacific Islander, Hispanic, low income, and special education as well as coordinating with the governor’s office of Indian affairs. The legislation’s wording addresses the unique groups as a homogenous group rather than specific recognition of what specific requirements might be most applicable for educational and future successes.

The legislation, overall, places a significant emphasis on the economic benefits of students contributing to primarily providing economic benefits to the state as in Florida’s “Committee Substitute for Senate Bill No. 1676” (2009). Another Florida statute, “Next Generation School Standards, S 1908”, focuses on success in postsecondary education and high-skill, and high-wage employment (Senate Bill 1908 (2008) - the Florida Senate,

2008). The legislation may contribute to the state in a number of additional venues such as community collaboration to implement programs that include the business community training programs. The Minnesota, “State Finances, H 2749” legislation aims to produce the “world’s best workforce” (Bill Resource: Minnesota, state finance, Chapter 189--H.F. No. 2749, 2016, p. 247). One avenue is providing professional development for not only teachers, but staff and administration to improve skills and knowledge in working with students with disabilities. The juncture here of higher education with disability is more grass roots, multi-generational. Teaching teachers to better work with and develop success with students regardless of grade level is a win for all parties. The “Arizona Schools and Reading Disability Screening, S 1461” (2015) legislation’s purpose is to develop knowledge and skill with screening, intervention, developing accommodations and using technology for students with reading impairments, and very importantly, to advocate for the students.

The possibilities for collaboration among higher education, school districts (inclusive of home schooling and private schools), community, business, government, and others can benefit students at many levels. Disability is not found in just one of these. It crosses, includes, and supersedes each entity. Opportunities are enhanced all around; the possibility is there.

Construction of disability in state higher education policy

Disability presents as predominately negative in the legislative policies studied. Disability is a problem to be dealt with, to be fixed. One such mechanism to address disability for adults in higher education is the “Americans with Disabilities Act”. Its

regulations establish procedures for student accommodations among other procedures and benefits. An accommodation, per se, is a modification of the status quo, setting apart the person/group for whom there is an adjustment. In and of itself, there is nothing untoward in this. The Office of Disability Employment states, “Accommodations are sometimes referred to as ‘productivity enhancers’” (Accommodations, n.d.) and not as special treatment. Further, they note reasonable accommodations are often beneficial to all employees (Accommodations, n.d.). Possible accommodations may include alternative testing formats, extended time, testing locations, and supportive technology. Equally, reasonable accommodations may be beneficial to all students, as well as the entire higher education community. Developing a holistic perspective of the student, particularly in relation to all aspects of the student’s experience, inclusive of faculty staff, administration, campus, community is important. However, and this is important, to receive an accommodation, one must prove a disability. Some higher education institutions accept documentation in the form of an IEP from the students PK-12 years, but most institutions require additional documentation, which must be produced at the student’s expense and time. The latter may delay important support. From the beginning, thus, there is a deficit presupposition.

The legislation does little to negate this. The Arkansas “Building Better Futures Program, H 1308” (Bill Resource: Amend provisions of the Arkansas code concerning the Building Better Futures Program and the Building Better Futures High School Program, 2017) uses the “Diagnostic and Statistical Manual of Mental Disorders”, Fifth Edition as the reference to define intellectual disability. In some legislation, e.g. Illinois’

“GED Testing and Certificates, H 4336” (Bill Status of HB 4336 98th General Assembly, ILC S1315, 1510, 2014) ”Disabled person’ means a person who *suffers* [emphasis added] from a physical or mental impairment that substantially limits one or more major life activities” (2014, p. 143). Although, in this instance, “disabled person” refers to a dog service program, with the growth of emotional support animals on higher education campuses (Bauer-Wolf, 2019) the connection is applicable. The word “suffers” cast the person in the role as a victim. Another example of this is qualifying for a scholarship if a parent is dead or permanently totally disabled (Vermont, Bill status S.138 (Act 51), 2015) or for dependents of peace officers who are killed or permanently totally disabled (California: AB-2069 Workers’ compensation: peace officer benefits. (2011-2012), 2012). Additionally, student loan/scholarship programs in are often, but not always, forgiven upon the student’s death or permanent total disablement. Victim and disability are differently strangely paired in the Illinois “Preventing Sexual Violence in Higher Education, H 821” (Illinois, full text of HB0821, 2015). The definition of consent is a central issue as the legislation mandates higher education institutions develop a “comprehensive policy” (2015, p. 2). One policy component addresses consent recognizing that “understand[ing] the nature of the activity or give knowing consent due to circumstances, including without limitation . . . the person is incapacitated due to a mental disability” (2015, p. 2). Interpreted broadly, the default here equates disability with a mental disability, which itself is undefined in the legislative content. A different sort of deficit is the de facto denial of previous legislation. Mississippi students with disabilities were able to receive an occupational diploma in its “Students With

Disabilities, S 2432” program. The program was discontinued for students not on a career track and the career track program was ended for students who do not pursue a baccalaureate degree for students entering ninth grade in the 2017-2018 and following years (Bill Resource: Mississippi, regular session, S 2432, 2017, p. 1). It is important to note future legislation may have redressed this provision rescinding and/or modifying the statute.

Not all legislation defines disability. Some legislation includes abbreviated definitions in the text such as Arizona’s “Education Omnibus, H 2190” (2016), e.g. “‘dyslexia’ means a brain-based learning difference that impairs a person's ability to read and spell, that is independent of intelligence and that typically causes a person to read at levels lower than expected” (2016, p. 29). Most often, of the statutes in the study that do define disability, other legislation is referenced. The Arizona list is extensive (see Appendix H for examples of disability definitions).

Once the “problem” has been identified, programs exist to “fix” it. In PK-12 grade levels this is most commonly accomplished via special education programs. The IDEA legislation governs these programs and services. Following high school graduation (turning 21 or 23 depending on the state program(s) and other circumstances) the ADA’s regulations replace IDEA support. The person takes on the onus of advocating for her/his/their disability and accommodations. Transition preparation and assistance from high school to the postsecondary sphere is mandated for special education participants beginning at age 16, i.e. high school. An IEP team makes recommendations and sets the way forward. Here a connection between high school and postsecondary institutions

would serve the students very well, arguably the high school and postsecondary paths. Seventeen states have among them 28 statutes references to transition. Locating services to support students between the two systems could make a big difference. Massachusetts' "University Students With Disabilities, H 3720" (2012) is a future-planning sort of collaboration. An endorsement of "Transition Specialist Endorsement" (2012, p. 2) developed by a governor-appointed board consisting of a labor organization, business, parent, teacher association representatives and interested others (Massachusetts : General law - part I, title II, Chapter 15, section 1E, n.d.) would help implement a preparation program with various activities for students with severe disabilities. A proactive program such as this would support career development for existing educators who are already working from an existing licensed position. Other teacher preparation programs are in Oklahoma ("Reading Sufficiency Act, H 1789", 2017) and Arizona ("Schools and Reading Disability Screening, S 1461", 2015) specifically for working with students with disabilities and/or minority groups in the PK-12 grade range. Identifying the possibilities of collaboration, connections, and pre-service teacher education can do more than "fix" the problem. An overarching perspective of authentic inclusion and buy-in throughout a multi-layered and horizontally structured range of resources would benefit students, resulting in far reaching changes; the problem may well become possibility.

Toward that goal of possibility, recasting deficit positively and embedding this in some states' legislation would be a move forward. Illinois' "Persons With Disabilities, H 4049" (2015) 717 pages changes phrases such as

1. Intellectual disability . . . the term "'mental retardation'" shall be considered a reference to the term "'intellectual disability'" . . . the term "'mentally retarded

person or a similar reference" shall be considered a reference to a person with an intellectual disability the term "intellectually disabled" (Illinois, Public Act 099-0143, House Bill 4049, 2015, p. 1),

2. Physical disability . . . a "crippled person or a similar reference" shall be considered a reference to a person with a physical disability and a reference to the term "crippling" shall be . . . "physical disability" or "physically disabling", as appropriate, when referring to a person (2015, p. 1).

Using the newly crafted phrases may mitigate microaggressions, but the phrases still come down to a deficit view. Writing about ADD and ADHD children, Danforth and Navarro

claim . . . the cultural power of medical discourse, as a way of framing childhood behavior problems, is so dominant that language users have little choice but *to contend with it in some fashion* [emphasis in original], whether they appropriate the discourse with reflexive acceptance, mild modification, or dramatic resistance. (2001, pp. 173-174).

The authors conclude by noting the flow of language, its flux with time and context. And, they call out for use, educators, policymakers and society to be heedful to how our language may limit opportunity (2001).

How is disability racialized in state higher education policy

Finally, the third question asked: how is disability racialized in state higher education policy. To note again, the legislation reviewed for this study are constrained to certain parameters. The statutes examined were limited to specific years (2008-2018), status (enacted) and scope (postsecondary and/or disability must have appeared in the text). Thus, there is no/little consideration of preceding or follow-up legislative actions or effectiveness (or not) nor of the context in which it was written and enacted.

Twenty legislative texts contain at least one or more of these words African American/Black, Asian, English language learner, ethnicity, Hispanic, Indian/American

Indian, Latino, Native Americans/ Native Hawaiian/Alaska Native, race, tribal, and White. (See Appendix K.) There is general recognition and acknowledgement that people will not be discriminated on the basis of race, sex and religion (Florida, Postsecondary Education, FL H 7237), race, color, creed, religion, sex, national origin, marital status, or physical or mental disability, (Illinois, Persons With Disabilities, H 4049), race, color, handicap, familial status or national origin (Arizona, Public Agency Insurance Pools, S 1196), race, color or national origin (Arizona, Empowerment Scholarship Accounts, S 1553), and race, color or national origin (Arizona, Amending Sections 15-2401 and 15-2402, Arizona Revised Statutes; Relating To Arizona Empowerment Scholarship Accounts, S 1363), race, color, national origin, or sex (Illinois, GED Testing and Certificates, H 4336). Only Arizona, Illinois, Florida, and Minnesota combine “discrimination” in reference to students. Other references are to items like insurance testing. Minorities are referenced in groups, i.e. lumped together, overall. (See Appendix L.) A couple interesting legislative passages occurred regarding discrimination:

It is in the public interest and it will further the public welfare to insure that examinations for licensing do not have the effect of unlawfully discriminating against applicants for licensing as insurance producers on the basis of race, color, national origin, or sex (Bill Status of HB 4336 98th General Assembly, ILC S1315, 1510, 2014)

and

A charter school shall admit pupils who reside in the attendance area of a school or who reside in a school district that is under a court order of desegregation or that is a party to an agreement with the United States department of education office for civil rights directed toward remediating alleged or proven racial discrimination unless notice is received from the resident school that the admission would violate the court order or S.B. 1196 agreement. If a charter school admits a pupil after notice is received that the admission would constitute such a violation, the charter

school is not allowed to include in its student count the pupils wrongfully admitted (Arizona, bill history for SB1196, 2009, pp. 19-20)

The Illinois statute's wording, although not referring to students, would seem to indicate one may discriminate lawfully for other reasons. The Arizona law applies specifically to charter schools. Although various Arizona statutes do state that discrimination is not allowed, my reading of the above text is that there is an exception due to a court order and the statute itself. The violation, although having monetary consequences, is marginally penalized.

Many legislative texts require reporting of demographics data. For the most part, the data must be aggregated to preserve the person's privacy.

Recommendations for Policy, and Practice

Scholarships

Federal and state policy are fully intertwined, the federal legislation and very importantly, Supreme Court decisions, continue to underpin state legislative changes. A recent example of this is the Supreme Court decision, *Espinoza et al. v. Montana Department of Revenue et al.* (Supreme Court of the United States, 2020), to now allow state public school funds to be used for religious private schools which changes many states' constitutional provisions (Parker, 2016). In many states, among them, Arizona and Tennessee, scholarship awards are made to private schools supporting education services for students with disabilities through high school. The use of state, tax payer funds can no longer be contested. Another example of federal level regulation is the Department of Education's recent changes to "Title IX" (Policy | Title IX, 2019) regulations regarding sexual assault. This will affect, among others the Illinois, "Preventing Sexual Violence in

Higher Education, H 821” (Illinois, Full Text of HB0821, 2015) legislation. Funding is another example of the interwoven relationship between federal and state legislation and regulations. Longanecker (2008) made this point a decade ago; it is no less true today. He suggested designing state policies, short and long term, to best utilize their relationship regarding funding collaboratively, recognizing that states bear the responsibility of education. There are now, and likely to continue, fewer resources at both the federal and state levels. Working together would benefit students and alleviate state fiscal stresses, he notes (2008). Many scholarships and most programs end after a specific time periods and/or once the student reaches a specific age. In addition to this, and in the same spirit of inclusivity, and acknowledgement of diversity that the universal design for learning implements, systems of merit should be examined. California State University , (California, AB-1182 Public postsecondary education: reporting requirements, Chapter 386, 2009) for example, reports annually to the legislature about its various institutional financial aid programs. Criteria for eligibility, program description, allocation, student data broken out by student level, aid over the previous two-year time span, the current and a projection of aid for the following year is included. The totals reported for combined financial aid will include federal and state gift aid, institutional need-based and merit-based aid as well as private gifts. Also, grants, work-study awards, waivers, and loans/borrowing from are to be included whether from federal, state, institutional, and/or private sources. The effectiveness of the various programs in relation to the university's goals are included.

