

University of Nevada, Reno

**Understanding Disability: Ramifications of Legislation on the Lives of People with Disabilities**

A thesis submitted in partial fulfillment  
of the requirements for the degree of

Bachelor of Arts in Philosophy and the Honors Program

by

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We recommend that the thesis  
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## **Abstract**

In society, laws and regulations act as metaphorical gatekeepers. People are required to follow the rules, or face punitive action. The way disability is conceptualized in those laws and regulations influences the obtainment of equality, opportunity, and security for people with disabilities. This thesis first provides a historical overview of the disability movement, providing context for the development of the medical model and social models of disability. Next, a study evaluating four components—self-worth, self-advocacy, independence and inclusion—for fifteen legislative priorities was conducted, in order to determine to what degree the varying understandings of disability had upon the quality of life for people with disabilities. When people with disabilities are provided an opportunity to obtain equality and security, the quality of life for people with disabilities was exponentially higher. The following research questions guided the research:

- (1) What are different laws that effect people with disabilities?**
- (2) How does each law address disability in the context of self-worth, self-advocacy, independence, inclusion, and the medical model vs. social model of disability?**

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## Introduction

People often cannot ascribe rational justification to fear, though everyone experiences fear in some manifestation. Scientists explain that fear is evolutionary in nature, a predetermined set of autonomic responses, assisting in human survival. These fears resemble the fear of high places, or the fear of fire—instinctual fears, preventing a person from harming their wellbeing (Riccobono, 2016). Those fears that are not evolutionary are termed conditional—a result of a series of complex interactions with an environment, and the observation of other like beings. For example, take the case of “Little Albert.” As an infant, researchers exposed him to little fuzzy stuffed animals and loud noises at the same time, which create a fear of stuffed animals (Watson & Rayner, 2000). In this instance, fear manifested in relation to the world with very little rationality.

It should come as no surprise, then, that disability has often been at the center of people’s fears. A person can observe the effects of this manifested fear in the laws of the 1800s and 1900s, when anyone thought to be ‘unseemly’ or who reminded people of their fragility was forbidden to enter society. The idea is directly correlated to the old maxim, “out of sight, out of mind” (Schweik, 2010).

When disability is laid out, bared, and simplified by the academy, it almost seems as if the fear is antiquated, as if the marginalization of people with disabilities was something that only could occur years ago, and not an action that occurs today. Unfortunately, this happens every day, every minute, in every part of the world. For example, consider the following real-life scenario:

A couple have just given birth to a child. A social worker assigned by the state visits the couple and asks them about their disability. This question is peculiar. When a child is born, why

are the parents the target of inquiry? After confirming that the couple has a disability, the social worker explains to the couple that they are unfit to parent because they cannot see (Riccobono, 2016).

This story does not take place in the late 1800s, nor does it take place in the early 1900s. This story takes place in 2014, in the state of Missouri. The couple from the above story had their child taken from them on the basis of their disability; the state determined, purely because they were ‘disabled,’ that they must be incapable of taking care of themselves, let alone a child. If you cannot see the child, then how can you feed, bathe, and perform everyday tasks necessary for the wellbeing of the child? This story is not unusual. Parents with disabilities have their children taken from them every day, in every state. What is the primary factor? As a society, we fear disability. We do not understand what disability is, or how it will influence our phenomenological experience (Riccobono, 2016).

As a collective, people attempt to categorize or place labels on objects. This practice is meant to help create meaning for things, so that objects may have a sense of relatability to their beholder (Kripke, 2003). According to tenBroek (1966), definitions for disability have always attempted to establish (Maurer, 2008). In doing so, attempts to understand and define disability have often created low expectations for people with disabilities—categorizing disability as an abnormality, something which impairs fundamental capability and functionality (tenBroek, 1966; Maurer, 2011). Low expectations for people with disabilities create obstacles between people with disabilities, and their obtainment of equality, opportunity, and security (Jernigan, 1965, 1986, 1993; Maurer 2008).

That is to say, when definitions fail to encompass the entirety of the lived experience of people with disabilities, including the right of a person with a disability to maintain autonomous

action, freedom of choice, and a degree of individualism, society's expectations of people with disabilities are substantially lower than in the reversed case. If the expectations are lower for a person with a disability, and that person is constantly told "you cannot," or their actions are dictated by restrictive circumstances, then a person with a disability will be unable to achieve goals to the same degree as though their expectations were much higher (Schroeder, 2001; Riccobono, 2015).

The way that people perceive disability plays a role in the development of laws and regulations, which dictate how, when, or why people act. Every law dealing with disability has a unique purpose. The way that disability is conceptualized within the law reflects the conception, understanding, and philosophical leanings of each individual author. This project categorizes laws that influence people with disabilities into two categories. Either the law leans toward the medical model of disability, and thus the disability is considered a disease or something to rectify; or the law leans toward the social behavioral model, and thus the problem arises from the barriers to access created by society, rather than a deficiency in the individual. An evaluation of each law was conducted, based on how the law affected self-worth, self-advocacy, independence, and inclusion for a person with a disability. Based on the ratings, a determination was made for which model best allows for people with disabilities to maintain the greatest level of independence, while obtaining equality, opportunity, and security.

## **Review of the Literature**

### **Overview**

The definition of disability, and the way disability is conceptualized has significantly evolved throughout the past century. The following literature review starts by discussing the

history of the disability movement. Next, the concepts of models is introduced, with an explanation of both the medical model and social model of disability.

### **History of the Disabilities Movement**

In the Middle Ages, it was not uncommon to observe those who were considered to be cognitively—such as cognitive, developmental, intellectual, or learning disabled—or physically different than ‘normal’ toiling to complete mundane tasks unassisted. If they were not struggling to complete basic tasks, then they begged the rest of the community for basic necessities, such as food, water, or shelter (Matson, 1990). At the start of the 1900s, people with disabilities were systematically removed from their communities and placed into facilities designated as independent asylums, correction facilities, or rehabilitation homes under the notion that the differences possessed by the people with disabilities were ailments that needed to be fixed (regardless of the disability’s inheritability). In the institution or group homes, occupants often experienced starvation, bodily harm resulting in death, or were neglected by their so-called caregivers (Maisel, 1946). Doctors often severed the frontal lobe of people with disabilities, a procedure known as a lobotomy. If the condition was not resolved after the lobotomy, then doctors sterilized them in order to reduce the possibility of replicating the cognitive or physical difference (Maisel, 1946; Goodman & Maggio, 2008).

Maisel (1946) drew attention to the treatment of people with disabilities. Particular attention was spent on statistics demonstrating that the treatment of people with disabilities was systemic, and not an isolated occurrence. According to Silvers (2003), it was during the deinstitutionalization of the 1950s that people began to acknowledge ‘people with disabilities’ as a separate category of identity, equivalent to race, sex and gender. With the new development of a specific classification of identity came a need to define what exactly the classification was and

was not. The first attempt to define disability came through implementation of legal policy and regulations in the form of laws, which defined the rights of a person with a disability negatively (Matson & tenBroek, 1959; tenBroek, 1966; Matson, 1990; Silvers, 2003). That is to say, disability was defined through a model proscribing what people with disabilities were allowed to do, not allowed to do, and were entitled to on the basis of possessing a physical or cognitive difference which would limit their integration into a normal community setting. The degree of disability under this definition generally spoke to obvious disabilities, such as physical disabilities, while failing to address less obvious disabilities, like autism, Attention Deficit Disorder, and other like disabilities. According to Silvers (2003) and Koch (2001), the notion of limitations derived from such a definition assisted in the creation of the medical definition of disability. The medical definition defined disability as a limitation tied to ailment, accident, or derivation from cognitive or physical normality.

In the early 1950s, people with disabilities began to speak out against the unjust nature of the medical definition of disability, as the definition was directly infringing upon rights granted to them by the constitution and other established laws and regulations (Matson, 1990). According to Matson and TenBroek (1959), such examples of the marginalization occurring could be observed in the inadequate services delivered by the Social Security Administration or the lack of fair wages received by people with disabilities, as the laws prevented equal access to rights of people with disabilities. If a person with disability is unable to obtain subminimum wages, as is granted under the Fair Labor Standards Act, and they are receiving less than adequate supplemental subsidies, then a person with a disability is marginalized.

In the mid-1970s, disability rights activists began to challenge the conceptualization of the medical and social models of disability. On one hand, the medical model was accused of

being overbearing, portraying disability in such a way that the capabilities of people with disabilities were understated. On the other hand, the social model presupposes that a person with a disability would be entirely capable of functioning if the world were to be one-hundred-percent accessible. That is, despite the severity of a person's disability, the world simply must conform to the standards necessary to accommodate a person with a disability. In its own way, the social model becomes more restrictive, as the social model first requires a person with a disability to experience harm, then for the person with the disability to be accommodated to remove the harm. A person with a disability then is caught in a situation where their needs are always being accommodated, as opposed to actually developing a system where no harms exist.

