

STUDENTS' CIVIL RIGHTS ENFORCEMENT INITIATIVE

The Students' Civil Rights Act

ADVOCATE'S TOOLKIT

PART 7: DEFINITIONS INDEX

Part 7:

Definitions Index

Section 3 of the core bill provides definitions of words that the template currently uses. When drafting your state's bill, if you decide to include some of the other sections of this model, you may need to define some additional terms.

Here are some terms you may find helpful to include in Section 3, depending on the additional sections your draft adopts:

(a) "Administrative unit" means a school district, a board of cooperative services, a multi-district administrative unit, a charter school network, or a charter school collaborative that is providing educational services to exceptional children and that is responsible for the local administration of [STATE EDUCATION LAW].

(b) "Accessible" means being in compliance with the applicable standards set forth in the following—

(1) The Fair Housing Act (Public Law 90-284, 42 U.S.C. § 3601 et seq.);

(2) The Americans with Disabilities Act of 1990 (Public Law 101-336, 42 U.S.C. § 12101 et seq.); and

(3) The act of September 1, 1965 (P.L.459, No.235), entitled, as amended, "An act requiring that certain buildings and facilities adhere to certain principles, standards and specifications to make the same accessible to and usable by persons with physical handicaps, and providing for enforcement."

(c) "Americans with Disabilities Act" or "ADA" means the federal Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq.

(d) "Appropriate public education" means the provision of public education and related aids and services that are designed to meet the individual educational needs of a qualified student with a disability as adequately as the needs of a student without a disability and are based on adherence to procedures that satisfy the requirements of [THIS ACT].

(e) "Censorship" means the removal, restriction, relocation, or redaction of instructional material or library material based on disagreement with the material's content, viewpoint, ideas, or the identity or perspectives of its author, creator, or subject matter.

(f) "Citizenship or immigration status" means—

(1) The citizenship of any person, or

(2) The immigration status of any person who is not a citizen or national of the United States.

(g) "Covered entity" means any public elementary, secondary, or post-secondary educational institution, charter school, school district, governing body, the libraries of any of the listed public educational institutions, or other public educational institution subject to [THIS ACT].

(h) "Cross-tabulated data" means data reported in a table with two or more dimensions that groups specific characteristics into rows and columns in such a way that allows for the examination of relationships between categorical variables, including, but not limited to, race cross-tabulated with sex and race cross-tabulated with disability status.

(i) "Days" means calendar days unless otherwise specified as "business days."

(j) "Disability" means—

(1) A physical or mental impairment that substantially limits one or more of an individual's major life activities;

(2) A record of having a physical or mental impairment that substantially limits one or more of an individual's major life activities; or

(3) Being regarded as having a physical or mental impairment that substantially limits one or more of an individual's major life activities.

(k) "Disaggregated data" means data categorized and reported, at minimum, by race, sex (including sexual orientation and gender identity), and disability, in accordance with federal, state, and local protections against the disclosure of personally identifiable information.

(l) "English Learner" means an individual—

(1) Who is enrolled or preparing to enroll in an elementary school, secondary school, or post-secondary school;

(2) Who—

(A) Was not born in the United States or who was born in the United States and whose heritage or primary language is a language other than English;

(B) Who—

1. Is a Native American or Alaska Native, or a native resident of the outlying areas; and

2. Comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; or

(C) Is migratory, whose heritage or primary language is a language other than English, and who comes from an environment where a language other than English is dominant; and

(3) Whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual—

(A) The ability to meet the challenging State academic standards;

(B) The ability to successfully achieve in classrooms where the language of instruction is English; or

(C) The opportunity to participate fully in society.

(m) “Facilities” means all or any portion of buildings, structures, equipment, roads, walks, parking lots, or other real or personal property or interests in such property.