“Merit” referring to institutional the legislative text. Examining the specifications for merit-based scholarships may be very beneficial for the non-traditional student as well as helpful to increase the diversity of students able to participate with higher education.

Communication and collaboration

Following federal legislation and maintaining close relationships with relevant committees are suggested for policymakers by Voulgarides, and Tefera, as they discuss special education inequities regarding race and disability (2017). Regulation is often difficult to monitor, and further, difficult to enforce. A contributing factor to this is as Edelman et al. state “ambiguous statutory language and highly contested politics give organizations substantial latitude to define the meaning” (2011). There is no doubt that funding and race are highly contested. At the state level comparable measures of maintaining collaborative and close relationships with a range of local entities are recommended. Arizona, California, Illinois, Kentucky, Maryland, Ohio, Oklahoma, Oregon, Utah, and Vermont have 15 legislative items among them regarding task forces to address various polices regarding higher education students with disabilities. Additionally, there are many non-governmental agencies with whom to collaborate (see Appendix M).

There is a significant focus on the applicability of education, in general, and higher education to help develop, as noted above, stating Minnesota “State Finance Chapter 189” legislation states, its citizens be among the “world’s best workforce” (2016, p. 247). Florida has the comparable goal of “developing and enhancing world class workforce infrastructure for Florida's citizens to compete and prosper in the ever-

changing economy of the 21st century” (Florida, A bill to be entitled An act relating to postsecondary education, 2010). As above, coalition building is helpful.

Arizona, California, Florida, Illinois, Iowa, Kentucky, Maine, Minnesota, New York, Ohio, Texas, Utah, and Washington include strategically using data in 19 legislative texts. It can be very valuable as a purposeful tool to discover what is, as well as chart the future. The purpose of the data should be clearly understood, how it is collected and managed, and interpreted. A Chronicle of Higher Education article chided higher education for its obsession with data (McGuire, 2019). It cites examples such as the College Scorecard not providing data about campus climate, particularly for women and students of color, nor for what services students with disabilities may be present. Data should be interpreted taking into consideration an individual school’s makeup, character and mission, among other factors. Much as the same universal design for learning advocates for assessments suited to the individual, survey tools would do well to decide what the purpose(s) of the data are, as well as the audience and implications. This is not to say objectivity "and ethical practices should be abandoned. For example, the traditional college student is frequently not the “traditional” student i.e. a full-time, 18-22 year old, straight out of high school whose schooling is parent funded. Different institutions (community colleges, flagship universities, trade/technical school, etc.) serve often different populations for often different goals and measures of success. Other considerations are data privacy and use of data security. McGuire concludes the article by noting, “statistics are no substitute for professional judgment about the meaning of data for a specific institution” (2019), and one might add purpose.

Workforce development and employment

Sixteen legislative texts include workforce development and employment provisions. Overall, the emphasis is on building a workforce contributing to the common good, e.g. Delaware stating its rationale for students with intellectual disabilities should be earning a college credential to be “economic[ly] self-sufficien[t] and result in demonstrable economic benefits” (Bill Resource: Delaware Advance Scholarship Program, HB 326, 2018, p. 1) or Minnesota’s goal (stated 12 times) to create the “world's best workforce” (Bill Resource: Minnesota, State Finance, Chapter 189-H.F. No. 2749, 2016) are two cases stated as “enhancing world class workforce”. Programs include students from high school onward, often though, ending at 26 years old. Eight texts have task forces, three of which include persons with disabilities in the membership. Students, Liasidou (2013), consistently said students wanted their voices and lived experiences are to be recognized and valued. Active and authentic inclusion of student suggestions, active problem-solving and program evaluation participation would benefit the students in many ways. Work-based and internship opportunities can be implemented in holistic and systemic programs.

Use of IEP planning process has expanded, including a mandated Individual Learning Plan (ILP) programs. Twenty-eight states have these career planning services at the secondary school level that assist with future and career planning. This program examines the current student's strengths, potential and weaknesses. Continuing on with the idea that recognizes the individual student, the ILP engages and differentially addresses the needs and talents of the student using a variety of activities (State Policies |

U.S. Department of Labor, Individualized Learning Plans Across the U.S., n.d.). According to the Office of Disability Employment Policy's website the services, resources and support usually available for students with disabilities (low-income parents, single parent families, those who have participated in foster care/juvenile justice systems, LGBT persons, women and those of racial minorities) are available to students in general (Individualized Learning Plan | U.S. Department of Labor, n.d.). Including her/him/them in the processes increases the "buy-in" and the student's success (State Policies | U.S. Department of Labor, Individualized Learning Plans Across the U.S., n.d.). For example, Colorado has had an Individualized Career and Academic Plan (ICAP) for all students. Given that it is a multi-year process, the program can develop with the student. Thus, its benefits are widespread and may reach a wide breadth of a student's educational experiences. Interestingly, the program was not included in any of the legislation.

Technology

Technology—with a multitude of definitions as applied to education—continues (and will continue) to be omnipresent throughout higher education. The focus on website use and functionality is critical. These are tools for communication. (See the ADA document "Effective Communication" for applicable suggestions [2014]). The Accessibility of all aspects of website content (regardless of its form) is reaching further than Section 508 of the Rehabilitation Act of 1973 saw at the time. A new title, title IV of the ADA, applies to consumer-facing websites and mobile applications that private entities own or operate. The legislation, the "Online Accessibility Act", is a bipartisan

effort (Hunt, 2020). The act bars discrimination, i.e. denial of the individual being able to use a website to its full advantage. Web accessibility may include many factors. Here it means, is the content fully usable in the same way a person with no disabilities may use the content. It is not only hearing or seeing what is on the website. It is also being able to use, i.e. manipulate the content for intended (website and user) functionality. In-house expertise of expertise of design and usability standards is suggested. Couple this with in-house content experts who are familiar with accessibility requirements (technical and human) and how to implement them will promote success for all users, not solely those with disabilities. Training everyone is critical to successful communication of the content and its intended purpose and use. The top-down support (e.g. monetary) and bottom-up (e.g. an “equitable access is important” mantra) is critical for success. There are Website Content Accessibility Guidelines (WCAG) 2.0 or 2.1, level AA compliance of three levels (A, AA, AAA). Currently, federal guidance, legislation and means to help all levels of designers/developers and users is limited and inconsistent. The consortium that develops and published the WCAG states

Conformance to a standard means that you meet or satisfy the ‘requirements’ of the standard. In WCAG 2.0 the ‘requirements’ are the Success Criteria. To conform to WCAG 2.0, you need to satisfy the Success Criteria, that is, there is no content which violates the Success Criteria (Understanding Conformance | Understanding WCAG 2.0, 2016).

So much depends on the purpose of, and the audience for whom the website and its functionality are intended. The “digital divide”, i.e. “access-ability” is critical. Careful evaluation services available, hardware and software, electricity/power, cost, timeline to

develop, speed accessing data, quality of digital content and flow, audience needs and purpose, and security are only some of the access issues.

Besides the technical aspects there are cultural and language considerations. To give these ten words above just one sentence of importance, unimaginably minimalizes and marginalizes those who are outside the typical considered Western user: white, middle class. Some uses are specific to education, down to subject matter. Especially problematic are arithmetic-based content and technical, visually represented content. Consider, as well, “writing for the web” since people read website content differently from hard copies in terms of purpose and audience. Video content, e.g. dynamic and virtual content, is problematic for the user, and designer and developer. Artificial intelligence analysis and problem-solving will help with this in the future. Data structure can be an impediment. Consider table and illustration design and presentation. Contact and/or reference information for these increases the data’s usefulness. Accommodations are thought of as screen readers, closed captions (as opposed to solely subtitles). The integrated use of these and voice to text functionality would be helpful, again with a well-considered analysis of purpose, audience and usability. As cell phone/mobile devices continue to increase, and use considerations, app development, attention must be applied to these technologies. Forbes notes, one may have to do more for a disabled person in order to treat them equally (Pulrang, 2020). Not only to best serve the users of the website content, but as it may assist organizations in legal issues, higher education (if not all organizations) should have an accessibility plan. The "ADA Checklist of Existing Facilities" (2016) gives on an in depth checklist of items to consider . In the same vein,

comparable consideration to developing the level of attention to accessibility, would be well considered. Extensive guidelines may be found at “Guidelines and Examples for Determining the Suitability of an Accessibility Accommodation” (2016). Although an “old” document, most of the ideas remain highly usable.

The Social Model

Higher education and, in fact, thought and actions concerning those with disabilities see the student with disabilities through the lens of the medical model, i.e. something is “wrong” with the student. The social model suggests that the “problem” is not the student, but rather the social context in which they find themselves. There are many implications here, some negative and some positive. A very real issue is the classroom management of curriculum and course contents. To receive any type of accommodation the student must provide medical documentation, register and consult with the disability services office, and develop a plan. Most often the plan involves some kind of assignment and/or classroom accommodation. The request for the accommodation must be presented to the instructor. There can be some stress for both parties. The student may feel some trepidation about requesting help. S/he/they may feel empowered and be excited about the subject matter and learning. The instructor, as well, may feel some trepidation. There are, after all, changes that may be needed to be made to content delivery, structure and assessment among other adjustments to the class. One way to effectively address student success with course content is to implement universal design for learning (UDL). Its perspective is focused on success for the student, not the medical, deficit perspective. Developing a responsive campus environment is not without

cost nor effort. Change will need to take place throughout the higher education experience. From admission procedures including entrance exams through accessing course content, UDL, arguably benefits students overall, regardless of “ability”. Mole, discussing the social model of disability and universal design, notes universities become more outward-looking by using UDL and comparable perspectives (2013). Services, then, may be more proactive, making a shift to a positive perspective rather than incorporating the deficit model (2013). Again, success is advanced for all students.

DisCrit

There are seven tenets quoted below. Annamma, Connor, and Ferri (2016) summarize the tenets saying

each [tenet] . . . shares the desire to reject forces, practices, and institutions that attempt to construct dis/ability based on differences from normative cultural standards . . . We reject attempts at the containment of people of color with dis/abilities due to their perceived divergence from the normative cultural standards” (2016, p. 26).

Each of the tenets represents various aspects of DisCrit. Following each tenet, I will discuss ways in which each tenet is/may be applied to the various legislative texts. I will note the policies I believe would do well to continue. The point has been made earlier that there is very little mention of any phrases related to race, ethnicity, or specifically named groups. Thus, the writing below, while acutely recognizing the importance of race as one of two tenet components, necessarily concentrates on dis/ability. Just because the legislation does not include race, ethnicity and color as a multi-varied part of society, does not mean race, ethnicity or color do not exist. Colorblindness is not intentional.

The tenets are:

Tenet 1 focuses on ways that the forces of racism and ableism circulate interdependently, often in neutralized and invisible ways, to uphold notions of normality (Annamma, Connor, & Ferri, 2016, p. 19).