To resolve the discontent with the medical model and the social model, disability rights activist Jernigan (1983) developed his own model of disability. Jernigan argued that people with disabilities needed to take a centralized stance, defining disability in their own way, and to take ownership of the definition or model of disability. He suggested that if people with disabilities were going to be offered a chance to obtain equality, opportunity, and security, then people with disabilities needed to not merely be involved in the discussion, but control the direction of the discussion. Only then would the needs of people with disabilities be entirely realized, as opposed to what others perceived the needs of people with disabilities to be.

Jernigan (1983) suggested that disability should be defined along a middle road between the medical model and the social model of disability. He challenged people with disabilities to think—is disability a handicap, or is disability a characteristic? That is to say, is disability, like the medical model presupposes, a handicap a person possesses, inevitably reducing a person with a disability's functionality, or, is disability merely a characteristic a person possesses, like hair color, eye color, or height, and thus the difficult experiences people with disabilities have can be

laid at the feet of social, political, or economic flaws? He argued that the answer to this question is too multifarious to simplify the answer to one, or the other.

Jernigan (1983) suggests that a characteristic is a form of a handicap, as far as a handicap is a limitation. Consider the following scenario. A person, X, possesses the characteristic of being six feet eleven inches tall, and is playing a game of basketball with a person who is four feet eight inches tall. The person who is four feet eight inches tall is at a disadvantage compared to the person who is six feet eleven inches tall. In this instance, the former possesses a characteristic, which limits their ability to play the game of basketball, and thus the person is handicapped. However, what if the roles were reversed? If these two people were exploring caves and the highest point in the cave was five feet three inches tall, the roles would be switched, and the former person would be limited or handicapped opposed to the latter. Thus, characteristics are handicaps and multidirectional.

Jernigan (1983) suggests further that the social model of disability is correct in presupposing that a disability is a characteristic, as disability is something which is either inheritable, or something which can occur to any person at any time. He argues that disabilities in of themselves are handicaps like any other characteristic. For example, if one person were blind and another person were sighted, the person who was sighted would have a clear advantage when driving a car; however, the person who was blind would have a definite advantage in a situation where they were navigating in a pitch-dark environment. In this instance, the directionality of the characteristic's limitations can be observed.

Jernigan (1983) argues for the middle ground. He suggests that the medical model is accurate when it places an emphasis on the person and the social model is correct in describing limitations in the context of environmental terms. The characteristic itself does not create the

access issues; the inaccessible nature of the environment does. That is to say, each individual will possess varying degrees of a given characteristic. As such, defining disability in broad generalizations or blanket statements will often fail to recognize the complexities which make up the characteristics of people with disabilities. Therefore, when developing definitions for people with disabilities, people need to keep in mind (1) disabilities are simply one of many characteristics people with disabilities have, and (2) like any other characteristic, disability is only a limitation as far as one is limited in having one characteristic over another.

### **Models of Disability**

The following sections discuss two different models of disability. Models of disability are frameworks that describe how people conceive disability. Typically, people with disabilities are not consulted in the formulation or establishment of models of disability, which ties back to the discomfiture expressed by activists like Jernigan.

#### **The medical model.**

The medical model of disability follows the same line as the medical definition of disability, as both frameworks were developed around the same time (Silvers, 2003). According to Koch (2001), the medical model can be understood as a description of disability as the ailment, disease, or physical derivation from the norm that a person possesses. That is, disability is like smallpox, strep throat, or other ailments—a condition to be healed. Otherwise, the disability will create obstacles for a person as they attempt to achieve equality, opportunity, or security.

According to the Michigan Disability Rights Coalition (n.d.), the best illustration of the medical model has been articulated by the World Health Organization (WHO). The WHO

suggests that there are three components, people need to take into consideration when evaluating disability:

- (1) Impairment: any loss or abnormality of psychological or anatomical structure or function.
- (2) Disability: any restriction or lack of ability (resulting from an impairment) to perform an activity in the manner or within the range considered normal for a human being.
- (3) Handicap: any disadvantage for a given individual, resulting from impairment or a disability that limits or prevents the fulfilment of a role that is normal for that individual (World Health Organization, 1980).

From this conceptualization of disability, it is apparent that people with disabilities are systematically classified as lacking or abnormal (Koch, 2001; Silvers, 2003). The medical model of disability centralizes the situational issues for disabilities around the person with the disability. That is, the problem is not with the limitations that exist, but instead are directly contributory to the person possessing the disability—the issues stem from the fact that a person with a disability is abnormal. Thus, laws and regulations deriving from the medical model of disability often attempt to ‘fix’ the individual through medical assistance, rehabilitation, or assistance programs (Schroder, 2004). The person with a disability cannot be determined to be equal to their able-bodied counterpart, as the entire premise of the medical model presupposes the abnormality of the person with a disability. Therefore, the ability for a person with a disability to obtain equitable access to security, opportunity, and equality under this model is virtually impossible (Maurer 2008; Schroeder, 2004).

**The social behavioral model.**

Unlike the medical model of disability, the social behavioral model places the person with a disability first. That is, the person with the disability is granted the status of a person, as opposed to a person plus a defect. This framework calls into question the socio-political and economic disparities that prevent people with disabilities from fully integrating amongst people without disabilities. Instead of presupposing the capability of people with disabilities based on their impairment, the social model suggests interrogating societal constructions of access, such as the way people access goods or the way the political process functions.

For example, if a person with a disability is unable to gain access to a building because there is not an alternative method of accessing the building instead of the front stairs, the social model would suggest that the handicap or impairment is a direct result of not considering the access needs of a person with a disability. On the other hand, the medical model would suggest that the inability to access the building is a result of the person possessing a disability.

Further, consider the democratic political process in the United States. According to federal law, citizens of the United States have the right to vote. People who are blind, until 2002 and the passing of the Help America Vote Act, were forced to rely on poll workers or family members to cast their votes. The ballots provided were not accessible for people with disabilities. The social model would suggest that the issue is not with the people who are blind, but instead the problem is that the environment is not built to provide equitable access to goods and services for people with disabilities. Thus, the environment must be modified to provide full integration of people with disabilities.

People with disabilities historically have found this model to be more inviting, as the model creates the disability as a secondary characteristic to the person possessing the disability.

Though there are limitations associated with the disability, the primary limitations occur as a result of a lack of awareness or accessibility of the environment, not inherent problems tied to the disability.

### **Purpose and Research Methods**

The way that people conceptualize disability has played a significant role in the development of laws and regulations concerning people with disabilities. In the case of mandated institutionalization, disability was viewed as an ailment or a disease, preventing the obtainment of a full and productive life for a person with a disability. In the case of the Americans with Disabilities Act, societal beliefs and structural design prohibit people with disabilities from being able to obtain full and productive lives. In all instances, as laws are being formulated, the way people conceptualize disability influences the quality of life or wellbeing of people with disabilities. The purpose of this study is to evaluate laws that effect people with disabilities, determining how each influences self-worth, self-advocacy, independence, and inclusion for people with disabilities. The following questions guided the research:

**(3) What are different laws that effect people with disabilities?**

**(4) How does each law address disability in the context of self-worth, self-advocacy, independence, inclusion, and the medical model vs. social model of disability?**

A blind undergraduate conducted this study. Although attempts to control the response bias was made, the lived experience of the researcher influences the following data.

## **Methodology**

### **The Identification of Laws to Be Reviewed**

A Google search was conducted for laws, regulations, and legal concepts that effect people with disabilities. From this search, 30 laws and legal concepts were evaluated. Laws and legal concepts were selected to be a part of this study based on three factors: (1) the law or legal concept directly and currently influences people with disabilities; (2) laws or legal concepts uniquely defined disability; (3) If a law or legal concept does not uniquely define disability, the application of the law or legal concept uniquely effects how people with disabilities gain access to equality, opportunity, or security. Although legal concepts are different from laws, legal concepts act as frameworks for laws. Therefore, if a legal concept met the same criteria, the legal concept was included in the study. Based on the criteria, 14 laws and one legal concept were included in the study.

### **Disability Model**

Each law or legal concept was then contextually evaluated. If the way disability was defined indicated that disability was comparable to a disease, the law or legal concept was placed in the medical model category. If disability was defined as a characteristic, or if the law or legal concept described the barriers in terms of socially constructed entities, then the law or legal concept was placed in the social behavioral category. Seven laws and one legal concept were placed into the medical model category, and seven laws were placed in the social behavioral model category.