(n) “Free education” means the provision of educational and related services without cost to a qualified student with a disability or to the student’s parent or guardian, except for the fees that are imposed on students without a disability or their parent or guardian. A free education may consist of the provision of free services through a program operated by a local education provider. A free education may also consist of the local education provider placing a student with a disability or referring such student for aids, benefits, or services not operated or provided by the local education provider, so long as the aids, benefits, or services are provided at no cost to the qualified student with a disability or the student’s parent or guardian. Funds available from any public or private agency may be used to meet the requirements of [THIS ACT]. Nothing in this section shall be construed to relieve an insurer or similar third party from an otherwise valid obligation to provide or pay for services to a qualified student with a disability.

(o) “Gender identity” means a person’s actual or perceived gender-related identity, appearance, behavior, or expression, or other gender-related characteristic regardless of the sex assigned to that person at birth, including, but not limited to, the status of being transgender, nonbinary, or gender nonconforming.

(p) “Heritage or primary language,” when used with reference to an individual of limited English proficiency, means—

(1) The language normally used by such individual;

(2) In the case of a child or youth, the language normally used by the parents of the child or youth; or

(3) A minority language spoken at home or within a community that differs from the dominant language (English) of the wider society.

(q) “Individualized education program” or “IEP” has the meaning set forth in the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq., and 34 C.F.R. § 300.320.

(r) “Individuals with Disabilities Education Act” or “IDEA” means the federal “Individuals with Disabilities Education Act,” 20 U.S.C. § 1400 et seq.

(s) “Independent educational evaluation” means an evaluation conducted by a qualified examiner who is not employed by the local education provider responsible for the education of the student in question.

(t) “Instructional material” means any textbook, curricular resource, supplemental material, digital resource, audiovisual material, software, or other material selected or used by an educator for classroom instruction.

(u) “Language assistance services” include access to information, materials, or documents using appropriate and accurate oral translation and interpretation, including written translation services in an accurate, timely, and effective manner, to a Limited-English Proficient parent, at no cost to the Limited-English Proficient parent.

(v) “Language instruction educational program” or an “LIEP” means an instruction course—

(1) In which an English Learner is placed for the purpose of developing and attaining English proficiency, while meeting challenging State academic standards; and

(2) That may make instructional use of both English and a child’s primary or heritage language to enable the child to develop and attain English proficiency, and may include the participation of English proficient children if such course is designed to enable all participating children to become proficient in English and a second language.

(w) “Law enforcement officer” means—

(1) Any person who—

(A) Is a State, Tribal, or local law enforcement officer (as defined in section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. 10284)); and

(B) Is assigned by the employing law enforcement agency to an educational institution, who is contracting with an educational institution, or who is employed by an educational institution; and

(2) Includes an individual referred to as a “school resource officer” if that individual meets the definition in paragraph (1) of this subsection.

(x) “Library material” means any book, periodical, database, digital resource, audiovisual material, or other resource maintained in or made available through a library at any public institution listed under the definition of “covered entity.”

(y) “Limited English proficient parent” or “LEP parent” means an individual—

(1) Who is the parent or guardian of a student enrolled or preparing to enroll in a public elementary or secondary school; and

(2) Who—

(A) Was not born in the United States or whose heritage or primary language is a language other than English;

(B) Is a Native American or Alaska Native or a native resident of one of the outlying areas of the United States and who comes from an environment where a language other than English has had a significant impact on the individual’s level of English language proficiency; or

(C) Is migratory, whose heritage or primary language is a language other than English, and who comes from an environment where a language other than English is dominant; and

(3) Whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual the opportunity to participate fully in society, including to deny the individual the opportunity to participate fully in decisions relating to or effectively communicate with the school about their child’s education.

(z) “Local education provider” means a school district, a charter school authorized by [RELEVANT STATE AUTHORITY], a state-operated program, or a board of cooperative services created and operating pursuant to [RELEVANT STATE AUTHORITY] that operates one or more public schools; except that, for matters involving the provision of a free education to a qualified student with a disability, “local education provider” has the same meaning as “administrative unit” as defined in subsection (a) of this section, for the purposes of [THIS ACT].

(aa) “Marital status” means an individual’s state of being single, married, separated, divorced, or widowed.

(bb) “Obscenity” means material that satisfies the constitutional standard established in *Miller v. California*, 413 U.S. 15 (1973), as applied to minors in accordance with *Ginsberg v. New York*, 390 U.S. 629 (1968).