Arkansas “Building Better Futures Program, H 1308”, 2017, Colorado, “Inclusive Higher Education Pilot Program, S 196”, 2016 and Maryland, “Regular Session - House Bill 813 Enrolled, Task Force to Study the Impact of Expanding Credit and Noncredit Courses for Students with Intellectual and Developmental Disabilities”, 2013, have legislation that includes students with disabilities in fully on campus classes and activities. The intention is to bring broaden access and possibilities for these students. Colorado (Bill Resource: Colorado, Pilot Program for Inclusive Higher Education for Students with Intellectual and Developmental Disabilities, Article 75, S 196, 2016, p. 2) noted that 47 states have successful programs for students with intellectual disabilities. One goal was to alleviate long admission waits. Maryland, “Building Better Futures Program, H 1308”, 2017, addresses accessibility in three legislative items. Together this legislation hopes to increase student access by opening up tools to get information, and mitigating issues that may hold students back. Funding, always important, is addressed in the California, “Community Colleges: Disability Services Program, AB 2791”, 2016, Kentucky, “Students with Disabilities Postsecondary Financial Aid, H 158”, 2016, and Maryland, “The Textbook Cost Savings Act of 2017, S 424”, 2017 legislation. The financial support tacitly recognizes the student and resources required to facilitate her/his/their education. Maine, “Adult Learner Career

Pathways, S 617, An Act To Enhance Career Pathways for Adult Learners”, 2012 and Minnesota, “State Finances, H 2749”, 2016 include legislative text that works to remove barriers. Minnesota does not require a transition plan if an IEP is present. Less stringent documentation requirements also act to remove access to disability services barriers. Notably, Illinois, “Persons With Disabilities, H 4049”, 2015, changes the language used to refer to those with disabilities to a “person first” designation. Kentucky, “An Act relating to autism spectrum disorders, 16 RS SB 185”, 2016, and Washington, “Creating Extended Learning Opportunities, S 6673”, 2008, have formed councils to promote autism concerns and an Office of Indian Affairs, respectively.

Tenet 2 values multidimensional identities and troubles singular notions of identity such as race or dis/ability or class or gender or sexuality, and so on (Annamma, Connor, & Ferri, 2016, p. 19).

As well as considering identity, part of what Annamma, Connor, and Ferri (2016) address is the kinds of experiences the student may have of stigmatization and segregation. Many legislative items may be considered through a lens that values the student as a multi-dimensional person. Considering support systems, the Arizona, "School Tuition Organizations, HB 2328", 2014, applies to children in the foster care system in which corporations may receive tax credits for school tuition donations. During the secondary to postsecondary transition period, the student , 16 years and older, is part of the IEP transition planning. Two Massachusetts statutes, "An Act Relative To Age Requirements For Certain Students, Chapter 285", 2016, and "Disabled Students, S 286", 2008, statutes

extend that age down to 14 as appropriate. Here the student can actively participate in their future. Washington's, "Student Services for Students with Disabilities, S 6466", 2016, has a council of [college] presidents work group developing a plan to remove obstacles. Arizona's, "Schools and Reading Disability Screening, S 1461", 2015, legislation focuses on students with dyslexia. Teachers and administrators receive training about working with students with learning disabilities, specifically dyslexia, which may count for professional development credit. Teacher education, not only as the Arizona dyslexia program (2015) applies to PK-12, would do well to be applied to learning about the use, implementation, and evaluation of UDL. Incorporating UDL into professional development in the postsecondary classroom would be helpful to all students. Another program receiving widespread acceptance are previous credit for learning programs. These are often measured by a "Prior Learning Assessment". Illinois, "Department of Veterans Affairs Act, H 2973", 2017, includes this opportunity for students. This is important in that it contributes to honoring the life experience the student brings to their postsecondary experiences. Washington, "Creating Extended Learning Opportunities, S 6673", 2008, legislation included alternative assessment specifically mentioning the importance of comparable rigor to evaluate skills and knowledge. In the same vein of recognizing the individual and working with differences are the New Mexico, "Disabilities Students Lottery Scholarships, S 179", allowing certain students with disabilities to receive legislative lottery tuition scholarships", 2019, the Tennessee, "Lottery

Scholarships and Programs, S 2039", 2016, and the Texas, "Persons With Disabilities in Public Higher Education, S 37", (Texas: TX SB37 | 2015-2016 | 84th Legislature | LegiScan, 2015), statutes in which the required number of credits per term is determined collaboratively with the student. Mentioned earlier is the importance of self-advocacy skills and self-confidence. Those skills, an important part of high school planning, serve students well in their collaboration with disability services or other such determining bodies.

Maryland's "Financial Aid -Deaf and Hearing Impaired Students -Out-of-State Institutions of Higher Education, 2016 S 272", 2016, commitment to support higher education funding for deaf and hearing impaired students is apparent in its financial support to attend out of state schools if necessary. The Maine, "Adult Learner Career Pathways, S 617, An Act To Enhance Career Pathways for Adult Learners", 2012, program developing adult career pathways program has structured many components meant to enrich the student's learning and fill in learning and education gaps. One gap present in many programs is the age cut off for program participation. Most often, support for disability services ends around 21 years of age. The Maryland, "Better Life Experience Program, H 431", 2016, a federal ABLE program works with adults who have developed a disability before the age of 26. The concern here is that a disability may occur at any age. Those wishing to continue their education following a life-changing disability would not receive assistance from this legislation.

Tenet 3 emphasizes the social constructions of race and ability and yet recognizes the material and psychological impacts of being labeled as raced or dis/abled, which

sets one outside of the western cultural norms (Annamma, Connor, & Ferri, 2016, p. 19).

The California, "Community Colleges: Disability Services Program, AB 2791", 2016, program legislation defines disabled students as those with exceptional needs "who because of a verified disability, cannot fully benefit from classes, activities, and services regularly provided by the college without specific additional specialized services or educational programs" (2016, p. 1). Although not segregated, necessarily by grouping, the higher education institution relegates the student solely based on disability cast as a deficit. The legislation's language may be ill-chosen as it focuses on the negative. Illinois, "Persons With Disabilities, H 4049", 2015, makes changes in language referring to those with disabilities. Its use of person-first naming is extensive, found throughout all areas of the state government and regulation.

Tenet 4 privileges voices of marginalized populations, traditionally not acknowledged within research (Annamma, Connor, & Ferri, 2016, p. 19).

The clearest examples of the inclusion of "voices" are the various councils, commissions, task forces and other groups that include those with disabilities in policy studies and creation of support structures. Kentucky, "An Act relating to autism spectrum disorders, 16 RS SB 185", 2016, Maryland, "Regular Session - House Bill 813 Enrolled, Task Force to Study the Impact of Expanding Credit and Noncredit Courses for Students with Intellectual and Developmental Disabilities", 2013, Maryland, "Disabled Higher Education Accessibility, S 446", 2014, and Ohio, "Opportunities for Residents with Disabilities, S 144, [cognitive

disability]", 2018, all do this. Most legislation included some broad representation of those voices. Frequently, only high level (e.g. institution presidents, legislators, etc.) are the specified decision makers. Including the persons who are actually affected by legislation acknowledges and engages the important perspectives including representatives of disability groups and, often, students themselves. Some group members are by governor appointment. The procedures and criteria for participation would benefit from specifically naming those with perspectives, and working to broaden authentic inclusivity and diversity. Annamma, Connor and Ferri suggest "attending to counter narratives, encourages us to learn how students respond to injustice" (p. 21). However, they carefully emphasize that DisCrit's intention is not to "give voice" noting that these actors already have a voice and much to say. Participants should be spoken with, not "to" or "at".

Tenet 5 considers legal and historical aspects of dis/ability and race and how both have been used separately and together to deny the rights of some citizens (2016, p. 19).

The influence of the Rehabilitation Act of 1973, IDEA and the ADA and ADA(AA) have been immense. Annamma, Conner, and Ferri (2016) offer DisCrit as the "possibility of a more complicated reading of the basis of White Supremacy" (2016, p. 22). As they note, students of color with disabilities benefitting from programs cuts two ways. Looking at the California, "Community Colleges: Disability Services Program, AB 2791", 2016, legislation, "additional specialized services or educational programs" may absolutely benefit students with disabilities. The phrasing, "who, because of a verified disability, cannot fully

benefit from classes, activities, and services regularly provided by the college” (2016, p. 1) labels the student in a deficit way. Further the student has to verify the disability, saying, essentially, “I have a problem and need help fixing it”. Disability so presented, hands the student a benefit based on and surrounded by a deficit basis. Not mere semantics, the words, phrases and language used (e.g. Illinois, "Persons With Disabilities, H 4049", 2015) influence the individual’s understanding of her/his/their place in society and vice versa. The legislative texts included in this study are discussed at specific, static points in time. Occasionally, as in the Mississippi, "Students With Disabilities, MS S 2432", 2017, time points are included. This legislation rescinded its Special Mississippi Occupational Diploma program. The program that supported students’ higher education route before the 2017-2018 school year is no longer available. Later legislation may have improved on the previous program, reenacted it or supplanted it with a broader, more inclusive program. Given the study’s nature of pinpointing each statute, historical analysis (and contextual analysis) of the legislation is precluded. This Mississippi (2017) legislation, likely, has a long history in which historical context certainly makes a difference in its development and what the statute addresses. Accessibility, meaning the usability of (predominately, Section 508 (n.d.) specified electronic/digital) content has a much shorter history, arguably, not affected by Jim Crow laws.

Tenet 6 recognizes Whiteness and Ability as Property and that gains for people labeled with dis/abilities have largely been made as the result of interest convergence of White, middle-class citizens (Annamma, Connor, & Ferri, 2016, p. 19).

The most obvious instances of interest convergence are states such as Vermont's act relating to promoting economic development, "Vermont Governor's Committee on Employment of People with Disabilities, ABLE Savings Program", 2015, that include statements like "'underutilized' labor" (2015, p. 50), concern about an aging workforce, and that students must be provided with education, skills and competency for anticipated high paying jobs. Colorado's, "Inclusive Higher Education Pilot Program, S 196", 2016, refers to a Gallup Poll and Special Olympics report illustrating the importance of a student with an intellectual disability achieving competitive job results, community participation, and less dependence on governmental and family support. The Kentucky, "An Act relating to autism spectrum disorders, 16 RS SB 185", 2016, states its Advisory Council on Autism Spectrum Disorders, as part of its purpose, is to assess the capacities and effectiveness of higher education institutions as they may support the "development of the workforce for persons on the autism spectrum" (2016, p. 3). The council's membership includes predominately Kentucky governmental agency representatives, two higher education representatives, various community organization representatives, five citizen-at-large members and "at least one (1) consumer representative, an adult with a diagnosis on the autism spectrum" (2016, p. 3). Minnesota, "State Finances, H 2749", 2016, would like to develop the "world's best workforce", mentioning this 12 times in its 388 page document. Delaware's "Advance Scholarship Program, H 326", 2018, helps to promote economic self-sufficiency. Ostensibly, one may read

this and other legislation with text regarding training for those with disabilities as a means to lessen reliance on governmental monetary and social support.

There may be a risk with funneling students with disabilities to various workforce programs. For example, Illinois' "Persons With Disabilities, H 4049", 2015, provides an exception for "vocational programs of training for . . . sheltered workshops for persons with severe disabilities" (Illinois, Public Act 099-0143, house bill 4049, 2015) in its specification for prevailing wage requirements. Minnesota's, "State Finances, H 2749", 2016, legislation (Bill Resource: Minnesota, state finance, Chapter 189--H.F. No. 2749, 2016) includes "sheltered" work as "Noncovered employment" regarding unemployment insurance (2016, p. 114). The Oklahoma legislation amending the "Lindsey Nicole Henry Scholarships for Students with Disabilities Program Act" (Oklahoma: Bill information, H 3090, 2012) creates the Special Education Statewide Cooperative Task Force that specifically includes a representative of a sheltered workshop. The sheltered workshop, a report from the National Disability Rights Network (Bates-Harris, 2012) states at best, segregated and sheltered work environments "do[es] not truly provide a meaningful experience for workers with disabilities" (2012, p. 7). Programs focused on the student's interest, capabilities and successful future should be the foremost consideration.

Tenet 7 requires activism and supports all forms of resistance (Annamma, Connor, & Ferri, 2016, p. 19).

The activism advocated in this tenet may include the continuation of policies, the development of programs, and simply statements supporting equity,

inclusion and diversity and action plans to achieve and evaluate progress here. Universal design for learning may help achieve these goals for not only students (and students of color) with disabilities, but for all students. The “Next Generation School Standards, Florida”, 2008, advocates for using assessment that recognizes student differences in their ability to demonstrate academic achievements. The various accessibility initiatives are legislatively based but have emerged from WCAG 2.0 (2016) national and international standards for websites. Activism may occur in many forms and from many entities. Annamma, Connor and Ferri note that many critical race theorists advocate for “activism that links academic work to the community” (2016, p. 25). A hands on, and in-touch work with those outside academia will keep the issues in mind. Collaborative efforts among communities of color, higher education institutions, government, business, and advocacy organizations should continue to discuss disability and race as a whole, not separating the two. As a socially developed/constructed reality with which we live with daily, becoming allies for equitable representation and action will serve all communities well.

