

Overview of US Law

Sources of Law

- Constitutional law
- Statutory law
- Regulatory law
- Case law

Constitutional Law

- US Constitution (as amended) is guiding law of the land
- Amended 27 times
 - First 10 are the Bill of Rights
 - 1st amendment: freedom of religion, speech, press, assembly, and petition
 - 14th amendment is basis for most special education law
 - Passed in 1868, includes equal protection clause
 - Interpreted as separate but equal in Plessy (1896), separate is unequal in Brown (1954)

State Constitutions

- Each state has own constitutions by which citizens must abide
- Can provide rights in addition to, but not less than, those afforded in US Constitution

Statutory Law

- Federal and state Congresses pass laws, known as statutes or acts
 - Federal acts assigned numbers based on session of congress and the number of laws preceding it
 - Public Law 94-142 (original Individuals with Disabilities Act) was 142nd law in the 94th session of Congress

Regulatory Law

- Laws enacted by Congress are usually generally phrased
- Rules or regulations provide specificity
 - Special educators typically wait 1+ years after each time IDEA is authorized to get regs, which really tell them what IDEA means

Case Law

- Published opinions of judges from court cases interpreting constitutional, statute, and regulatory law
- Horizontal power: when courts interpret constitutional and legislative law
- Vertical power: Higher courts rule on lower courts' interpretations; higher courts set precedence

Federal Court Structure

- Trial or District Courts
 - 100 in US, responsible for determining facts of cases
- Court of Appeals
 - Or Intermediate Appellate Courts, 13 US Court of Appeals (or Circuits)
 - Hawaii is in 9th Circuit Court w/ Alaska, Arizona, CA, Idaho, Montana, Nevada, Oregon, & Washington
- Supreme Court
 - Court of Last Resort

Precedence

- Lower courts in same jurisdiction are bound by opinions of higher courts (or must justify why it did not)
- Courts can, but do not have to, follow opinions of courts in other jurisdictions
- Supreme Court decisions set precedence for all lower courts

Relation of Types of Law

- Litigation can be a basis for legislation
 - e.g., PARC led to PL 94-142
- Legislation can be a basis for litigation
 - PL 94-142 led to Rowley
- Constitution a basis for legislation and litigation
 - 14th amendment is a basis for PARC, PL 94-142, and Rowley