### **Quality of Life Components**

To determine the quality of life for people with disabilities under each law or legal concept, four components were evaluated: self-worth, self-advocacy, independence, and

inclusion. Each individual component was rated on a scale of one to five, with each rating having a specific meaning relative to the component in question. Each of the components of quality of life is defined as well as the rating scale for each.

**Self-worth** is the recognition of value in oneself (Schroder, 2004). The ratings for self-worth were:

- 1 = the definition provides people with disabilities no recognition of their individual worth.
- 2 = the definition provides people with disabilities some recognition of their individual worth.
- 3 = the definition neither provides nor denies people with disabilities recognition of their individual worth.
- 4 = the definition provides people with disabilities recognition of most of their individual worth.
- 5 = the definition provides people with disabilities recognition of their individual worth.

**Self-advocacy** is the ability to articulate the needs, desires, and goals of oneself (Jernigan, 1993). The rating scale for self-advocacy was:

- 1 = the definition prohibits people with disabilities from exercising self-advocacy.
- 2 = the definition mostly prohibits people with disabilities from exercising self-advocacy.
- 3 = the definition neither permits nor prohibits people with disabilities from exercising self-advocacy.
- 4 = the definition mostly permits people with disabilities to exercise self-advocacy.
- 5 = the definition permits people with disabilities to exercise self-advocacy.

**Independence** is the concept of doing what one wants to do, when one wants to do it, how one wants to do it, as long as the action does not inconvenience oneself or others (Jernigan, 1993). The rating scale for independence was:

- 1 = the definition prohibits people with disabilities to act independently.

2 = the definition mostly prohibits people with disabilities to act independently.

3 = the definition neither permits nor prohibits people with disabilities to act independently.

4 = the definition mostly permits people with disabilities to act independently.

5 = the definition permits people with disabilities to act independently.

**Inclusion** is the ability for people with disabilities to integrate into educational, social, and employment settings (Schroder, 1993). The rating scale for inclusion was:

1 = the definition denies people with disabilities inclusion.

2 = the definition mostly denies people with disabilities inclusion.

3 = the definition neither denies nor provides people with disabilities inclusion.

4 = the definition mostly provides people with disabilities inclusion.

5 = the definition provides people with disabilities inclusion.

## **Results**

Each law or legal concept was carefully read by the author of the paper and placed into either the category of the medical model or the social model. Based on the application of the law or legal concept, each component received a rating from one to five, followed by a justification for the individual rating. The medical model and all related laws and legal concepts were evaluated first, followed by the social model. All of the ratings for each category was then placed into a table, and the mean and standard deviation was calculated for each.

### **Medical Model**

#### **Air Carrier Access Act (Public Law 99-435, 1986).**

The purpose of the Air Carrier Access Act is to prohibit discrimination in air transportation by domestic and foreign air carriers against people with disabilities. Requirements for ensuring nondiscriminatory practices include structural modifications to airplane accessories,

boarding assistance, and like accommodations for people with disabilities. In this law, disability (handicap), is defined as, "handicapped individual' means any individual who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment." (Public Law 99-435, 1986).

This law belongs to the medical model because a significant emphasis is placed on the individual disability or impairment.

***Self-worth.*** Rating of 2 (the definition provides people with disabilities some recognition of their individual worth). This rating reflects the way people with disabilities are treated as a result of this act. Though people with disabilities are required to receive assistance if requested, often, people with disabilities are forced to take assistance, even if they do not need it. Furthermore, because the law requires assistance to be given to people with disabilities, people with disabilities are demeaned, talked down to, or otherwise disregarded as a 'handicapped individual.'

***Self-advocacy.*** Rating of 2 (the definition mostly prohibits people with disabilities from exercising self-advocacy). This rating reflects the ability for people with a disability to advocate for themselves. Though people with disabilities are able to receive assistance under this law, they are given no ability to reject the assistance provided, thus limiting their ability to self-advocate.

***Independence.*** Rating of 2 (the definition mostly prohibits people with disabilities to act independently). This rating reflects the inability for a person with a disability to be independent when functioning under this law. Though the Air Carrier Access Act attempts to provide equal access to the facilities for people with disabilities, people with disabilities are not able to function without mandated assistance.

***Inclusion.*** Rating of 5 (the definition provides people with disabilities inclusion). This rating reflects the ability for people with disabilities to be integrated into general society. As access is dictated through this law, and structural modifications or additional accommodations are provided, people with disabilities can be fully integrated into society.

**Fair Labor Standards Act (Section 14C, 1938).**

The purpose of this law is to provide employers, upon request, special wage certificates from the United States Department of Labor, which allow them to pay subminimum wages to their workers with disabilities. Due to this provision, Approximately 250,000 people with disabilities currently receive subminimum wage (“TIME Fact Sheet,” 2016). Disability is defined as “one [person with a disability] whose earning or productive capacity is impaired by a physical or mental disability, including those relating to age or injury.” (U.S. Department of Labor, n.d.). With the broad interpretation of disability, qualifying persons may include everyone from those who are blind to those who are diagnosed with attention deficit disorder.

This law belongs to the medical model because of the focus on the disability as the primary point of contention. Additionally, the law does not address barriers to accessibility; instead, the law analyzes the person with the disability’s functionality.

***Self-worth.*** Rating of 1 (the definition provides people with disabilities no recognition of their individual worth). This rating reflects the direct dehumanization people with disabilities face as a result of this law. There is no focus on developing upward mobility skills; instead, the emphasis is placed on what is ‘wrong’ with the person.

***Self-advocacy.*** Rating of 1 (the definition prohibits people with disabilities from exercising self-advocacy). This rating reflects the inability people with disabilities have to be a

self-advocate. There is no negotiating with the employer; the distinction to pay subminimum wages is made by an arbitrary evaluation of a person's physical difference.

***Independence.*** Rating of 1 (the definition prohibits people with disabilities to act independently). This rating reflects the restrictive nature this law has upon people with disabilities. People with disabilities have less than a 5% chance of matriculating out of a workshop when placed in the workshop ("TIME Fact Sheet," 2016).

***Inclusion.*** Rating of 2 (the definition mostly denies people with disabilities inclusion). This rating reflects the attempted nature of integration. The original purpose of this law was to integrate people with disabilities into the workforce; however, settings are largely segregated.

**Fair Minimum Wage Act (Public Law 110-28, 2007).**

The purpose of the Fair Minimum Wage Act is to provide protection for people who become 'disabled' at their job site. According to West's Encyclopedia of American Law, "disability consists of an actual incapacity to perform tasks within the course of employment, with resulting wage loss, in addition to physical impairment that might, or might not, be incapacitating" (Lehman & Phelps, 2005).

This law belongs to the medical model because significant emphasis is placed upon the disability as the focal point of inability, as opposed to the environment of the work place.

***Self-worth.*** Rating of 5 (the definition provides people with disabilities recognition of their individual worth). This rating reflects the nature of the law, and how people can be made to feel exonerated. Though they are now a person with a disability, they are given equal protection under the law to ensure compensation.

***Self-advocacy.*** Rating of 4 (the definition mostly permits people with disabilities to exercise self-advocacy). This rating reflects the ability for people to become self-advocates

because of this law. Though people are able to advocate for equitable compensation, they are not free to distinguish between ‘too disabled to work effectively’ and ‘just a person with a disability.’

***Independence.*** Rating of 3 (the definition neither permits nor prohibits people with disabilities to act independently.). This rating reflects an unaffected level of independence as a result of this law.

***Inclusion.*** Rating of 3 (The definition neither denies nor provides people with disabilities inclusion.). This rating reflects an unaffected level of inclusion, because of this law.

**Legal capability.**

The purpose of this legal concept is to define when and how people with disabilities can be held culpable for their actions. According to West’s Encyclopedia of American Law, “The term disability usually signifies an incapacity to exercise all the legal rights ordinarily possessed by an average person. Convicts, minors, and incompetents are regarded to be under a disability. The term is also used in a more restricted sense when it indicates a hindrance to marriage or a deficiency in legal qualifications to hold office” (Lehman & Phelps, 2005).

***Self-worth.*** Rating of 1 (the definition provides people with disabilities no recognition of their individual worth.) This rating reflects the complete disregard of a person with a disability’s ability to think or act. People with disabilities are given no opportunity to experience self-worth.

***Self-advocacy.*** Rating of 1 (the definition prohibits people with disabilities from exercising self-advocacy.). This rating reflects the total disregard of a person with a disability’s ability to think or act in his or her own self-interest.