Implementation and Procedures

Change, even for positive outcomes, is difficult. Significant social changes to create equitable policy with social justice as a shared standpoint promotes success. “Success” must be defined and agreed upon. Proactive approaches with multi-level consistency help ideas form actions and perspective on results both short-and long-term Bartunek and Moch consider a cognitive approach to organizational change noting

members cannot change their way of thinking “simply by telling them to change their frames of reference” (1987, p. 494). To accomplish what they call “third-order change” a consultant would develop the process and informational base so the group knew and understood their current “schemata”. From a different/expanded perspective alternatives can continue in a cycle of consideration, action, and evaluation. Although it is outside the scope of this paper to explore change implementation, suggestions for procedures to implement changes may include

1. Develop management tools and evaluation tools,
2. Increase ease of documentation,
3. Make information open and available,
4. Do a strengths, weaknesses, opportunities and threats (SWOT) evaluation with representatives from internal members, the intended audience, policy makers, those effected at all levels, etc.,
5. Plan short term and long term.

The solutions may be longer term than anticipated, therefore scaffold change, implement and evaluate. Kramarczuk Voulgarides and Tefera (2017) advocate fundamental changes. They see that small “tweaks” manage to accomplish compliance with the various federal legislation, but “in practice have merely led to an adherence of compliance requirements that allow states to escape federal and state sanctions” (2017, p. 7). They encourage those involved to consider if policy implementation has turned into what was intended by the various policy actors involved in the policy creation. As many of the legislative texts include, community involvement is critical to the students’ (and

their family's) transitions to postsecondary future. Also noted in the literature is that students need to develop self-advocacy skills as they transition to higher education. The need for these skills is important for all students to develop. The ILP programs may be very beneficial to incorporate.

Educational reforms and policies not just for students with disabilities and these students of color are affected by such a broad range of influences. They are the classic "wicked problem". The Harvard Business Review identifies four components to a wicked problem:

1. The problem involves many stakeholders with different values and priorities,
2. The issue's roots are complex and tangled,
3. The problem is difficult to come to grips with and changes with every attempt to address it,
4. There's nothing to indicate the right answer to the problem (Camillus, 2008).

Communication, a willingness to collaborate, and a focus on the differences and similarities of equity, equality, and social justice may move higher education as a whole and specifically may move students with disabilities and those of color to a synthesis of action for systemic change.

Recommendations for Future Research

Research results, and possible topics and points of interest in the area of students with disabilities in the 50 states could fill as many volumes. Perspective may render any number of useful resources. The audience is important as well; it interprets the results to best fit its questions and needs. Considering the (relatively) fast social changes that

occurred LGBTQIA+, gay marriage, abortion, the wearing of masks, and recreational marijuana, what critical factors contributed to the arguably shortened timelines of acceptance? Could results from these studies be used to advocate for and achieve free college tuition in the short term? The long-term effects for students, educational institutions (PK-20+) would be significant.

Other research may include mixed methods studies on the effects of language not only in the legislation, but also regarding the implementation of policies. The role of technology, as discussed above, has been, arguably, immeasurable. How will artificial intelligence (AI) influence various aspects of disability? Can AI be used to develop training programs to power third-order change in diversity, inclusion and equity? Develop funding models. These would enable support services to be extended past the age of 21. This would also allow for inclusion of those who have not traveled the PK-12 special education route, those to whom “life happens” and those seeking self and societal improvement.

Two data categories collected included the year of the legislation and the region of the country. The dates (due to the default dates of the NCSL database and this study’s end date) were from 2008–2019. Based on the United States Census map, there are four regions and nine divisions (see Appendix N: United States census regions and divisions). To consider these data in relation to one another using policy diffusion (“the process by which policymaking in one government affects policymaking in other governments” [Gilardi, Shipan, & Wüest, 2020, p. 1]) would likely provide insights as to policy development for the disabilities receiving particular emphasis like students of the autism

spectrum or programs for students with intellectual/cognitive/developmental disabilities as well as workforce development programs.

Teacher education: evaluate programs such as the Illinois, “Golden Apple Scholars of Illinois Program; Golden Apple Foundation for Excellence in Teaching” and “Minority Teachers of Illinois” scholarship programs (Illinois, Public Act 099-0143, house bill 4049, 2015) for their use of equitable policies regarding students of color and students with disabilities, and use of research- and data-based best practices for those in teacher preparation programs. How might teacher education programs serve as templates for other programs and inform legislative policy action with the following DisCrit principles in mind: recognition (a) how “racism and ableism circulate interdependently” (Annamma, Connor, & Ferri, 2016, p. 19), (b) that students (PK-20+) have “multiple identities” (2016, p. 20), (c) the value of integrating and implementing research that “privileges voices of marginalized populations” (2106, p. 19), (d) of how “interest convergence of White, middle-class citizens” (2106, p. 19) manifests, and (e) “activism [is required as is] . . . support. . . [of] all forms of resistance” (2106, p. 19)?

Further, reexamine DisCrit’s roots in critical race theory: intersectionality. Each individual and community/group while unique have commonalities. Arguably, students in pursuit of postsecondary activities aim for success. Implementing a lens of intersectionality, what is success for the individual, regardless her/his/their characteristics and space? How does education policy promote this?

Limitations

The study's scope in the whole of higher education was limited. A specific timeframe (2008-2019) was examined. The legislation was studied in isolation, out of context from its moment in time, history leading to the legislation, and political climate and timeline.

The search engine, National Conference of State Legislatures education database, changed from this project's beginning to present, 2020. Today, there is a separate postsecondary database category, separate from single group of parameters used for the number of returned results. The changes in the database's structure may yield different, more or fewer legislative items. Just one search keyword, "disability", was used to derive the legislative texts that were reviewed. The word disability was set as a starting point. Queries for various types of disabilities would have broadened the search results. The data (legislation) would likely have been different using a different database. Combining databases would also yield different and more data. Other legislation may have been included.

"Reading" the texts evolved as the project developed. There are many other "readings" that may be made of the legislative text. Krippendorff frequently makes the point of the importance of context (2003) as well as the background knowledge and perspective which I, the analyst, bring to the text. Qualitative data analysis software was not used. Instead, searches using the Adobe Acrobat find functionality was used to search for keywords and concepts. Using the software would have contributed to the coding done, possibly increasing accuracy and pointing to trends. Use of qualitative coding

software such as for example ATLAS.ti, Dedoose, MAXQDA, NVivo or others would allow for statistical analysis.

Replicability of the process would be simple enough to accomplish. However, terminology would be a sticking point. This study suffers from a lack of precise definitions, something which can be seen from the legislation and the variation of definitions (or not) used to make judgements that may significantly affect students' lives. To some extent since disability is such an amorphous term and states define (or not) disability differently, developing a precise dichotomous key may help remedy this vagueness. Trustworthiness and validity engage the same limitations, i.e. the reading of the text, the coding processes, and the analyst's perspective and background.

One may consider a strength to be the scope of the legislative texts assembled. The time period was broad and allowed for many examples to be collected. The number of states to which the query applied broadened the examples. An advantage methodologically was reading the number of texts and noting words and phrases as they emerged.

Why all this matters

Overarchingly, the legislation predominately "saw" students as able, white, male, and middle class, i.e. normatively. There are ability, racial, gender, and class among other differences between the "norm" and default legislative language. Each of these characteristics separately and, equally, in whatever synthesis of one or more characteristics, i.e. intersectional, have unique interactions with the systems in education, work, career, community, family and society. There are tens of thousands of legislative

bills each year, and of those, certainly thousands of these that are enacted, let alone enacted nationally, became law over the 11 year period studied. The few legislative items, 77, that qualified for analysis, still largely did not incorporate the recognition of individuals and groups past basic ADA(AA), RA1973 and IDEA requirements.

Seemingly, these federal acts are a checkbox to be ticked off. The consideration of each one of us deserves more than a simple stroke to fulfill society's obligations. The word obligation is not actually the correct word. Perhaps it is humanity.

Positionality

It is important, Krippendorff counsels, that the analyst make sense of the data, recognizing “data are read by and make sense to others, and they [readers] proceed by reference to contexts of their own” (2003, p. 42). These contexts include researcher’s beliefs, political stance, cultural background (gender, race, class, socioeconomic status, educational background) and are important variables that may affect not only the research process. Affected as well are the data collection, analysis, findings, recommendations and implications. My biases, knowledge, frames of reference and history influenced each phase of the research project, whether I realized it or not.

This research project pulled together my life-long career as an educator with the times today, current social circumstances. I began the doctoral program with a focus on universal design for learning, a belief that learning is possible for all students. That belief was informed by my work as a web designer and developer/programmer, my deep desire and goal to have the website accessible, useable and findable by all users regardless of ability, skill, or level of knowledge. Communication, the exchange of ideas and understanding are paramount. These goals bring together the text and what it says. Webpage content is read differently from books, magazines, signs, images, symbols; it is read differently from other content overall. All of these include “writing” in one way or another, i.e. communication.

The focus on disability, on students with disabilities intuitively comes from universal design for learning although it is important to note that “universal” is the first component of “design for learning”. As the coursework and readings progressed it became clear that those with disabilities (especially “hidden” disabilities) were largely missing from discussions and readings. Race, ethnicity, class, gender, sexual orientation, language, identity and many other signifiers of individuals and groups were present. Disability may be regarded “as well as” rather than one of many components that comprise an individual. In addition to my educational interests, I have personal experiences with hidden disabilities.

I began the program as a dyed in the wool positivist. My half dozen (a)vocations over as many decades were very restricted to my white, middle class upbringing even though work included housekeeping, digital graphics, plant nursery worker and manager, front desk at a medical office, teacher and more jobs. “Critical” most closely meant judgmental and disparaging. Within the first few program classes, critical (theory) came to mean examination, consideration, and deep scrutiny of values and perspectives. I came to associate critical with oppression and marginalization. “Colorblind” was a positive attribute I held and believed. Understanding colorblind (and still working to do so) was one of the most difficult aspects regarding the third research question: “How is disability racialized in state higher education policy”? How is colorblindness represented in language, in communication?

Content analysis was an ideal starting point to read the legislative texts. It enabled reading the those first as “it is what it is”, i.e. manifest content. With further (re)readings,

latent meanings emerged. The positivist readings gave way to considering how the idea of critical could be applied to the words, phrases and documents as a whole. Additionally, the context of the content made a difference. I found myself asking among other questions: who wrote this? what was the purpose? in what time period was the legislation written? what was the history behind the legislation? what has happened afterwards? what about the student? One additional, very critical component is the audience for whom the content is written. I found myself trending towards asking what are the ulterior motives of the legislation, adding a darker lens to my take (if you will) on the texts. That was a surprise. And I had to ask, perhaps most importantly, why does this matter?

I have attempted to develop these ideas bringing together the legislation's words and intent in this study. Also, I hope to have informed policy-makers to ask the same questions and be open, if not, hungry for new meanings, to engage in communication and understanding and, finally, to act.

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Appendices

Appendix A

Illinois Disability Language Changes, Partial List From Legislation

1. Intellectual disability . . . the term "'mental retardation'" shall be considered a reference to the term "'intellectual disability " . . . the term "'mentally retarded person or a similar reference'" shall be considered a reference to a person with an intellectual disability the term "'intellectually disabled'" (Illinois, Public Act 099-0143, House Bill 4049, 2015, p. 1),
2. Physical disability . . . a "'crippled person or a similar reference'" shall be considered a reference to a person with a physical disability and a reference to the term "'crippling'" shall be . . . "'physical disability" or "'physically disabling'", as appropriate, when referring to a person (2015, p. 1),
3. Persons with disabilities . . . term "the physically handicapped" or "the physically disabled" . . . reference to the term "persons with physical disabilities" . . .the term "the handicapped" or "handicapped persons" or "handicapped individuals" or "the disabled" or "disabled persons" or "disabled individuals" . . . a reference . . . "persons with disabilities" . . . term "handicapping condition" shall be considered a reference to the term "disabling condition" (2015, p. 2)
4. Permanent disability . . . total disability . . . shall be considered a reference to a person with a permanent disability (2015, p. 2),
5. "'Developmental disability" means "'developmental disability" as defined in the Mental Health and Developmental Disabilities Code (2015, p. 81). One phrase completely deleted, i.e. not replaces with another is "'Intellectually disabled" means significantly subaverage general intellectual functioning which exists concurrently with impairment in adaptive behavior and which originates before

the age of 18 years” (2015, p. 466). Further in the text regarding a victim of sexual abuse, degrees of developmental or developmentally disabled, children or victims, respectively, are “moderate, severe, or profound intellectual” (2015, p. 557),

6. Mental disability is a significant impairment of an individual's cognitive, affective, or relational abilities that may require intervention and may be a recognized, medically diagnosable illness or disorder standards established by Secretary of State (2015, p. 52),
7. Veteran disability, s/he must have developed a disability by disease, wounds, or otherwise and because of the disability be incapable of earning a living (2015, p. 134) to gain admittance to Veterans Homes named in the legislative text. As a side note, the legislation specifically grants veterans no charge for camping fees and has a Property Tax Relief for Veterans with Disabilities.