(cc) “Parent” means—

(1) A biological or adoptive parent of a child;

(2) A foster parent;

(3) A guardian generally authorized to act as a child's parent, or authorized to make educational decisions for the child, but not the state if the child is a ward of the state;

(4) An individual acting in the place of a biological or adoptive parent, including but not limited to a grandparent, stepparent, or other relative, and with whom the child lives, or an individual who is legally responsible for the child's welfare; or

(5) An educational surrogate parent assigned by the responsible administrative unit consistent with rules promulgated by [RELEVANT STATE OFFICE] in accordance with [RELEVANT STATE LAW].

(dd) "Personally identifiable information" means information that can be used to distinguish, trace, or identify an individual's identity. It includes, but is not limited to, direct identifiers like names and social security numbers, as well as linked data like biometric records, financial, medical, or employment history.

(ee) "Policy" means a written or unwritten statement, decision, or chosen method or approach that has been approved by a person or persons with decision-making authority.

(ff) "Practice" means a custom or multiple similar acts or omissions, regardless of whether those customs, acts, or omissions are required by a policy or have received formal approval.

(gg) "Program or activity" means all of the operations of an educational institution or local education provider.

(hh) "Public expense" means that the local education provider either pays for the full cost of an independent educational evaluation or ensures that the evaluation is otherwise provided at no cost to the parent, consistent with Section 8 of this [ACT].

(ii) "Qualified student with a disability" means a student who has a disability and who is entitled to a free public education [PURSUANT TO RELEVANT STATE LAW].

(jj) "Race"—

(1) Means a person's actual or perceived characteristics related to that individual's color, national origin, ethnicity, or ancestry;

(2) Includes the country, world region, or place where a person or their ancestors come from; a person's limited English proficiency or English Learner status; or a person's actual or perceived shared ancestry or ethnic characteristics, including membership in a religion that may be perceived to exhibit such characteristics (such as Hindu, Jewish, Muslim, and Sikh individuals); and

(3) Includes traits historically associated with race, including but not limited to, hair texture and protective hairstyles.

(kk) "Redaction" means the removal, obscuring, or alteration of any portion of instructional material or library material in a manner that limits access to the original content.

(ll) "Relocation" means moving instructional material or library material to a different location or classification that materially limits or impedes student access.

(mm) "Removal" means eliminating instructional material or library material from a classroom, curriculum, or library collection.

(nn) "Request for reconsideration" means a written request seeking the removal, restriction, relocation, or redaction of instructional material or library material.

(oo) "Restriction" means limiting or denying student access to instructional material or library material through physical, procedural, or administrative means.

(pp) "Retaliation" has the meaning as set forth in subsection (k) of Section 3 of the Students' Civil Rights Act.

(qq) "Section 504" means Section 504 of the federal "Rehabilitation Act of 1973," 29 U.S.C. § 794 et seq.

(rr) "Section 504 plan" means a plan made pursuant to Section 504 that provides accommodations, services, and other support for a qualified student with a disability.

(ss) "Sex" includes, but is not limited to, sexual orientation, gender identity or expression, transgender status, sex characteristics (including intersex traits), sex stereotypes, or pregnancy or related conditions (including childbirth, termination of pregnancy, or lactation).

(tt) "Sexual orientation" means to whom someone is, or is perceived of as being, emotionally, physically, or sexually attracted to based on sex or gender identity. A person may be attracted to men, women, both, neither, or to people who are nonbinary or have other gender identities.

(uu) "Student with a disability" means any student eligible to receive special education and/or related services under the Federal Individuals with Disabilities Education Act, Section 504 of the Federal Rehabilitation Act of 1973, and/or Title II of the Americans with Disabilities Act.

(vv) "Vital documents" —

(1) Means documents that—

(A) Create or define legally enforceable rights or obligations;

(B) Solicit information necessary to establish or maintain eligibility for education programs or services; or

(C) Are necessary for a parent to make informed decisions relating to their child's education; or

(2) Include enrollment forms, disciplinary notices, student codes of conduct, individualized education program documents, and information relating to rights of appeal.