***Independence.*** Rating of 1 (the definition prohibits people with disabilities to act independently). This rating reflects the inability for a person with a disability to act independently.

***Inclusion.*** Rating of 2 (the definition mostly denies people with disabilities inclusion). This rating reflects the inability for a person with a disability to integrate into an inclusive environment. Although other people without disabilities are discussing a person with a disability, they are not granted the ability to act within that environment unaided.

### **Section 504 of the Rehabilitation Act (1973).**

The purpose of Section 504 of the Rehabilitation Act is to provide people with disabilities access to equality by prohibiting discrimination on the basis of ability. Section 504 defines disability as “any physical or mental impairment that substantially limits one or more major life activities.” People with disabilities with a history of their specific impairment or who are regarded as having an impairment will also be extended protection under the Rehabilitation Act. The Rehabilitation Act intentionally does not list specific illnesses or impairments, in order to reduce possible discrimination on the bases of a person’s disability. According to the Rehabilitation Act, some impairments that qualify as having disability under Section 504 include:

- Physiological disorders, such as hearing impairments, vision impairments, impairments of motor functions, or issues with cellular growth.
- Neurological disorders, such as multiple sclerosis or muscular dystrophy.
- Psychological disorders, for example learning disabilities or other mental illnesses. (Rehabilitation Act, 1973)

This law belongs to the medical model of disability because there is no focus on the environment as an access barrier for people with disabilities. Furthermore, the definition of disability specifically speaks to the person's disability acting as the primary reason access is unequal.

***Self-worth.*** Rating of 4 (the definition provides people with disabilities recognition of most of their individual worth). This rating reflects the ability for a person with a disability to experience self-worth. People are able to develop necessary skills while not being discriminated against in the workforce because of their disability.

***Self-advocacy.*** Rating of 4 (the definition mostly permits people with disabilities to exercise self-advocacy). This rating reflects the ability for clients to dictate their individualized employment plans, as well as act as advocates in the employment process.

***Independence.*** Rating of 4 (the definition mostly permits people with disabilities to act independently). This rating reflects the establishment of independence as a result of this law. Further, this rating is influenced by the emphasis on gainful employment for a person with a disability.

***Inclusion.*** Rating of 3 (the definition neither denies nor provides people with disabilities inclusion). This rating reflects the unaffected nature of inclusion for people with disabilities. Though some people get through vocational rehabilitation agencies without being placed into sheltered workshops, not all do.

### **Social Security Act (Public Law 74-271, 1935).**

The purpose of this law is to provide people with disabilities equality, opportunity, and security to live independent and productive lives. According to West's Encyclopedia of American Law, "the definition of a disability, for Social Security benefits purposes, requires the

existence of a medically ascertainable physical or mental impairment that can be expected to result in death or endures for a stated period, and an inability to engage in any substantial gainful activity due to the impairment” (Lehman & Phelps, 2005).

This law belongs to the medical model of disability, as a significant emphasis is placed upon disability as a prohibiting factor in living a productive life. Furthermore, there is no discussion of social behavioral influences upon the interpretation of disability, thus limiting a person with a disability’s ability to function.

***Self-worth.*** Rating of 1 (the definition provides people with disabilities no recognition of their individual worth). This rating reflects the disregard of the person with a disability as an independent actor, and the way disability is described as a direct harm for a person’s ability to act.

***Self-advocacy.*** Rating of 1 (the definition prohibits people with disabilities from exercising self-advocacy). This rating reflects an unaffected ability for a person to be a self-advocate.

***Independence.*** Rating of 5 (the definition permits people with disabilities to act independently). This rating reflects the level of independence a person is granted by having substantive financial benefits.

***Inclusion.*** Rating of 2 (the definition mostly denies people with disabilities inclusion). This rating reflects the ability for a person to integrate into an inclusive setting. Though a person is granted financial independence, a person is often segregated either at home, or in facilities where they are able to afford living as a result of a small assistance payout.

**Voting Accessibility for the Elderly and Handicapped Act (Public Law 98-435, 1984).**

The purpose of this law is to ensure equal access to voting registration and polling places for people with disabilities. Polling locations are required to have an alternative method for casting votes independently, including information by TTYs (teletypewriters, also known as TDDs) or similar devices. Disability is defined as "'handicapped' means having a temporary or permanent physical disability" (Public Law 98-435, 1984).

This law belongs to the medical model because a significant emphasis is placed upon the disability as the core problem, as opposed to the environment. Although the law specifically requires structural modifications, the language of the bill implies that the person with the disability is the reason for the access barrier, and not the way the polling place or registration is designed.

***Self-worth.*** Rating of 5 (the definition provides people with disabilities recognition of their individual worth). This rating reflects a person with a disability being able to participate in having their voice heard for federal elections.

***Self-advocacy.*** Rating of 5 (the definition permits people with disabilities to exercise self-advocacy). This rating reflects the ability for a person with a disability to influence their environment, by acting as a self-advocate. A person with a disability is empowered as a result of this law.

***Independence.*** Rating of 5 (the definition permits people with disabilities to act independently). This rating reflects the ability for a person with a disability to vote independently and to exercise their rights unassisted.

***Inclusion.*** Rating of 5 (the definition provides people with disabilities inclusion). This rating reflects the ability for a person to be able to integrate fully into society and societal traditions.

**Worker Protection Act (Public Law 104-49, 1995).**

This law directly reflects the impairment of earning capacity and the loss of physical function resulting in diminished efficiency. Disability in this instance is defined the same way that it was, in the Fair Wages Act (Lehman & Phelps, 2005). This law belongs to the medical model of disability because the primary focus is the disability, as opposed to the environment.

***Self-worth.*** Rating of 2 (the definition provides people with disabilities some recognition of their individual worth). This rating reflects the arbitrary delineation of people with disabilities as incapable of working.

***Self-advocacy.*** Rating of 4 (the definition mostly permits people with disabilities to exercise self-advocacy). This rating reflects people with disabilities ability to advocate for themselves and to receive protection when they become a person with a disability. Though they have no protection if they already have a disability, when a person becomes disabled, they are provided with protection.

***Independence.*** Rating of 1 (the definition prohibits people with disabilities to act independently). This rating reflects the inability for people with disabilities to function separately from the employer or without assistance.

***Inclusion.*** Rating of 3 (The definition neither denies nor provides people with disabilities inclusion). This rating reflects the unaffected nature of one's environment being segregated.

**Social Behavioral**

**Americans with Disabilities Act (Public Law 101-336, 1990).**

The purpose of the Americans with Disabilities Act (ADA) is to provide equal access to opportunities, including goods and services, for people with disabilities. According to the United States Code, disability is defined as:

- (1) Disability The term “disability” means, with respect to an individual—
- (A) A physical or mental impairment that substantially limits one or more major life activities of such individual;
  - (B) A record of such an impairment; or
  - (C) Being regarded as having such an impairment (as described in paragraph (3)). (Public Law 101-336, 1990).

The ADA belongs to the social model of disability, as the primary focus is upon the environmental barriers that prohibit equal access to opportunities for people with disabilities. Furthermore, although the terms impairment and handicap are discussed, the focus is not upon the disability, which prevents this conception from being a medical interpretation of disability.

***Self-worth.*** Rating of 5 (The definition provides people with disabilities recognition of their individual worth). This rating reflects the primary focus upon empowering the individual with a disability, by providing equal access to opportunity and security through legal protection.

***Self-advocacy.*** Rating of 5 (The definition permits people with disabilities to exercise self-advocacy.). This rating reflects a person’s ability to maximize their self-advocacy as a result of this law.

***Independence.*** Rating of 5 (The definition permits people with disabilities to act independently.). This rating reflects the level of independence a person is able to receive as a result of this law. People with disabilities are able to gain near equal access to opportunities as a result of this law.

***Inclusion.*** Rating of 5 (The definition provides people with disabilities inclusion). This rating reflects the ability for a person with a disability to be fully integrated into their society. There exists very little limitations to the degree of inclusion under this law.

**Architectural Barriers Act (Public Law 90-480, 1968).**

According to the US Department of Justice, “the Architectural Barriers Act (ABA) requires that buildings and facilities that are designed, constructed, or altered with federal funds, or leased by a federal agency, comply with federal standards for physical accessibility... They do not address the activities conducted in those buildings and facilities...” (U.S. Department of Justice, 2009). In this instance, disability is defined along the same lines as the ADA. This law belongs to the social behavioral model because the barriers are directly attributed to the structural flaws, and not the disability. Furthermore, the law calls for a modification of a physical location, as opposed to addressing the disability itself.

***Self-worth.*** Rating of 3 (the definition neither provides nor denies people with disabilities recognition of their individual worth). This rating reflects an unaffected degree of self-worth for a person with a disability.