(Illinois, Public Act 099-0143, house bill 4049, 2015)

Appendix B

Comparison of Models of Disability (Medical and Social) and Framework (DisCrit)

Table 1

Models of disability		Framework
Medical	Social	DisCrit
Defect in or failure of a bodily system that is inherently abnormal and pathological	Failure in construction/application of environment and expectations	Ignores differences of race, gender, sexual preference, socioeconomic level
Medical abnormality due to genetics, bad health habits, person's behavior	Not medical or abnormal, ableist perspective interaction with surroundings	Person is multidimensional, not defined by race, disability, gender, socioeconomic level
Clinical description as patient with medical terminology	Unified as a whole so person cannot be described merely as a sum of their parts	Unified as a whole within societal, economic, environmental, etc. context in which person functions
Supremacy of medical perspective. Faith in medical intervention	Powerlessness in the face of broad ableism. Civil rights of individual determined externally.	Civil rights of individual and as part of group. (Re)claim rights and privileges.
A cure or remedying of disability to greatest extent possible	Remedying political, economic, social and policy systems, increased access and inclusion	Remedying political, economic, social and policy systems, increased access and inclusion

Models of disability		Framework
Medical	Social	DisCrit
Isolation of body parts	Individual as a whole, complete entity within complete context	Individual as a whole, complete entity within complete context
Person has failed to achieve, attain, meet norm or expectations resulting in the segregation and diminishment of her/him/them	Society has failed to support a group of citizens and oppresses them	Society fails to implement understanding of the influence of race and disability on individuals and groups

Appendix C

Definitions of Blind

Adjective, blind·er, blind·est.

1. unable to see; lacking the sense of sight; sightless:
a blind man.
2. unwilling or unable to perceive or understand:
They were blind to their children's faults. He was blind to all arguments.
3. not characterized or determined by reason or control:
blind tenacity; blind chance.
4. not having or based on reason or intelligence; absolute and unquestioning:
She had blind faith in his fidelity.
5. lacking all consciousness or awareness:
a blind stupor.
6. drunk.
7. hard to see or understand:
blind reasoning.
8. hidden from immediate view, especially from oncoming motorists:
a blind corner.
9. of concealed or undisclosed identity; sponsored anonymously:
a blind ad signed only with a box number.
10. having no outlets; closed at one end:
a blind passage; a blind mountain pass.
11. Architecture . (of an archway, arcade, etc.) having no windows, passageways, or the like.

12. dense enough to form a screen:
a blind hedge of privet.
13. done without seeing; by instruments alone:
blind flying.
14. made without some prior knowledge:
a blind purchase; a blind lead in a card game.
15. of or relating to an experimental design that prevents investigators or subjects from knowing the hypotheses or conditions being tested.
16. of, relating to, or for blind persons.
17. *Bookbinding* . (of a design, title, or the like) impressed into the cover or spine of a book by a die without ink or foil.
18. *Cookery* . (of pastry shells) baked or fried without the filling.
19. (of a rivet or other fastener) made so that the end inserted, though inaccessible, can be headed or spread.

Verb (used with object)

1. to make sightless permanently, temporarily, or momentarily, as by injuring, dazzling, bandaging the eyes, etc. :
The explosion blinded him. We were blinded by the bright lights.
2. to make obscure or dark:
The room was blinded by heavy curtains.
3. to deprive of discernment, reason, or judgment:
a resentment that blinds his good sense.
4. to outshine; eclipse:
a radiance that doth blind the sun.

Noun

1. something that obstructs vision, as a blinker for a horse.

2. a window covering having horizontal or vertical slats that can be drawn out of the way, often with the angle of the slats adjustable to admit varying amounts of light.
3. venetian blind.
4. *Chiefly Midland U.S. and British.* window shade.
5. a lightly built structure of brush or other growths, especially one in which hunters conceal themselves:
a duck blind.
6. an activity, organization, or the like for concealing or masking action or purpose; subterfuge.
The store was just a blind for their gambling operation.
7. a decoy.
8. *Slang.* a bout of excessive drinking; drunken spree.
9. *Poker.* a compulsory bet made without prior knowledge of one's hand.
10. (used with a plural verb) persons who lack the sense of sight (usually preceded by *the*) :
The blind are said to have an acute sense of hearing.

(Dictionary: blind, n.d.)

Appendix D

DisCrit Tenets

Tenet 1: focuses on ways that the forces of racism and ableism circulate interdependently, often in neutralized and invisible ways, to uphold notions of normality.

Tenet 2: values multidimensional identities and troubles singular notions of identity such as race or dis/ability or class or gender or sexuality, and so on.

Tenet 3: emphasizes the social constructions of race and ability and yet recognizes the material and psychological impacts of being labeled as raced or dis/abled, which sets one outside of the western cultural norms.

Tenet 4: privileges voices of marginalized populations, traditionally not acknowledged within research.

Tenet 5: considers legal and historical aspects of dis/ability and race and how both have been used separately and together to deny the rights of some citizens.

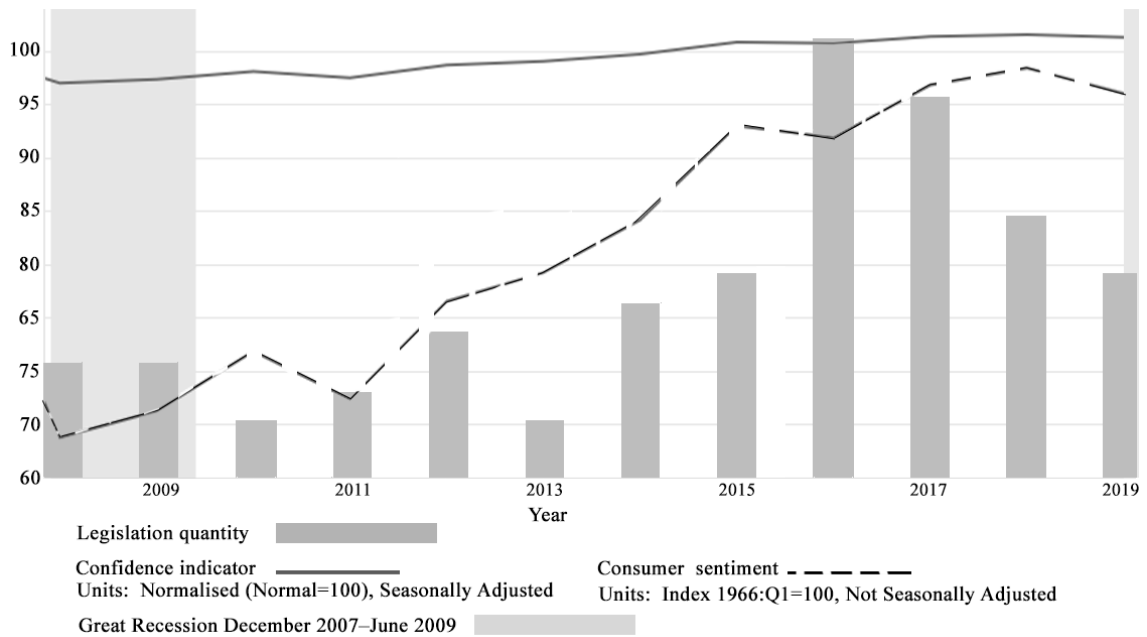
Tenet 6: recognizes Whiteness and Ability as Property and that gains for people labeled with dis/abilities have largely been made as the result of interest convergence of White, middle-class citizens.

Tenet 7: requires activism and supports all forms of resistance
(Annamma, Connor, & Ferri, 2016, p. 19)

Appendix E

Legislation Quantity vs. Consumer Sentiment vs. Confidence Indicator

Figure 1



Note. The illustration displays the number of legislative texts for years 2008-2019 in the dark blue columns, and the Consumer Sentiment Index and Confidence Indicator.

Interestingly, as the amount of legislation seems to increase as the Consumer Sentiment increases.

Consumer Sentiment Index (MCSI) (Units: Index 1966:Q1=100, Not Seasonally Adjusted) by the University of Michigan judges the consumer's level of optimism/pessimism, gauging consumer's economic expectations and probable future spending behaviors in an effort to promote an understanding of changes and to forecast those changes in the national economy

Confidence Indicator (Normalised (Normal=100), Annual, Seasonally Adjusted) measures the degree of optimism as consumers demonstrate through savings and spending activities in the U.S. (Consumer opinion surveys: Confidence indicators: Composite indicators: OECD indicator for the United States (CSCICP03USM665S) | FRED | St. Louis Fed, 2020)

Appendix F

Sample of National Conference of State Legislatures Database Search Engine

Figure 2

The screenshot shows the NCSL Bill Tracking Database search results for the keyword "disability". The interface includes a navigation menu with options like "ABOUT US", "LEGISLATORS & STAFF", "RESEARCH", "MEETINGS & TRAINING", "NCSL IN D.C.", and "MAG". The search results are displayed in a table with columns for "TOPICS", "STATES", "KEYWORD", "STATUS", "BILL NUMBER", "YEAR", and "AUTHOR".

TOPICS:

- Postsecondary-Admissions and Enrollment
- Postsecondary-Adult Education
- Postsecondary-Campus Safety
- Postsecondary-College Preparation
- Postsecondary-Community and Junior Colleges
- Postsecondary-Competency-based Education (Since 2019)
- Postsecondary-Credentials (Since 2019)
- Postsecondary-Credit for Prior Learning (Since 2019)
- Postsecondary-Dual Enrollment
- Postsecondary-Equity/Affirmative Action
- Postsecondary-Faculty

STATES:

- All States
- Alabama
- Alaska
- Arizona
- Arkansas
- California
- Colorado
- Connecticut
- Delaware
- District of Columbia

KEYWORD: disability

STATUS:

- All
- Enacted
- Read/Adopted
- Failed
- Overrode Pending
- Pending - Carryover
- To Congress
- To Governor
- Vetted

BILL NUMBER: [Empty]

YEAR:

- All
- 2019
- 2018
- 2017
- 2016
- 2015
- 2014
- 2013
- 2012
- 2011
- 2010
- 2009
- 2008

AUTHOR:

- Powerby
- Louisiana State Net*
- General Terms and Conditions

RESULTS:

Total States: 31 Total Bills: 87

ARIZONA BILL TEXT LOOKUP

AZ H 2214
2017

Arizona Disabilities Act and Income Tax Subtraction
Status: Enacted - Act No. 278
Date of Last Action: 05/08/2017 - Enacted
Author: Leach (R) Additional Authors: Cobb (R)
Topics: Postsecondary-Finance, Postsecondary-Financial Aid and Affordability, Postsecondary-Other/Miscellaneous
Summary: Relates to income tax subtractions, allows for a subtraction for eligible business access expenditures paid or incurred by a taxpayer in order to comply with the requirements of the Americans with Disabilities Act by retrofitting developed real property.
History: [Click for History](#)
 01/12/2017 - INTRODUCED.
 01/17/2017 - To HOUSE Committee on WAYS AND MEANS.
 02/01/2017 - Additionally referred to HOUSE Committee on RULES.
 02/06/2017 - From HOUSE Committee on WAYS AND MEANS. Do pass with amendment.
 02/09/2017 - To HOUSE Committee on RULES. Do pass constitutional and in proper form.
 02/09/2017 - In HOUSE Committee of the WHOLE. WAYS AND MEANS Committee amendment adopted.
 02/09/2017 - From HOUSE Committee of the WHOLE. To third reading.
 02/09/2017 - HOUSE Engrossed. Printed.
 02/13/2017 - In HOUSE. Read third time. Passed HOUSE. *****To SENATE.
 02/20/2017 - To SENATE Committee on FINANCE.
 02/20/2017 - Additionally referred to SENATE Committee on RULES.
 03/01/2017 - From SENATE Committee on FINANCE. Do pass.
 04/24/2017 - From SENATE Committee on RULES. Do pass proper for consideration.
 05/04/2017 - To SENATE Committee of the WHOLE.
 05/04/2017 - From SENATE Committee of the WHOLE. To third reading.
 05/04/2017 - In SENATE. Read third time. Passed SENATE.
 05/04/2017 - *****To GOVERNOR
 05/08/2017 - Signed by GOVERNOR.
 05/08/2017 - Chapter No. 278

Note. The illustration is a compilation of screenshots demonstrating possible choices used including topics, states, status, year. The keyword “disability” was chosen. One result is shown.

