

2020

Twice Exceptional Students Need Twice the Programming

Rebecca Jacobs

Follow this and additional works at: <https://lawcommons.luc.edu/clrj>



Part of the [Family Law Commons](#), and the [Juvenile Law Commons](#)

Recommended Citation

Rebecca Jacobs, *Twice Exceptional Students Need Twice the Programming*, 40 CHILD. LEGAL RTS. J. 164 (2021).

Available at: <https://lawcommons.luc.edu/clrj/vol40/iss2/9>

This Article is brought to you for free and open access by LAW eCommons. It has been accepted for inclusion in Children's Legal Rights Journal by an authorized editor of LAW eCommons. For more information, please contact law-library@luc.edu.

Education Connection:
Twice Exceptional Students Need Twice the Programming

By: Rebecca Jacobs

I. INTRODUCTION

Equality in schooling is a goal that each district strives to achieve; however, the opportunity to succeed lags for students with physical or mental disabilities. In the early 1970s, discrimination against individuals with disabilities came into the public eye and Congress began passing legislation in order to combat the issue. Congress expanded civil rights to protect individuals with disabilities by passing Section 504 of the Rehabilitation Act of 1973, stating that a school cannot discriminate against a student's inability to complete curriculum because of his or her disability. While Section 504 protected the civil rights of individuals with disabilities, Congress continued to enact legislation with a specific focus on the education of individuals with disabilities. In 1975, the federal government passed further legislation for students with physical or mental disabilities and enacted the Education for All Handicapped Children Act, which was later reauthorized and retitled as the Individuals with Disabilities Education Act (IDEA). IDEA was enacted with the purpose of providing children with disabilities a comprehensive education and guaranteeing the students special education and related services.

Despite legislation passed to improve education for American students, one group seems to get caught in the middle, unable to satisfy their educational needs. This group is known as "twice exceptional" students. A twice exceptional student is considered to be academically gifted but also qualifies as disabled under IDEA or Section 504 and requires special education courses. Consider a fourth-grade student who is reading at a tenth-grade level but cannot pass her spelling tests and struggles immensely in writing. One well known example of this dichotomy is Steven Spielberg, who became one of the most successful filmmakers of all time but has battled with dyslexia throughout his life. Twice exceptional students fall through the cracks as many schools are unaware of the necessity to provide students with both programs simultaneously. This lack of focus is a disadvantage to twice exceptional students who could challenge themselves in an advanced program with the help of special education services. School faculty need to be trained in how to appropriately provide services to twice exceptional students, so they no longer feel forced to choose between one or the other and forfeiting a program that they need to succeed academically. This article will focus on the eligibility of special education services and accelerated placement in order to best fit a student who requires both.

II. WHAT IS A TWICE EXCEPTIONAL STUDENT?

Students who meet the twice exceptional requirements are not always labeled as twice exceptional by their schools. A study done by the National Research Center for the Gifted and Talented identified three distinct subgroups of students that are deemed to be

twice exceptional. The first subgroup is the “identified gifted underachiever,” which is the identified gifted student who underperforms in school as related to his intellect and is generally not suspected of having learning challenges. The second subgroup is the “identified special education student,” which is the student who has been identified as needing special education services, but whose intellect is overlooked due to disability. Third, the “overlooked general education student” is a subgroup of students who are placed in a general education classroom and are perceived to be “normal” with neither giftedness nor special education needs due to the two exceptionalities counteracting each other. Outside of this study is the unfortunate fourth subgroup where students are found to have both exceptionalities and are forced to choose between an accelerated or advanced course or being placed in special education or lower track classes. However, twice exceptional students belonging to any of the three identified groups may also be required to choose a program.

A large percentage of students who have been deemed twice exceptional will not receive the needed services because once they are found to qualify for one exceptionality, they will likely not be tested for the other. Twice exceptional students caught in between are often labeled as “lazy” and “unmotivated” because their giftedness can mask their special needs and vice versa. Besides any external stigma, twice exceptional students may suffer from low self-esteem and frustration with their abilities, which in turn leads to poor classroom performance and behavioral problems.