***Self-advocacy.*** Rating of 3 (the definition neither permits nor prohibits people with disabilities from exercising self-advocacy). This rating reflects an unaffected degree of self-advocacy for a person with a disability.

***Independence.*** Rating of 5 (the definition permits people with disabilities to act independently). This rating reflects the ability for a person with a disability to act in spaces otherwise denied to them.

***Inclusion.*** Rating of 5 (The definition provides people with disabilities inclusion). This rating reflects the ability for a person with a disability to act in a space where other people

without disabilities act. Inclusion is fully realizable, when people with disabilities have equal access to physical spaces.

**Fair Housing Act (Public Law 90-284, 1988).**

The Fair Housing Act, as amended in 1988, prohibits housing discrimination based on race, color, religion, sex, disability, familial status, and national origin. Its coverage includes private housing, housing that receives federal financial assistance, and state and local government housing. It is expressly prohibited to discriminate against a person with a disability by denying them access to ownership of the home. The Fair Housing Act requires owners of housing facilities to make reasonable exceptions in their policies and operations to afford people with disabilities equal housing opportunities. For example, if a person who owns a home states that no pets are allowed, but a potential resident has a service animal, the owner should be required to make necessary accommodations to their policies. Furthermore, this law guarantees the right to make structural modifications for accommodation to any commonly accessed location or living space, although the owner does not need to pay for the modification. Disability is defined along the same guidelines as the ADA.

This law belongs to the social behavioral model of disability, because primary focus is placed upon the environmental modifications necessary to ensure equitable access to home-ownership. Furthermore, the disability is never categorized as an issue for the person with the disability outside of the way the disability is perceived by other individuals.

***Self-worth.*** Rating of 4 (the definition provides people with disabilities recognition of most of their individual worth). This rating reflects the ability for a person with a disability to maximize their self-worth. People with disabilities are granted equal protection to home-ownership.

***Self-advocacy.*** Rating of 5 (the definition permits people with disabilities to exercise self-advocacy). This rating reflects the ability for a person with a disability to advocate for their needs and rights under this law. If a person with a disability needs structural accommodations, they are able to advocate for the accommodations.

***Independence.*** Rating of 5 (the definition permits people with disabilities to act independently). This rating reflects the ability for people with disabilities to live independently; because of this law, people with disabilities no longer must be dependent upon other individuals for assisted-living situations.

***Inclusion.*** Rating of 3 (the definition neither denies nor provides people with disabilities inclusion). This rating reflects the unaffected nature of inclusion for people with disabilities as a result of this law.

**Individuals with Disabilities Education Act (IDEA) (Public Law 104-446, 2004).**

The Individuals with Disabilities Education Act (IDEA) requires public schools to make available to all eligible children with disabilities a free appropriate public education in the least restrictive environment appropriate to their individual needs. This means that students with disabilities will have access to assistive technologies or appropriate accommodations to provide them equal access to learning materials. IDEA requires public school systems to develop appropriate Individualized Education Plans (IEPs) for each child in order to capture the full needs of each individual child, while also granting the students access to free and appropriate education. IDEA defines disability in thirteen various categories.

This law belongs to the social model of disability, as the environment that the student with a disability is in, is what is being directly modified or resolved to accommodate the student with a disability. Furthermore, though disability is divided into thirteen different categories, there

is no specific criticism of the disability as the primary limiting factor prohibiting the student's growth or development.

***Self-worth.*** Rating of 5 (the definition provides people with disabilities recognition of their individual worth). This rating reflects the ability for students with disabilities to receive equal treatment in educational settings. If students are able to receive equal access to educational opportunities, their worth necessarily is maximized.

***Self-advocacy.*** Rating of 5 (the definition permits people with disabilities to exercise self-advocacy). This rating reflects the ability for the student in question to be a self-advocate. There are provisions built into the law, which mandate the participation of the student, if deemed capable, of influencing their IEPs.

***Independence.*** Rating of 5 (the definition permits people with disabilities to act independently). This rating reflects the ability of people with disabilities to be fully independent in the obtainment of educational opportunities. Furthermore, functioning in the educational environment is taken into consideration.

***Inclusion.*** Rating of 5 (the definition provides people with disabilities inclusion). This rating reflects the ability for students to participate in general educational settings. In most cases, IDEA provides an opportunity for a student with a disability to be in the same classroom as their able-bodied counterparts.

### **National Voter Registration Act (Public Law 103-31, 1993).**

The primary purpose of this law is to increase the historically low voter registration rates of minorities and people with disabilities that have resulted from discrimination. This act

requires all offices of state-funded programs that are primarily engaged in providing services to persons with disabilities to provide all program applicants with voter registration forms, to assist them in completing the forms, and to transmit completed forms to the appropriate state official (Public Law 103-31, 1993). “People with disabilities” is defined along the same lines as the ADA.

This law belongs to the social behavioral model, because significant attention is placed upon the inaccessible nature of voter registration and other voting activities as opposed to the disability itself. Furthermore, there is no discussion within the law concerning the disability prohibiting a person from being able to complete a given action.

***Self-worth.*** Rating of 4 (the definition provides people with disabilities recognition of most of their individual worth). This rating reflects how being able to exercise one’s rights makes an individual with a disability feel. This receives a lower rating than the other voting assistance legislation because more emphasis is placed on helping a person with a disability instead of providing a person with a disability an opportunity to be independent.

***Self-advocacy.*** Rating of 4 (the definition mostly permits people with disabilities to exercise self-advocacy). This rating reflects the ability for a person with a disability to advocate for constitutionally guaranteed rights. Under this piece of legislation, people with disabilities are able to register to vote and vote in state-operated facilities.

***Independence.*** Rating of 2 (the definition mostly prohibits people with disabilities to act independently). This rating reflects the lack of attention for people with disabilities to perform the given task independently. People with disabilities are able to perform the given task, but only with some assistance from the local offices.

***Inclusion.*** Rating of 4 (the definition mostly provides people with disabilities inclusion).

This rating reflects the integration, which mandatorily manifests as a result of being able to exercise ones right to vote. If one can influence the political results, then inclusion has been mostly achieved.

**Telecommunications Act (Public Law 104-104, 1996).**

According to the Department of Justice, “Section 255 and Section 251(a)(2) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, require manufacturers of telecommunications equipment and providers of telecommunications services to ensure that such equipment and services are accessible to and usable by persons with disabilities, if readily achievable.” (2009). Disability is defined under the same guidelines as the ADA. This law belongs to the social model of disability because particular attention is placed upon the environmental access barriers that exist. Furthermore, no discussion of impairment is forthcoming.

***Self-worth.*** Rating of 5 (the definition provides people with disabilities recognition of their individual worth). This rating reflects the ability for people with disabilities to integrate into spaces otherwise denied to them. If people with disabilities are able to receive equal access, then their self-worth goes up.

***Self-advocacy.*** Rating of 5 (the definition permits people with disabilities to exercise self-advocacy). This rating reflects the ability for a person with a disability to advocate for their needs and rights. This takes the form of being able to gain access to telecommunication methods previously denied to them.

***Independence.*** Rating of 5 (the definition permits people with disabilities to act independently). This rating reflects the ability for a person with a disability to access information independently and to operate communication tools independently.

***Inclusion.*** Rating of 5 (the definition provides people with disabilities inclusion). This rating reflects the ability for people with disabilities to gain full access to integrated settings of communication. No longer do people with disabilities have to be segregated because they cannot communicate with the rest of society.

**Convention on Rights for People with Disabilities (2006).**

The purpose of this United Nations convention is to allow equal access to equality, opportunity, and security for people in member states of the UN. The Convention on Rights for People with Disabilities (2006) defines disability as “an evolving concept and that disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others” (p. 69). This convention belongs to the social behavioral model because the sole focus is the structural barriers that prohibit people with disabilities from being able to gain access to full and productive lives in each member state. Furthermore, particular attention is paid to the implementation of universally designed structures in order to provide maximal accessibility for people with disabilities.

***Self-worth.*** Rating of 5 (the definition provides people with disabilities recognition of their individual worth). This rating reflects the full attainment of self-worth for people with disabilities.

***Self-advocacy.*** Rating of 5 (the definition permits people with disabilities to exercise self-advocacy). This rating reflects the ability for people with disabilities to maximize their utilization of self-advocacy.

***Independence.*** Rating of 5 (the definition permits people with disabilities to act independently). This rating reflects the ability for people with disabilities to be fully independent in their given societies.

***Inclusion.*** Rating of 5 (the definition provides people with disabilities inclusion). This rating reflects the full inclusion of people with disabilities in a given society.