Data used from the results included the legislation’s number, year, name, topic(s), summary and history.

Appendix G

State Legislation, With and Without Definition of Disability

Table 4

All states	State with legislation	No definition of disability	No legislation
Alabama			X
Alaska			X
Arkansas	X	X	
Arizona	X		
California	X	X	
Colorado	X	X	
Connecticut			X
Delaware	X		
Florida	X	X	
Georgia			X
Hawaii			X
Idaho			X
Illinois	X	X	
Indiana			X
Iowa	X		
Kansas			X
Kentucky	X		
Louisiana	X	X	
Maine	X	X	
Maryland	X	X	
Massachusetts	X		
Michigan	X	X	
Minnesota	X		
Mississippi	X		

All states	State with legislation	No definition of disability	No legislation
Missouri			X
Montana			X
Nebraska	X	X	
Nevada			X
New Hampshire			X
New Jersey	X		
New Mexico	X		
New York	X	X	
North Carolina			X
North Dakota			X
Ohio	X		
Oklahoma	X	X	
Oregon	X	X	
Pennsylvania			X
Rhode Island	X	X	
South Carolina			X
South Dakota			X
Tennessee	X	X	
Teas	X		
Utah	X	X	
Vermont	X		
Virginia	X	X	
Washington	X	X	
West Virginia			X
Wisconsin	X	X	
Wyoming			X

Appendix H

Arizona Definitions of Disability

15-761. Definitions:

1. "Autism" means a developmental disability that significantly affects verbal and nonverbal communication and social interaction and that adversely affects educational performance. Characteristics include irregularities and impairments in communication, engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines and unusual responses to sensory experiences. Autism does not include children with characteristics of emotional disability as defined in this section.
2. "Child with a disability":
 - (a) Means a child who is at least three years but under twenty-two years of age, who has been evaluated pursuant to section 15-766 and found to have at least one of the following disabilities and who, because of the disability, needs special education and related services:
 - (i) Autism.
 - (ii) Developmental delay.
 - (iii) Emotional disability.
 - (iv) Hearing impairment.
 - (v) Other health impairments.
 - (vi) Specific learning disability.
 - (vii) Mild, moderate or severe intellectual disability.
 - (viii) Multiple disabilities.
 - (ix) Multiple disabilities with severe sensory impairment.

- (x) Orthopedic impairment.
 - (xi) Preschool severe delay.
 - (xii) Speech/language impairment.
 - (xiii) Traumatic brain injury.
 - (xiv) Visual impairment.
- (b) Does not include a child for whom the determinant factor for the classification is one or more of the following:
- (i) A lack of appropriate instruction in reading, including essential components of reading instruction.
 - (ii) A lack of appropriate instruction in mathematics.
 - (iii) Difficulty in writing, speaking or understanding the English language due to an environmental background in which a language other than English is primarily or exclusively used.
3. "Developmental delay" means performance by a child who is at least three years of age but under ten years of age on a norm-referenced test that measures at least one and one-half, but not more than three, standard deviations below the mean for children of the same chronological age in two or more of the following areas:
- (a) Cognitive development.
 - (b) Physical development.
 - (c) Communication development.
 - (d) Social or emotional development.
 - (e) Adaptive development.
4. The results of the norm-referenced measure must be corroborated by information from a comprehensive development assessment and from parental

input, if available, as measured by a judgment based assessment or survey. If there is a discrepancy between the measures, the evaluation team shall determine eligibility based on a preponderance of the information presented.

5. "Due process hearing" means a fair and impartial administrative hearing conducted by the state educational agency by an impartial administrative law judge in accordance with federal and state law.
6. "Educational disadvantage" means a condition that has limited a child's opportunity for educational experience resulting in a child achieving less than a normal level of learning development.
7. "Eligibility for special education" means the pupil has one of the disabilities in paragraph 2 of this section and requires special education services in order to benefit from an educational program.
8. "Emotional disability" means a condition:
 - (a) In which a child exhibits one or more of the following characteristics over a long period of time and to a marked degree that adversely affects the child's performance in the educational environment:
 - (i) An inability to learn that cannot be explained by intellectual, sensory or health factors.
 - (ii) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers.
 - (iii) Inappropriate types of behavior or feelings under normal circumstances.
 - (iv) A general pervasive mood of unhappiness or depression.
 - (v) A tendency to develop physical symptoms or fears associated with personal or school problems.

- (b) That includes children who are schizophrenic but does not include children who are socially maladjusted unless they are also determined to have an emotional disability as determined by evaluation as provided in section 15-766.
9. "Hearing impairment" means a loss of hearing acuity, as determined by evaluation pursuant to section 15-766, that interferes with the child's performance in the educational environment and requires the provision of special education and related services.
10. "Home school district" means the school district or charter school that the child last attended or, if the child has not previously attended a public school in this state, the school district in which the person resides who has legal custody of the child, as provided in section 15-824, subsection B. If the child is a ward of this state and a specific person does not have legal custody of the child or is a ward of this state and the child is enrolled in an accommodation school pursuant to section 15-913, the home school district is the district that the child last attended or, if the child has not previously attended a public school in this state, the school district within which the child currently resides.
11. "Impartial administrative law judge" means an administrative law judge of the office of administrative hearings who is knowledgeable in the laws governing special education and administrative hearings.
12. "Individualized education program" means a written statement, as defined in 20 United States Code sections 1401 and 1412, for providing special education and related services to a child with a disability.

13. "Individualized education program team" means a team whose task is to develop an appropriate educational program for the child and has the same meaning prescribed in 20 United States Code section 1414.
14. "Intellectual disability" means a significant impairment of general intellectual functioning that exists concurrently with deficits in adaptive behavior and that adversely affects the child's performance in the educational environment.
15. "Mild intellectual disability" means performance on standard measures of intellectual and adaptive behavior between two and three standard deviations below the mean for children of the same age.
16. "Moderate intellectual disability" means performance on standard measures of intellectual and adaptive behavior between three and four standard deviations below the mean for children of the same age.
17. "Multidisciplinary evaluation team" means a team of persons, including individuals described as the individualized education program team and other qualified professionals, who shall determine whether a child is eligible for special education.
18. "Multiple disabilities" means learning and developmental problems resulting from multiple disabilities as determined by evaluation pursuant to section 15-766 that cannot be provided for adequately in a program designed to meet the needs of children with less complex disabilities. Multiple disabilities include any of the following conditions that require the provision of special education and related services:
 - (a) Two or more of the following conditions:
 - (i) Hearing impairment.
 - (ii) Orthopedic impairment.

- (iii) Moderate intellectual disability.
 - (iv) Visual impairment.
 - (b) A child with a disability listed in subdivision (a) of this paragraph existing concurrently with a condition of mild intellectual disability, emotional disability or specific learning disability.
- 19. "Multiple disabilities with severe sensory impairment" means multiple disabilities that include at least one of the following:
 - (a) Severe visual impairment or severe hearing impairment in combination with another severe disability.
 - (b) Severe visual impairment and severe hearing impairment.
- 20. "Orthopedic impairment" means one or more severe orthopedic impairments and includes those that are caused by congenital anomaly, disease and other causes, such as amputation or cerebral palsy, and that adversely affect a child's performance in the educational environment.
- 21. "Other health impairments" means limited strength, vitality or alertness, including a heightened alertness to environmental stimuli, due to chronic or acute health problems that adversely affect a pupil's educational performance.
- 22. "Out-of-home care" means the placement of a child with a disability outside of the home environment and includes twenty-four-hour residential care, group care or foster care on either a full-time or part-time basis.
- 23. "Parent" means:
 - (a) Either a natural or adoptive parent of a child.
 - (b) A guardian, but not this state if the child is a ward of this state.

- (c) A person who is acting in the place of a natural or adoptive parent and with whom the child lives or a person who is legally responsible for the child's welfare.
 - (d) A surrogate parent.
 - (e) A foster parent to the extent permitted by state law.
24. "Preschool child" means a child who is at least three years of age but who has not reached the required age for kindergarten, subject to section 15-771, subsection G.
25. "Preschool severe delay" means performance by a preschool child on a norm-referenced test that measures more than three standard deviations below the mean for children of the same chronological age in one or more of the following areas:
- (a) Cognitive development.
 - (b) Physical development.
 - (c) Communication development.
 - (d) Social or emotional development.
 - (e) Adaptive development.
26. The results of the norm-referenced measure must be corroborated by information from a comprehensive developmental assessment and from parental input, if available, as measured by a judgment based assessment or survey. If there is a discrepancy between the measures, the evaluation team shall determine eligibility based on a preponderance of the information presented.
27. "Prior written notice" means written prior notice that a public educational agency is required to send to parents whenever the public educational agency

proposes or refuses to initiate or change the identification, evaluation or educational placement of a child with a disability or the provision of a free appropriate public education.

28. "Public educational agency" means a school district, a charter school, an accommodation school, a state-supported institution or any other political subdivision of this state that is responsible for providing education to children with disabilities.
29. "Related services" means those supportive services, as defined in 20 United States Code section 1401, that are required to assist a child with a disability who is eligible to receive special education services in order for the child to benefit from special education.
30. "Residential special education placement" means placing a child with a disability in a public or private residential program, as provided in section 15-765, subsection G, in order to provide necessary special education and related services as specified in the child's individualized education program.
31. "Severe intellectual disability" means performance on standard measures of intellectual and adaptive behavior measures at least four standard deviations below the mean for children of the same age.
32. "Special education" means specially designed instruction that meets the unique needs of a child with a disability and that is provided without cost to the parents of the child.
33. "Special education referral" means a written request for an evaluation to determine whether a pupil is eligible for special education services that, for referrals not initiated by a parent, includes documentation of appropriate efforts to educate the pupil in the regular education program.

34. "Specially designed instruction" means adapting the content, methodology or delivery of instruction to address the unique needs of a child with a disability and to ensure that child's access to the general curriculum as identified in the academic standards adopted by the state board of education.
35. "Specific learning disability" has the same meaning as defined in 20 United States Code section 14
36. "Speech/language impairment":
 - (a) For a preschool child, means performance on a norm-referenced language test that measures at least one and one-half standard deviations below the mean for children of the same chronological age or whose speech, out of context, is unintelligible to a listener who is unfamiliar with the child. Eligibility for a preschool child under this subdivision is appropriate only when a comprehensive developmental assessment and parental input indicate that the preschool child is not eligible for services under another preschool category or under the developmental delay category. If there is a discrepancy between the measures, the evaluation team shall determine eligibility based on a preponderance of the information presented.
 - (b) For a child who has reached the required age for kindergarten, means a speech or language impairment as defined in 34 Code of Federal Regulations section 300.8.
37. "State educational agency" means the department of education.
38. "State placing agency" has the same meaning prescribed in section 15-11

39. "Surrogate parent" means a person who has been appointed by the court or by the department of education pursuant to section 15-763.01 to represent a child in decisions regarding special education.
40. "Traumatic brain injury":
- (a) Means an acquired injury to the brain that is caused by an external physical force and that results in total or partial functional disability or psychosocial impairment, or both, that adversely affects educational performance.
 - (b) Applies to open or closed head injuries resulting in mild, moderate or severe impairments in one or more areas, including cognition, language, memory, attention, reasoning, abstract thinking, judgment, problem solving, sensory, perceptual and motor abilities, psychosocial behavior, physical functions, information processing and speech.
 - (c) Does not include brain injuries that are congenital or degenerative or brain injuries induced by birth trauma.
41. "Visual impairment" has the same meaning prescribed in 34 Code of Federal Regulations section 300.8.
42. "Ward of the state" has the same meaning prescribed in 20 United States Code section 1401.

(Arizona: 15-761 - Definitions [Arizona Revised Statutes Title 15. Education § 15-761], n.d.)