III. ELIGIBILITY FOR SIMULTANEOUS SPECIAL EDUCATION SERVICES AND ADVANCED PLACEMENT

The United States Supreme Court held in the landmark case, *Board of Education of the Hendrick Hudson Central School District v. Amy Rowley*, that a school district must comply with a child’s Individualized Education Program (IEP) to provide a free appropriate public education (FAPE). This case established the basic floor of opportunity provided for students with disabilities. The basic floor was then narrowed by the United States Supreme Court’s holding in *Endrew F. v. Douglas County School District*, where the Court concluded that in order for a school to meet its substantive obligation under the IDEA, the school must offer an IEP that is reasonably calculated to enable a child to make progress “most appropriate in light of the child’s circumstances.” Given these two landmark holdings, a twice exceptional student’s IEP should provide him or her with services most appropriate in light of their gifted label as well. However, that is likely not the case in most scenarios.

Twice exceptional students qualify for special education the same way any student who solely has a learning disability would qualify for special education. For a student to qualify for special education and related services, the student must meet a three-prong test. First, they must meet the definition of one or more categories of disabilities under IDEA; second, their disability must adversely affect their educational performance; and third, it must be determined that they are in need of special education and related services as a

result of his or her disability. Further, accelerated placement and advanced placement have their own requirements. Accelerated placement refers to the placement of a child in a curriculum that is usually reserved for children who are older or in higher grades than the child and includes entrance into kindergarten or first grade, advancing a child in a single subject, or full grade acceleration. On the other hand, advanced placement refers to the placement of a child in specific courses. There is no federal requirement for gifted education. The decisions regarding any gifted programming are made at the state and local level.

Identifying twice exceptional students tends to be a lower priority for school districts. The lag in identification can hinder students from receiving the necessary programs in order for them to succeed in the program best fit to their abilities. However, just as any special education or gifted student would require varied services, students who are twice exceptional require their own set of services. A twice exceptional child's IEP should address his or her weaknesses and strengths regarding both exceptionalities. When the IEP fails to address both, however, a twice exceptional student can lag behind in the opportunities to meet his or her academic potential.

IV. THE VARIOUS HARMS OF NOT RECEIVING BOTH PROGRAMS

It is reasonable to assume that within most school districts, there is likely at least one student whose twice exceptional needs are not being met. The fact that a student may also be gifted should not disqualify their eligibility for special education services. A student's giftedness does not constitute a recognized basis for eligibility for special education by itself. Per IDEA, however, a State may not use a twice exceptional student's high academic scores as the reason to deny them eligibility for special education. Few states specify what twice exceptional programs should look like; this is often left for school districts to decide individually. For example, Illinois Code holds that participation in accelerated placement may not be limited to children who have been identified as gifted and talented, but open to all children who demonstrate high ability and would benefit from accelerated placement. Further, a new law that took effect in 2018, the Accelerated Placement Act, allows students as young as four years old to enter kindergarten within Illinois Public Schools if they are found to demonstrate high ability and may benefit from accelerated placement. Giving the individual districts authority comes with its own set of problems as funding for gifted and special education services vary greatly, giving students different opportunities to receive the necessary programming.

Twice exceptional students are pegged to be bored in class or uninterested in what they are learning because of their lack of academic successes. It is crucial for the parents, teachers, and school faculty of twice exceptional students to continue challenging and assisting them throughout their coursework. Twice exceptional students may have issues of self-isolation, due to feeling as though they do not belong in one program versus the other. Proper identification of a twice exceptional student along with proper program

availability could help students feel as though they are in the proper environment for their education with the correct services and aides.