### **Comparison of Social and Medical**

The following tables show the collective data for the two models of disability. When each rating in the table is added together, the total possible score is equal to twenty. The total score reflects the degree of personhood a person with a disability can experience from any given law. The two with the highest ratings are the United Nations and Americans with Disabilities act. The law with the lowest rating is the Fair Labor Standards Act.

Table 1 Medical Model Ratings by Law

Law	Self-Worth	Self Adv.	Independence	Inclusion	Total
Air Carrier Access	2	2	2	5	11
Fair Labor Stds Act	1	1	1	2	5
Fair Wages	5	4	4	3	16
Legal Capability	1	1	1	2	5
Section 504	4	4	4	3	15
Social Security	1	3	5	2	11
Voting Accessibility	5	5	5	5	20
Worker Protection	2	4	1	3	10
Mean/SD	2.63 1.77	3.00 1.51	2.88 1.81	3.13 1.25	11.63 5.24

Table 2 Social Model Ratings by Law

Law	Self Worth	Self Adv.	Independence	Inclusion	Total
ADA	5	5	5	5	20
Architectural Barr.	3	3	5	5	16
Fair Housing	4	5	5	3	17
IDEA	5	5	5	5	20
Nat'l Voter Reg.	4	4	2	4	14
Telecommunication	5	5	5	5	20
UN Convention	5	5	5	5	20
Mean/SD	4.43 .079	4.57 .079	4.57 1.13	4.57 .079	18.14 2.48

A few things become apparent from evaluating these tables. First, people with disabilities are significantly more well off under the social behavioral model of disability. The mean total for the social behavioral model is 18.14, whereas the mean total for the medical model is 11.63. This indicates that when people with disabilities are not blamed for their own lack of equality, opportunity and security, but instead are granted necessary structural accommodations, people with disabilities are much better off. Secondly, the amount of medical model laws compared to social model laws is almost identical for this study. This means that no artificial influx could have occurred from an analysis of this data. Finally, evaluating this data suggests that the information gathered is meaningful, in that the social models numbers are substantially different from that of the medical models.

### **Conclusion**

The results of this study indicate that where the wellbeing of people with disabilities is concerned, laws based in the social model of disability provide a higher degree of quality of life. Those laws that are based out of the medical model of disability seem to restrict the lived experience of people with disabilities. Laws such as the Americans with Disabilities Act or the Convention on Rights of People with Disabilities provide the highest ratings when contrasted with those like the Rehabilitation Act or the Air Carrier Access Act.

If time permitted, this study could be improved by surveying other people with disabilities utilizing the same rating scale. This would provide the study with more substantial data, as well as higher significance when contrasting individual laws. That is to say, a survey could be conducted, whereby the developed rating system would have been employed, and a group of other people could fill out the ratings. This would increase the depth of information contained in the data tables, which would increase the substantive nature of the information

provided. Furthermore, if more time had been available, the individual disabilities could have been subdivided into an additional two categories. It would have been extremely interesting to evaluate the laws based on the social model and medical model, but also in terms of eligibility and civil rights laws. Without conducting the in-depth analysis, it seems that most medical laws fall into the eligibility category. Although the Individuals with Disabilities Education Act acts as a clear counter example to this conjecture.

A future study might evaluate each law as they apply to subsections of the disability community. Applying each law to the Deaf community might change the results if compared to the blindness community. The variance between individual communities and the disability community at-large might produce substantially different data. However, drawing a general comparison between laws as they relate to one another is an extremely daunting task. The way that disability is defined by individual laws is drastically different depending on any given law. For example, if a law is based in the early or mid-1900s, the law will conceptualize disability almost entirely different than a law from the 2000s. This can be observed in the way that the Fair Labor Standards Act conceptualizes people with disabilities in the context of impaired workers, and the way that the Convention on Rights for People with Disabilities attempts to grant full establishment of personhood to a person with a disability. A general rule of thumb to follow when categorising individual laws can be drawn along the line of early 1900s is equal to conceptualizing disability in the context of the medical model of disability; whereas later, disability is usually conceptualized in terms of the social model of disability. This moves along the same time.

Additionally, if this study were to be reconducted, I would not attempt to modify laws to be the absolute resolution for the problems people with disabilities face. There are many

variables at play, and just because a law is perceived to be bad for the quality of life for a person with a disability, does not mean that people with disabilities do not rely upon the laws for obtainment of goods and services. Some laws, like the Air Carrier Access Act are necessary to ensure that those with severe impairments are able to obtain equal access to equality, opportunity, and security. Further, just because a law states that something ought to be, does not necessarily mean that people will follow what the law states. For example, although the Americans with Disabilities Act—titles two and three—states that Universities must be accessible, braille signage, electronic information technology, and other barriers still persist at almost all universities. In order to resolve the problem people with disabilities have, a mindset would need to be changed in societies understanding of disability in general.

In general, this study provides a degree of legitimacy to people with disabilities. The study demonstrates that when people with disabilities are included in the discussion, their quality of life is higher. As seen by the widely differing dates of the laws, and the ununiformed structure of definitions, people with disabilities have often been left out of the development of understanding disability. This provides further credence to the negative effects of leaving people out of the discussion, when the medical and social models of disability were formulated. This study is important because it outlines the need to not only recognize the lived experiences of marginalized people, but also to include their voices in understanding the needs of people with disabilities. Only the recognition and application of people with disabilities lived experience upon the understanding of disability will allow for the full obtainment of equality, opportunity, and security for people with disabilities as seen in the United Nations convention.



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## **Appendix A. Medical Model**

### **Overview**

This appendix lists the purpose, intent, and definition of disability from each law discussed in the medical model section from the project. All information contained in this section is directly, where possible unless otherwise denoted, quoted from the United States code that corresponds to the law in question.

**Air Carrier Access Act (Pub. L. No. 99-435, 100 Stat. 1080, 1986)**

### **Purpose**

An Act to amend the Federal Aviation Act of 1958 to provide that prohibitions of discrimination against handicapped individuals shall apply to air carriers,.

### **Intent**

No air carrier may discriminate against any otherwise qualified handicapped individual, by reason of such handicap, in the provision of air transportation.

### **Definition**

**(1) the individual has a physical or mental impairment that substantially limits one or more major life activities.**

**(2) the individual has a record of such an impairment.**

**(3) the individual is regarded as having such an impairment.**

**Fair Labor Standards Act (29 U.S.C. §§ 206, Section 14C, 1938)**

### **Purpose**

(1) The Secretary, to the extent necessary to prevent curtailment of opportunities for employment, shall by regulation or order provide for the employment, under special certificates, of individuals (including individuals employed in agriculture) whose earning or productive capacity is impaired by age, physical or mental deficiency, or injury, at wages which are—

(A) lower than the minimum wage applicable under section 206 of this title,

(B) commensurate with those paid to nonhandicapped workers, employed in the vicinity in which the individuals under the certificates are employed, for essentially the same type, quality, and quantity of work, and

(C) related to the individual's productivity.

(2) The Secretary shall not issue a certificate under paragraph (1) unless the employer provides written assurances to the Secretary that—

(A) in the case of individuals paid on an hourly rate basis, wages paid in accordance with paragraph (1) will be reviewed by the employer at periodic intervals at least once every six months, and

(B) wages paid in accordance with paragraph (1) will be adjusted by the employer at periodic intervals, at least once each year, to reflect changes in the prevailing wage paid to

experienced nonhandicapped individuals employed in the locality for essentially the same type of work.

(3) Notwithstanding paragraph (1), no employer shall be permitted to reduce the hourly wage rate prescribed by certificate under this subsection in effect on June 1, 1986, of any handicapped individual for a period of two years from such date without prior authorization of the Secretary.

(4) Nothing in this subsection shall be construed to prohibit an employer from maintaining or establishing work activities centers to provide therapeutic activities for handicapped clients.

(5)(A) Notwithstanding any other provision of this subsection, any employee receiving a special minimum wage at a rate specified pursuant to this subsection or the parent or guardian of such an employee may petition the Secretary to obtain a review of such special minimum wage rate. An employee or the employee's parent or guardian may file such a petition for and in behalf of the employee or in behalf of the employee and other employees similarly situated. No employee may be a party to any such action unless the employee or the employee's parent or guardian gives consent in writing to become such a party and such consent is filed with the Secretary.

(B) Upon receipt of a petition filed in accordance with subparagraph (A), the Secretary within ten days shall assign the petition to an administrative law judge appointed pursuant to section 3105 of title 5. The administrative law judge shall conduct a hearing on the record in accordance with section 554 of title 5 with respect to such petition within thirty days after assignment.