Appendix I

States That Reference the Americans With Disabilities Act and the Rehabilitation Act of 1973

Table 5

State	Legislation name	ADA/RA1973	Year
Arizona	Arizona: Empowerment Scholarship Accounts, Amending Sections 15-2401 and 15-2402, S 1363	RA1973	2013
Arizona	Disabilities Act and Income Tax Subtraction, [and additions from AZ gross income], H 2214	ADA	2017
Arizona	Empowerment Scholarship Accounts, S 1553	RA1973	2011
Arizona	School Tuition Organizations, H 2328	RA1973	2014
California	Public Postsecondary Education: Reporting Requirements, A 1182	RA1973	2009
Illinois	Persons With Disabilities, H 4049	ADA/RA1973	2015
Iowa	Student Aid Funding and Operation, FY 2018-2019, S 2415	ADA	2017
Kentucky	An Act relating to autism spectrum disorders, 16 RS	RA1973	2016
Maine	Adult Learner Career Pathways, S 617	ADA/RA1973	2012
Minnesota	State Finances, H 2749	ADA	2016
Ohio	Opportunities for Residents with Disabilities, S 144	RA1973	2018
Utah	Education Reporting Requirements, S 14	RA1973	2019
Washington	Student Groups Achievement, H 3212	RA1973	2008
Wisconsin	Instructional Materials for Students With Disabilities, A 322	ADA/RA1973	2012

Appendix J

States That Reference IDEA, IEPs and Postsecondary Students

Table 6

State	Legislation name	IDEA/IEP	Year
Arizona	Amending Sections 15-2401 and 15-2402, Arizona Revised Statutes Relating to Arizona Empowerment Scholarship Accounts, S 1363	IEP	2013
Arizona	Education Omnibus, H 2190	IDEA/IEP	2014
Arizona	Schools and Reading Disability Screening, S 1461	IDEA/IEP	2015
Delaware	Advance Scholarship Program, H 326	IDEA	2016
Florida	Next Generation School Standards, S 1908	IDEA/IEP	2017
Illinois	GED Testing and Certificates, H 4336	IDEA	2014
Illinois	Persons with Disabilities, H 4049	IDEA	2019
Maine	Accreditation Standards, S 660	IDEA/IEP	2016
Maine	Adult Learner Career Pathways, S 617	IDEA	2016
Massachusetts	Disabled Students, S 285	IEP	2008
Massachusetts	University Students with Disabilities, H 3720	IDEA/IEP	2016
Minnesota	State Finances, H 2749	IDEA/IEP	2016
Mississippi	Corporal Punishment, H 1182	IDEA/IEP	2019
Mississippi	Students with Disabilities, S 2432	IDEA/IEP	2016
New Mexico	Disabilities Students Lottery Scholarships, S 179	IDEA	2018
New York	Referrals to State Adult Service Agencies, S 1692	IDEA/IEP	2017
Oklahoma	Lindsey Nicole Henry Scholarships for Students with Disabilities Program Act, H 3090	IDEA/IEP	2012
Oklahoma	Lindsey Nicole Henry Scholarships, S 301	IDEA/IEP	2018

State	Legislation name	IDEA/IEP	Year
Rhode Island	Post-Secondary Education for the Disabled, H 7050	IDEA/IEP	2008
Rhode Island	Public Education to the Disabled, S 2391	IDEA/IEP	2016
Utah	Carson Smith Scholarship Amendments, SB 153	IEP	2018
Utah	Special Education Amendments, H 317	IEP	2018
Utah	Student Data Protection Amendments, S 207 Enrolled	IEP	2018
Utah	Student Support Amendments, H 373	IEP	2019

Appendix K

Text Representing Race and Ethnicity, State, Name, and Year of Legislation

Table 7

Legislation That Includes Word Representing Race And Ethnicity, State, Name, And Year Of Legislation

Legislation	African American/Black/Haitian	Asian	English Language Learner	Ethnicity	Hispanic/Latino/Spanish*	Native Americans/Hawaiian/	Race	White
Arizona, Empowerment Scholarship Accounts, S 1553							X	
Arizona, Public Agency Insurance Pools, S 1196, 2009				X		X	X	
Arizona, Empowerment Scholarship Accounts, Amending Sections 15-							X	
Arizona, Empowerment Scholarship Accounts, S 1553, 2011							X	
Arizona, Education Omnibus H 2190						X		
Arizona, Disabilities Act and Income Tax Subtraction [and additions from						X		
Arizona, School Tuition Organizations, H 2328								X
Arkansas, State Code Concerning Education, H 1573			X	X				

Legislation	African American/Black/Haitian	Asian	English Language Learner	Ethnicity	Hispanic/Latino/Spanish*	Native Americans/Hawaiian/	Race	White
Florida, Next Generation School Standards, S 1908				X	***		X	
Florida, Postsecondary Education, H 7237							X	
Illinois, Preventing Sexual Violence in Higher Education, H 821				X			X	
Illinois, GED Testing and Certificates, H 4336	X	X		X	X	X	X	X
Illinois, Persons With Disabilities, H 4049	X			X	X	X	X	X
Iowa, College Student Aid, HF 2679				X				
Louisiana, Transfer and Deposit of Monies, H 802							X	
Maine, Veterans Services Laws, H 1184						X		
Minnesota, State Finances, H 2749	X	X		X	X	X	X	X
Oklahoma, Higher Learning Access Program S 137						X		
Utah, Special Education Amendments H 317						X		
Utah, Student Data Protection Amendments, S 206			X	X		X	X	X

Legislation	African American/Black/Haitian	Asian	English Language Learner	Ethnicity	Hispanic/Latino/Spanish*	Native Americans/Hawaiian/	Race	White
Utah, Education Reporting Requirements, S 14						X	X	
Virginia, Alternative Education Program Data, S 1985				X				
Washington, Creating Extended Learning Opportunities, S 6673	X	X	X		X	X		
Washington, Student Groups Achievement, H 3212	X	X	X	X	X	X		X

Note. Many different words/phrases which may be associated with race and ethnicity, generally, were used as search terms to examine the legislative text. They included African American, American, Black, English language learner, ethnic, ethnicity, Hispanic, Indian, Indian nation, indigenous American, Latina, Latino, Latinx, native American, race, and white.

*The Hispanic/Latino/Spanish column combined these three search terms. None of the legislative texts contained the words: Latina, Latino, or Latinx. Spanish occurred but not referencing a group of people or culture.

** The Native Americans/ Native Hawaiian/ Native Alaska(ns) also included Indian, American Indian and tribal as search terms. These were combined for the sake of brevity not to exclude the groups as individuals

***"Spanish" occurred once in reference to language subject area examinations along with Arabic, Chinese, Haitian Creole and Italian, for example.

Appendix L

Definitions of Minority

"Minority student" means a student who is any of the following:

1. American Indian or Alaska Native (original peoples of North and South America, including Central America, and who maintains tribal affiliation or community attachment).
2. Asian (origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent, including, but not limited to, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam).
3. Black or African American (origins in any of the black racial groups of Africa). Terms such as "Haitian" or "Negro" can be used in addition to "Black or African American".
4. Hispanic or Latino (a person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race).
5. Native Hawaiian or Other Pacific Islander (original peoples of Hawaii, Guam, Samoa, or other Pacific Islands)

(Bill Status of HB 4336 98th General Assembly, ILC S1315, 1510, 2014)

Appendix M

List of Non-governmental Agency Disability Support Organizations

Alaska, Disability Law Center of Alaska, 3330 Arctic Boulevard, Suite 103, Anchorage, AK 99503, (800) 478-1234, (907) 565-1002 (V/TTY)

Arizona, Arizona Center for Disability Law, 100 N. Stone Avenue, Suite 305, (520) 327-9547 (V/TTY), Tucson, AZ 85701

Arkansas, Disability Rights Center, 1100 N. University, Suite 201, Little Rock, AR 72207, (800) 482-1174 (V/TTY), (501) 296-1775 (V/TTY),

California, Disability Rights California, 100 Howe Avenue, Suite 185N, Sacramento, CA 95825-8219, (800) 776-5746 (In CA), (916) 488-9950, (800) 719-5798 (TTY),

Colorado, The Legal Center for People with Disabilities and Older People, 455 Sherman Street, Suite 130, Denver, CO 80203, (303) 722-0300, (800) 288-1376 (in CO only),

Connecticut, Office of Protection & Advocacy for Persons with Disabilities, 60 B Weston Street, Hartford, CT 06120-1551, (800) 842-7303 (V/TTY in CT), (860) 297-4300, (860) 297-4380 (TTY),

Delaware, Disabilities Law Program, Community Service Building, 100 W. 10th Street, Suite 801, Wilmington, DE 19801, (800) 292-7980 (in DE), (302) 575-0660, (302) 575-0696 (TTY),

District of Columbia-Washington, DC, University Legal Services: Protection and Advocacy, 220 I Street, N.E., Suite 130, Washington, DC 20002, (202) 547-0198, (202) 547-2657 (TTY),

Florida, Disability Rights-Florida, Disability Rights Florida, 2728 Centerview Drive, Suite 102, Tallahassee, Florida 32301, 800-342-0823 Toll Free, 850-488-9071, 850-488-8640 Fax,

Georgia, The Georgia Advocacy Office, 150 E. Ponce de Leon Avenue, Suite 430, Decatur, GA 30030, (800) 537-2329 (in GA only), (404) 885-1234 (V/TTY),

Hawaii, Hawaii Disability Rights Center, 900 Fort Street Mall, Suite 1040 Honolulu, HI 96813, (800) 882-1057 (V/TTY) (in HI), (808) 949-2922 (V/TTY),

Idaho, DisAbility Rights Idaho, Protection & Advocacy for Individuals with Disabilities, 4477 Emerald Street, Suite B-100, Boise, ID 83706-2066, (208) 336-5353 (V/TTY), (800) 632-5125,

Illinois, Equip for Equality, Inc., 20 N. Michigan, Suite 300 Chicago, IL 60602, (800) 537-2632, (V)(312) 341-0022, (V)(800) 610-2779 (TTY),

Indiana, Indiana Protection and Advocacy Services, 4701 N. Keystone Avenue, Suite 222, Indianapolis, IN 46205, (800) 622-4845, (317) 722-5555, (800) 838-1131 (TTY),

Iowa, Iowa Protection and Advocacy Services, Inc., 950 Office Park Road, Suite 221, West Des Moines, IA 50265, (800) 779-2502, (515) 278-2502, (866) 483-3342 (TTY), (515) 278-0571 (TTY),

Kansas, Disability Rights Center of Kansas, 635 SW Harrison Street, Suite 100 Topeka, KS 66603, (785) 273-9661, (877) 776-1541 (in KS only),

Kentucky, Protection and Advocacy, 100 Fair Oaks Lane, Third Floor, Frankfort, KY 40601, (800) 372-2988 (V/TTY in KY), (502) 564-2967,

Louisiana, The Advocacy Center, 1010 Common Street, Suite 2600 New Orleans, LA 70112, (800) 960-7705 (in LA), (504) 522-2337,

Maine, Disability Rights Center, 24 Stone Street, P.O. Box 2007, Augusta, ME 04338-2007, (800) 452-1948 (V/TTY in ME), (207) 626-2774 (V/TTY),

Maryland, Maryland Disability Law Center, 1800 N. Charles, Suite 400 Baltimore, MD 21201, (800) 233-7201, (410) 727-6352,

Massachusetts, Disability Law Center, Inc., 11 Beacon Street, Suite 925, Boston, MA 02108, (800) 872-9992 (V), (617) 723-8455, (800) 381-0577 (TTY), (617) 227-9464 (TTY),

Michigan, Michigan Protection and Advocacy Service, Inc., 4095 Legacy Parkway, Suite 500, Lansing, MI 48911-4263, (517) 487-1755 (V/TTY), (800) 288-5923 (V/TTY),

Minnesota, Minnesota Disability Law Center, 430 First Avenue, North, Suite 300 Minneapolis, MN 55401-1780, (612) 746-3711, (800) 292-4150, (612) 334-5970 (New Clients),

Mississippi, Mississippi Protection and Advocacy System, 5305 Executive Place, Jackson, MS 39206, Jackson, MS 39206, (601) 981-8207, (800) 772-4057,

Missouri, Missouri Protection and Advocacy Services, 925 S. Country Club Drive, Jefferson City, MO 65109, (573) 659-0678, (800) 392-8667,

Montana, Disability Rights Montana, 1022 Chestnut Street, Helena, MT 59601, (800) 245-4743 (V/TTY), (406) 449-2344,

Nebraska, Nebraska Advocacy Services, Inc., 134 South 13th Street, Suite 600, Lincoln, NE 68508, (800) 422-6691, (402) 474-3183,

Nevada, Nevada Disability Advocacy and Law Center, 6039 Eldora Avenue, Suite C – Box 3, Las Vegas, NV 89146, (888) 349-3843 (toll-free), (702) 257-8150, (702) 257-8160 (TTY),