An important issue when it comes to twice exceptional students is making sure that these students are being challenged through advanced coursework without giving up the essential learning aides and special education programs that they may require. Twice exceptional students can have all types and degrees of disabilities. As such, the focus of their education cannot simply be on their intellectual capabilities if they require assistance in other ways. One approach to assessing a student's needs for different types of assistance is to focus on their "least restrictive environment." The "least restrictive environment" is the learning space that will be the most beneficial to them with the least number of roadblocks to their education. A student's evaluation as a twice exceptional student and his or her IEP provided by the district must be reasonably calculated to provide the student with educational benefits, without restricting the student's academic growth through either or both programs. If a student is evaluated to be twice exceptional, their least restrictive environment would likely be a classroom with advanced courses and the proper aides and special education technology to guide their learning. The Office of Civil Rights has stated that if students who are qualified as twice exceptional have to forfeit their special education in order to be placed in accelerated classes, it amounts to a denial of their right to Free Appropriate Public Education under the IDEA and Section 504.

V. CONCLUSION

It is important for school districts not to focus solely on a student's learning disabilities or giftedness if the student is twice exceptional; both are equally important in the development of an IEP to meet the student's needs. When a student is evaluated to have two exceptionalities, they should not have to choose between an accelerated or advanced course and being placed in special education classes or lower track classes. If a student is found to qualify for an IEP and is twice exceptional, the student should receive assistance on both exceptionalities through the IEP.

SOURCES

34 C.F.R. § 300.8(a)(1).

105 ILL. COMP. STAT. 5/14A-17.

105 ILL. COMP. STAT. 5/14A-32.

The Accelerated Placement Act, ILL. ASS'N FOR GIFTED CHILD., <https://iagcgifted.org/IL-Acceleration-Act> (last visited Nov. 2, 2020).

Bd. of Educ. of the Hendrick Hudson Cent. Sch. Dist. v. Amy Rowley, 458 U.S. 176, 188-89 (1982).

Dawn Beckley, *Gifted and Learning Disabled: Twice Exceptional Students*, NRC/GT NEWSLETTER (Nat'l Rsch. Ctr. for the Gifted & Talented, Storrs, Conn.), Spring 1998, at 6-10, <https://nrcgt.uconn.edu/wp-content/uploads/sites/953/2015/05/spring98.pdf>.

Doe v. Bd. of Educ. of Tullahoma City Sch., 9 F.3d 455, 457-58 (6th Cir. 1993).

Education for All Handicapped Children Act of 1975, Pub. L. No. 91-230 § 601 (1975).

Andrew F. v. Douglas Cnty. Sch. Dist. Re-1, 137 S. Ct. 988, 991 (2017).

Kim Millman, *An Argument for Cadillacs Instead of Chevrolets: How the Legal System Can Facilitate the Needs of the Twice-Exceptional Child*, 34 PEPP. L. REV. 455 (2007).

Amanda Morin, *7 Myths About Twice-Exceptional (2E) Students*, UNDERSTOOD,

<https://www.understood.org/en/friends-feelings/empowering-your-child/building-on-strengths/7-myths-about-twice-exceptional-2e-students> (last visited Nov. 2, 2020).

NAT'L EDUC. ASS'N, THE TWICE-EXCEPTIONAL DILEMMA (2006), <https://www.nagc.org/sites/default/files/key%20reports/twiceexceptional.pdf>.

Peg Rosen, *The Challenges of Twice-Exceptional Kids*, UNDERSTOOD, <https://www.understood.org/en/friends-feelings/empowering-your-child/building-on-strengths/gifted-childrens-challenges-with-learning-and-thinking-differences> (last visited Nov. 2, 2020).

Twice Exceptional Children (2e), WRIGHTSLAW (Jan. 7, 2020), <https://www.wrightslaw.com/info/2e.index.htm>.

U.S. Dep't of Educ., Off. of Special Educ. Programs, *Letter to Anonymous* (Jan. 13, 2010), 55 INDIVIDUALS WITH DISABILITIES EDUC. L. REP. 172.