(C) In any such proceeding, the employer shall have the burden of demonstrating that the special minimum wage rate is justified as necessary in order to prevent curtailment of opportunities for employment.

(D) In determining whether any special minimum wage rate is justified pursuant to subparagraph (C), the administrative law judge shall consider—

(i) the productivity of the employee or employees identified in the petition and the conditions under which such productivity was measured; and

(ii) the productivity of other employees performing work of essentially the same type and quality for other employers in the same vicinity.

(E) The administrative law judge shall issue a decision within thirty days after the hearing provided for in subparagraph (B). Such action shall be deemed to be a final agency action unless within thirty days the Secretary grants a request to review the decision of the administrative law judge. Either the petitioner or the employer may request review by the Secretary within fifteen days of the date of issuance of the decision by the administrative law judge.

(F) The Secretary, within thirty days after receiving a request for review, shall review the record and either adopt the decision of the administrative law judge or issue exceptions. The decision of the administrative law judge, together with any exceptions, shall be deemed to be a final agency action.

(G) A final agency action shall be subject to judicial review pursuant to chapter 7 of title 5. An action seeking such review shall be brought within thirty days of a final agency action described in subparagraph (F).

## **Definition**

“The Secretary, to the extent necessary to prevent curtailment of opportunities for employment, shall by regulation or order provide for the employment, under special certificates, of individuals (including individuals employed in agriculture) whose earning or productive capacity is impaired by age, physical or mental deficiency, or injury...” (29 U.S.C. §§ 206, Section 14C, 1938)

**Section 504 of the Rehabilitation Act (29 U.S.C. § 701 *et seq.*, 1973)**

**Purpose**

- (1) to empower individuals with disabilities to maximize employment, economic self-sufficiency, independence, and inclusion and integration into society, through-
  - (A) statewide workforce development systems defined in [section 3102 of this title](#) that include, as integral components, comprehensive and coordinated state-of-the-art programs of vocational rehabilitation;
  - (B) independent living centers and services;
  - (C) research;
  - (D) training;
  - (E) demonstration projects; and
  - (F) the guarantee of equal opportunity;
- (2) to maximize opportunities for individuals with disabilities, including individuals with significant disabilities, for competitive integrated employment;
- (3) to ensure that the Federal Government plays a leadership role in promoting the employment of individuals with disabilities, especially individuals with significant disabilities, and in assisting States and providers of services in fulfilling the aspirations of such individuals with disabilities for meaningful and gainful employment and independent living;
- (4) to increase employment opportunities and employment outcomes for individuals with disabilities, including through encouraging meaningful input by employers and vocational rehabilitation service providers on successful and prospective employment and placement strategies; and
- (5) to ensure, to the greatest extent possible, that youth with disabilities and students with disabilities who are transitioning from receipt of special education services under the Individuals with Disabilities Education Act (20 U.S.C. 1400 *et seq.*) and receipt of services under [section 794 of this title](#) have opportunities for postsecondary success.

**Definition**

There is no clearly defined definition of disability for this section. The term “People with disabilities” is used liberally, though it is never defined.

**Social Security Act (Pub. L. No. 74-271, 49 Stat. 620, 1935)**

**Purpose**

The text for the Social Security Act of 1935 is inaccessible with screen reader technology; in this instance, please refer to the secondary source for further information.

**Intent**

The text for the Social Security Act of 1935 is inaccessible with screen reader technology; in this instance, please refer to the secondary source for further information.

**Definition**

The text for the Social Security Act of 1935 is inaccessible with screen reader technology; in this instance, please refer to the secondary source for further information.

**Voting Accessibility for the Elderly and Handicap Act (Pub. L. No. 98-435, 19 Stat. 1678, 1968)**

**Purpose**

To improve access for handicapped and elderly individuals to registration facilities and polling places for Federal elections.

**Intent**

It is the intention of Congress in enacting this Act to promote the fundamental right to vote by improving access for handicapped and elderly individuals to registration facilities and polling places for Federal elections.

**Definition**

"handicapped" means having a temporary or permanent physical disability;

**Worker Protection Act (Pub. L. No. 104-49, 109 Stat. 432, 1995)**

**Purpose**

An Act respecting the relationship between workers' compensation benefits and the benefits available under the Migrant and Seasonal Agricultural Worker Protection Act.

**Intent**

The workers' compensation benefits shall be the exclusive remedy for loss of such worker under this Act in the case of bodily injury or death in accordance with such State's workers' compensation law. "(2) The exclusive remedy prescribed by paragraph (1) precludes the recovery under subsection (c) of actual damages for loss from an injury or death but does not preclude recovery under subsection (c) for statutory damages or equitable relief, except that such relief shall not include back or front pay or in any manner, directly or indirectly, expand or otherwise alter or affect (A) a recovery under a State workers' compensation law or (B) rights conferred under a State workers' compensation law."

**Definition**

For this definition, there is no defined definition of disability. For providing compensation, the term 'disability' is perceived as a temporary or permanent physical disability caused by an event within the work place.

## **Appendix B. Social Model**

### **Overview**

This appendix lists the purpose, intent, and definition of disability from each law discussed in the social model section from the project. All information contained in this section, where possible or otherwise denoted, is directly quoted from the United States code that corresponds to the law in question.

### **Americans with Disabilities Act (Pub. L. No. 101-336, 104 Stat. 328, 1990)**

#### **Purpose**

- (1)  
to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities;
- (2)  
to provide clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities;
- (3)  
to ensure that the Federal Government plays a central role in enforcing the standards established in this Act on behalf of individuals with disabilities;  
and
- (4)  
to invoke the sweep of congressional authority, including the power to enforce the fourteenth amendment and to regulate commerce, in order to address the major areas of discrimination faced day-to-day by people with disabilities.

#### **Intent**

- (1)  
some 43,000,000 Americans have one or more physical or mental disabilities, and this number is increasing as the population as a whole is growing older;
- (2)  
historically, society has tended to isolate and segregate individuals with disabilities, and, despite some improvements, such forms of discrimination against individuals with disabilities continue to be a serious and pervasive social problem;
- (3)  
discrimination against individuals with disabilities persists in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and access to public services;
- (4)  
unlike individuals who have experienced discrimination on the basis of race, color, sex, national origin, religion, or age, individuals who have experienced discrimination on the basis of disability have often had no legal recourse to redress such discrimination;
- (5)

individuals with disabilities continually encounter various forms of discrimination, including outright intentional exclusion, the discriminatory effects of architectural, transportation, and communication barriers, overprotective rules and policies,

failure to make modifications to existing facilities and practices, exclusionary qualification standards and criteria, segregation, and relegation to lesser services, programs, activities, benefits, jobs, or other opportunities;

(6)

census data, national polls, and other studies have documented that people with disabilities, as a group, occupy an inferior status in our society, and are severely disadvantaged socially, vocationally, economically, and educationally;

(7)

individuals with disabilities are a discrete and insular minority who have been faced with restrictions and limitations, subjected to a history of purposeful unequal treatment, and relegated to a position of political powerlessness in our society, based on characteristics that are beyond the control of such individuals and resulting from stereotypic assumptions not truly indicative of the individual ability of such individuals to participate in, and contribute to, society;

(8)

the Nation's proper goals regarding individuals with disabilities are to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for such individuals; and

(9)

the continuing existence of unfair and unnecessary discrimination and prejudice denies people with disabilities the opportunity to compete on an equal basis and to pursue those opportunities for which our free society is justifiably famous, and costs the United States billions of dollars in unnecessary expenses resulting from dependency and nonproductivity.

## **Definition**

Disability.—The term "disability" means, with respect to an individual—

(A)

a physical or mental impairment that substantially limits one or more of the major life activities of such individual;

(B)

a record of such an impairment; or

(C)

being regarded as having such an impairment.

**Architectural Barriers Act (Pub. L. No. 90-480, 82 Stat. 719, 1968)**

## **Purpose**

[given persons are] authorized to prescribe

such standards for the design, construction, and alteration of buildings (other than residential structure subject to this Act and buildings, structures, and facilities of the Department of Defense subject to this Act) as may be necessary to insure that physically handicapped persons will have ready access to, and use of, such buildings. Every building designed, constructed, or altered after the effective date of a standard issued under this Act which is applicable to such building, shall be designed, constructed, or altered in accordance with such standard.

### **Intent**

- (1)  
to be constructed or altered by or on behalf of the United States;
- (2)  
to be leased in whole or in part by the United State,s after the date of enactment of this Act after construction or alteration in accordance with plans and specifications of the United States; or
- (3)  
to be financed in whole or in part by a grant or a loan made by the United States after the date of enactment of this Act if such building or facility is subject to standards for design, construction, or alteration issued under authority of the law authorizing such grant or loan.