New Hampshire, Disabilities Rights Center, Inc., 18 Low Avenue Concord, NH 03301, (603) 228-0432, (800) 834-1721 (V/TTY),

New Jersey, Disability Rights New Jersey, 210 S. Broad Street, 3rd Floor, Trenton, NJ 08608, (800) 922-7233 (in NJ), (609) 292-9742, (609) 633-7106 (TTY),

New Mexico, Protection and Advocacy System, Inc., 1720 Louisiana Boulevard, N.E., Suite 204, Albuquerque, NM 87110, (800) 432-4682 (In NM), (505) 256-3100,

New York, Division of Protection and Advocacy Program Administration, New York State Commission on Quality of Care and Advocacy for Persons with Disabilities, 401 State Street, Schenectady, NY 12305-2397, (518) 388-2892, (800) 624-4143 (Voice/TTY/Spanish),

North Carolina, Disability Rights North Carolina, 2626 Glenwood Avenue, Ste. 550, Raleigh, NC 27608, (877) 235-4210, (919) 856-2195,

North Dakota, North Dakota Protection and Advocacy Project, 400 E. Boulevard Avenue, Suite 409 Bismarck, ND 58501, (701) 328-2950, (800) 472-2670 (in ND),

Ohio, Ohio Legal Rights Service, 50 W. Broad Street, Suite 1400, Columbus, OH 43215-5923, (614) 466-7264, (614) 728-2553 (TTY), (800) 282-9181 (in OH), (800) 858-3542 (TTY in OH),

Oklahoma, Oklahoma Disability Law Center, Inc., 2915 Classen Boulevard, 300 Cameron Building, Oklahoma City, OK 73106, (800) 880-7755 (V/TTY, in OK), (405) 525-7755 (V/TTY),

Oregon, Oregon Advocacy Center, 620 S.W. 5th Avenue, Suite 500, Portland, OR 97204-1428, (503) 243-2081, (503) 323-9161 (TTY), (800) 452-1694,

Pennsylvania, Disability Rights Network of Pennsylvania, 1414 N. Cameron Street, Suite C, Harrisburg, PA 17103, (800) 692-7443 (in PA), (717) 236-8110, (877) 375-7139 (TTY),

Rhode Island, Rhode Island Disability Law Center, 275 Westminster Street, Suite 401, Providence, RI 02903, (800) 733-5332 (in RI), (401) 831-3150, (401) 831-5335 (TTY),

South Carolina, Protection and Advocacy for People with Disabilities, Inc., 3710 Landmark Drive, Suite 208, Columbia, SC 29204, (803) 782-0639, (866) 275-7273, (In SC)(866) 232-4525 (TTY),

South Dakota, South Dakota Advocacy Services, 221 S. Central Avenue, Pierre, SD 57501, (800) 658-4782 (in SD), (605) 224-8294,

Tennessee, Disability Law & Advocacy Center of Tennessee, 2416 21st Avenue South, Suite 100, Nashville, TN 37212, (901) 458-6013, (800) 342-1660 (Toll-free in TN only), (888) 852-2852 (TTY),

Texas, Advocacy, Inc., 7800 Shoal Creek Boulevard, Suite 171-E, Austin, TX 78757, (512) 454-4816, (800) 252-9108 (In TX),

Utah, Disability Law Center, 205 North 400 West, Salt Lake City, Utah 84103, (801) 363-1347, (800) 662-9080,

Vermont, Vermont Protection and Advocacy, Inc., 141 Main Street, Suite 7, Montpelier, VT 05602, (800) 834-7890 (In VT), (802) 229-1355, (802) 229-2603 (TTY),

Virginia, Virginia Office for Protection and Advocacy, 1910 Byrd Avenue, Suite 5, Richmond, VA 23230, (800) 552-3962 (In VA), (804) 225-2042 (V/TTY),

Washington, Disability Rights Washington, 315 Fifth Avenue South, Suite 850, Seattle, WA 98104, (206) 324-1521, (206) 957-0728 (TTY), (800) 562-2702, (800) 905-0209 (TTY),

West Virginia, West Virginia Disability Rights, 1207 Quarrier Street, 4th Floor, Charleston, WV 25301; (800) 950-5250 (in WV), (304) 346-0847 (V/TTY),

Wisconsin, Disability Rights Wisconsin, 131 W. Wilson Street, Suite 700, Madison, WI 53703, (800) 928-8778 (in WI only), (608) 267-0214, (888) 758-6049 tty,

Wyoming, WY Protection & Advocacy System, 7344 Stockman Street, Cheyenne, WY 82009; (307) 632-3496, (800) 624-7648 (in WY)

Appendix N

List of United States Census Regions, Divisions and States in Each Division

Table 8

Region	Division	States
Northeast	New England	Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont
	Middle Atlantic	New Jersey, New York, Pennsylvania
South	South Atlantic	Delaware, District of Columbia, Florida, Georgia, Maryland, North Carolina, South Carolina, Virginia, West Virginia
	East South Central	Alabama, Kentucky, Mississippi, Tennessee
	West South Central	Arkansas, Louisiana, Oklahoma, Texas
Midwest	East North Central	Illinois, Indiana, Michigan, Ohio, Wisconsin
	West North Central	Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota
West	Mountain	Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Utah, Wyoming
	Pacific	Alaska, California, Hawaii, Oregon, Washington

(Frequently asked questions: Region and division labor force data, 2005)

Appendix O

Complete List of States, Legislative Names and Year Enacted

Table 9

State	Legislative Title	Year enacted
Arizona	Amending Sections 15-2401 And 15-2402, Arizona Revised Statutes Relating To Arizona Empowerment Scholarship Accounts, Senate Bill 1363	2013
Arizona	Arizona Disabilities Act and Income Tax Subtraction [and additions from AZ gross income], Amending Sections, H 2214	2017
Arizona	Arizona Empowerment Scholarship Accounts, S 1553	2011
Arizona	Education Omnibus, H 2190	2016
Arizona	Public Agency Insurance Pools, S 1196	2009
Arizona	School Tuition Organizations, HB 2328	2014
Arizona	Schools and Reading Disability Screening, S 1461	2015
Arkansas	Building Better Futures Program, H 1308	2017
Arkansas	For An Act To Be Entitled An Act Concerning Corporal Punishment; To Prohibit The Use Of Corporal Punishment On A Child With A Disability; And For Other Purposes, S 381	2019
Arkansas	State Code Concerning Education, H 1573	2019
California	Community Colleges: Disability Services Program, AB 2791	2016
California	Public Postsecondary Education: Reporting Requirements, A 1182	2009
California	Workers' Compensation: Peace Officer Benefits, A 2069	2012
Colorado	Inclusive Higher Education Pilot Program, S 196	2016
Delaware	Advance Scholarship Program, H 326	2018
Florida	Committee Substitute for Senate Bill No. 1676	2009
Florida	Comprehensive Transitional Education Programs, H 899	2017

State	Legislative Title	Year enacted
Florida	Next Generation School Standards, S 1908	2008
Florida	Postsecondary Education, H 7237	2010
Illinois	Department of Veterans Affairs Act, H 2973	2017
Illinois	GED Testing and Certificates, H 4336	2014
Illinois	Persons With Disabilities, H 4049	2015
Illinois	Preventing Sexual Violence in Higher Education, H 821	2015
Iowa	Education Funding and Operation, H 642	2017
Iowa	Student Aid Funding and Operation, FY 2018-2019, S 2415	2018
Kentucky	An Act relating to autism spectrum disorders, 16 RS SB 185	2016
Kentucky	Students with Disabilities Postsecondary Financial Aid, H 158	2016
Louisiana	Behavioral Health and Mental Health, H 341	2017
Louisiana	Transfer and Deposit of Monies, LA H 802	2009
Maine	Accreditation Standards, Status: Enacted - Act No. 489, S 660	2016
Maine	Adult Learner Career Pathways, S 617, An Act To Enhance Career Pathways for Adult Learners	2012
Maryland	Better Life Experience Program, H 431	2016
Maryland	Disabled Higher Education Accessibility, S 446	2014
Maryland	Financial Aid - Deaf and Hearing Impaired Students - Out-of-State Institutions of Higher Education, 2016 S 272	2016
Maryland	Higher Education Grant Program, S 872, James W. Hubbard Inclusive Higher Education Grant Program;	2017
Maryland	Regular Session - House Bill 813 Enrolled, Task Force to Study the Impact of Expanding Credit and Noncredit Courses for Students with Intellectual and Developmental Disabilities	2013
Maryland	Study of Accessibility Concepts in Higher Education, H 396	2014
Maryland	The Textbook Cost Savings Act of 2017, S 424	2017

State	Legislative Title	Year enacted
Massachusetts	An Act Relative To Age Requirements For Certain Students, Chapter 285	2016
Massachusetts	Disabled Students, S 286	2008
Massachusetts	University Students With Disabilities, H 1219	2012
Michigan	Student Expulsion, H 5531	2018
Minnesota	State Finances, H 2749	2016
Mississippi	Corporal Punishment, H 1182	2019
Mississippi	Students With Disabilities, MS S 2432	2017
Nebraska	Rural Health Systems and Professional Incentive Act, L 196	2015
New Jersey	Higher Education Student Assistance Authority, S 743	2017
New Mexico	Disabilities Students Lottery Scholarships, allowing certain students with disabilities to receive legislative lottery tuition scholarships, NM S 179	2019
New York	College Students With Disabilities, A 10118	2010
New York	Referrals To State Adult Service Agencies, S 1692	2017
Ohio	Opportunities for Residents with Disabilities, [cognitive disability], S 144	2018
Oklahoma	Higher Learning Access Program, S 137	2016
Oklahoma	Lindsey Nicole Henry Scholarships for Students with Disabilities Program Act, H 3090	2012
Oklahoma	Lindsey Nicole Henry Scholarships, S 301	2018
Oklahoma	Reading Sufficiency Act, H 1789	2017
Oregon	Underrepresented Communities in Higher Education, H 3308	2015
Rhode Island	Disabled Students Benefits, H 6088	2017
Rhode Island	Post-Secondary Education for the Disabled, H 7050	2016
Rhode Island	Public Education To the Disabled, S 2391	2016
Tennessee	Lottery Scholarships and Programs, S 2039	2016
Tennessee	Medical Disabilities and HOPE Scholarships, S 2008	2011
Texas	Persons With Disabilities in Public Higher Education, S 37	2015

State	Legislative Title	Year enacted
Utah	Carson Smith Scholarship Amendments, SB 153	2018
Utah	Education Reporting Requirements, S 14	2019
Utah	Special Education Amendments, H 317	2018
Utah	Student Data Protection Amendments, SB 207 Enrolled	2018
Utah	Student Support Amendments, H 373	2019
Vermont	Vermont Governor's Committee on Employment of People with Disabilities, ABLE Savings Program	2015
Virginia	Alternative Education Program Data, (Associated Bills: VA S 1298 - Identical), H 1985	2019
Washington	Creating Extended Learning Opportunities, S 6673	2008
Washington	Higher Education Instructional Materials, (amended by Senate), H 1089	2011
Washington	Student Groups Achievement, H 3212	2008
Washington	Student Services for Students with Disabilities, S 6466	2016
Wisconsin	Instructional Materials for Students With Disabilities, A 322	2012
Wisconsin	Workforce Training Grants, A 2	2014

Note. Legislative title is derived from the National Conference of State Legislatures search results

Appendix P

Regarding Naming Legislation

The titles for each statute are from the NCSL search results. The name used may differ from the name used in the legislation itself. Additionally, in the References portion of the study, each resource that did not use the state's name in the webpage title had added the state name so "A bill to be entitled An act relating to postsecondary education" became "Florida, A bill to be entitled An act relating to postsecondary education", likewise "An act relating to the funding of, the operation of, and appropriation of moneys (for various), HF 2679" became "Iowa, An act relating to the funding of, the operation of, and appropriation of moneys (for various), HF 2679". For the most part, the use of upper or lower case letters was as it appeared in the legislation. For example, "For An Act To Be Entitled AN ACT CONCERNING CORPORAL PUNISHMENT; TO PROHIBIT THE USE OF CORPORAL PUNISHMENT ON A CHILD WITH A DISABILITY; AND FOR OTHER PURPOSES, 2019 AR S 381." was changed to "For An Act To Be Entitled An Act Concerning Corporal Punishment; To Prohibit The Use Of Corporal Punishment On A Child With A Disability; And For Other Purposes, 2019 AR S 381.". This was done primarily to increase readability and legibility.