### **Deffinition**

In this instance, the definition of disability is not explicitly defined.

### **Fair Housing Act (Pub. L. No. 90-284, 82 Stat. 81, 1988)**

### **Purpose**

It is the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States.

### **Intent**

The intent of this law is to prevent discrimination against people belonging to marginalized identities. This law is a sub act of the civil rights act, and is unable to be accessed by screen reader technology.

### **Deffinition**

Disability.—The term "disability" means, with respect to an individual—

- (A)  
a physical or mental impairment that substantially limits one or more of the major life activities of such individual;
- (B)  
a record of such an impairment; or
- (C)  
being regarded as having such an impairment.

### **Individuals with Disabilities Education Act (Pub. L. No. 104-446, 118 Stat. 2647, 2004)**

## Purpose

- (1)(A) To ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related Services designed to meet their unique needs and prepare them for further education, Employment, and independent living;
- (B) To ensure that the rights of children with disabilities and parents of such children are protected; and
- (C) to assist States, localities, educational service agencies, and Federal agencies to provide for the education of all children with disabilities;
- (2) to assist States in the implementation of a statewide, Comprehensive, coordinated, multidisciplinary, interagency system of early intervention services for infants and toddlers with disabilities and their families;
- (3) to ensure that educators and parents have the necessary tools to improve educational results for children with disabilities by supporting system improvement activities; coordinated research and personnel preparation; coordinated technical assistance, dissemination, and support; and technology development and media services; and
- (4) to assess, and ensure the effectiveness of, efforts to educate children with disabilities.

## Intent

- (1) Disability is a natural part of the human experience and in no way diminishes the right of individuals to participate in or contribute to society. Improving educational results for children with disabilities is an essential element of our National policy of ensuring equality of opportunity, full participation, independent living, and economic self-sufficiency for individuals with disabilities.
- (2) Before the date of enactment of the Education for All Handicapped Children Act of 1975 (Public Law 94-142), the educational needs of millions of children with disabilities were not being fully met because-
  - (A) the children did not receive appropriate educational services;
  - (B) the children were excluded entirely from the public school system and from being educated with their peers;
  - (C) Undiagnosed disabilities prevented the children from having a successful educational experience; or
  - (D) a lack of adequate resources within the public school system forced families to find services outside the public school system.
- (3) Since the enactment and implementation of the Education for All Handicapped Children Act of 1975, this title has been successful in ensuring children with disabilities and the families of such children access to a free appropriate public education and in improving educational results for children with disabilities.
- (4) However, the implementation of this title has been impeded by low expectations, and an insufficient focus on applying replicable research on proven

methods of teaching and learning for children with disabilities.

(5) Almost 30 years of research and experience has demonstrated that the education of children with disabilities

can be made more effective by-

(A) having high expectations for such children and ensuring their access to the general education curriculum in the regular classroom, to the maximum extent possible, in order to-

(i) meet developmental goals and, to the maximum extent possible, the challenging expectations that have been established for all children; and

(ii) be prepared to lead productive and independent adult lives, to the maximum extent possible;

(B) strengthening the role and responsibility of parents and ensuring that families of such children have meaningful opportunities to participate in the education of their children at school and at home;

(C) coordinating this title with other local, educational service agency, State, and Federal school improvement efforts, including improvement efforts under the Elementary and Secondary Education Act of 1965, in order to ensure that such children benefit from such efforts and that special education can become a service for such children rather than a place where such children are sent;

(D) providing appropriate special education and related services, and aids and supports in the regular classroom, to such children, whenever appropriate;

(E) supporting high-quality, intensive preservice preparation and professional development for all personnel who work with children with disabilities in order to ensure that such personnel have the skills and knowledge necessary to improve the academic achievement and functional

performance of children with disabilities, including the use of scientifically based instructional practices, to the maximum extent possible;

(F) providing incentives for whole-school approaches, scientifically based early reading programs, positive behavioral interventions and supports, and early intervening services to reduce the need to label children as disabled in order to address the learning and behavioral needs of such children;

(G) focusing resources on teaching and learning while reducing paperwork and requirements that do not assist in improving educational results; and

(H) supporting the development and use of technology, including assistive technology devices and

assistive technology services, to maximize accessibility for children with disabilities.

(6) While States, local educational agencies, and educational service agencies are primarily responsible for providing an education for all children with disabilities, it is in the national interest that the Federal Government have a supporting role in assisting State and local efforts to educate children with disabilities in order to improve results for such children and to ensure equal protection of the law.

(7) A more equitable allocation of resources is essential for the Federal Government to meet its responsibility to provide an equal educational opportunity for all individuals.

(8) Parents and schools should be given expanded opportunities to resolve their disagreements in positive and constructive ways.

(9) Teachers, schools, local educational agencies, and States should be relieved of irrelevant and unnecessary paperwork burdens that do not lead to improved educational outcomes.

(10)(A) The Federal Government must be responsive to the growing needs of an increasingly diverse society.

(B) America's ethnic profile is rapidly changing. In 2000, 1 of every 3 persons in the United States was a member of a minority group or was limited English proficient.

(C) Minority children comprise an increasing percentage of public school students.

(D) With such changing demographics, recruitment efforts for special education personnel should focus on increasing the Participation of minorities in the teaching profession in order To provide appropriate role models with sufficient knowledge to address the special education needs of these students.

(11)(A) The limited English proficient population is the fastest growing in our Nation, and the growth is occurring in many parts of our Nation.

(B) Studies have documented apparent discrepancies in the levels of referral and placement of limited English proficient children in special education.

(C) Such discrepancies pose a special challenge for special education in the referral of, assessment of, and provision of services for, our Nation's students from non English language backgrounds.

(12)(A) Greater efforts are needed to prevent the intensification of problems connected with mislabeling and high dropout rates among minority children with disabilities.

(B) More minority children continue to be served in special education than would be expected from the percentage of minority students in the general school population.

(C) African-American children are identified as having mental retardation and emotional disturbance at rates greater than their White counterparts.

(D) In the 1998-1999 school year, African-American children represented just 14.8 percent of the population aged 6 through 21, but comprised 20.2 percent of all children with disabilities.

(E) Studies have found that schools with predominately White students and teachers have placed disproportionately high numbers of their minority students into special education.

(13)(A) As the number of minority students in special education increases, the number of minority teachers and related services personnel produced in colleges and universities continues to decrease.

(B) The opportunity for full participation by minority individuals, minority organizations, and Historically Black Colleges and Universities in awards for grants and contracts, boards of organizations receiving assistance under this title, peer review panels, and training of professionals in the area of special education is essential to obtain greater success in the education of minority children with disabilities.

(14) As the graduation rates for children with disabilities continue to climb, providing effective transition services to promote successful post-school employment or education is an important measure of accountability for children with disabilities.

### **Definition**

Child with a disability.- (

A) In general.--The term 'child with a disability' means a child-

(I) with mental retardation, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious Emotional disturbance (referred to in this title as emotional disturbance'), orthopedic impairments,

Autism, traumatic brain injury, other health impairments, or specific learning disabilities;

And

(ii) Who, by reason thereof, needs special education and related services?

(B) Child aged 3 through 9.--The term 'child with a disability' for a child aged 3 through 9 (or any subset of that age range, including ages 3 through 5),

May, at the discretion of the State and the local educational agency, include a child-

(I) experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic

Instruments and procedures, in 1 or more of the following areas: physical development; cognitive development; communication development; social or emotional Development; or adaptive development;

And

(ii) Who, by reason thereof, needs special education and related services?

## **National Voter Registration Act (Pub. L. No. 103-31, 107 Stat. 77, 1993)**

### **Purpose**

- (1) to establish procedures that will increase the number of eligible citizens who register to vote in elections for Federal office;
- (2) to make it possible for Federal, State, and local governments to implement this Act in a manner that enhances the participation of eligible citizens as voters in elections for Federal office;
- (3) to protect the integrity of the electoral process; and
- (4) to ensure that accurate and current voter registration rolls are maintained.

### **Intent**

- (1) the right of citizens of the United States to vote is a fundamental right;
- (2) it is the duty of the Federal, State, and local governments to promote the exercise of that right; and
- (3) discriminatory and unfair registration laws and procedures can have a direct and damaging effect on voter participation in elections for Federal office and disproportionately harm voter participation by various groups, including racial minorities.

### **Deffinition**

In this instance, the term 'disability' is not explicitly defined by the legislation.

## **Telecommunication Act (Pub. L. No. 104-104, 110 Stat. 56, 1996)**

### **Purpose**

- “(1) to promote nondiscriminatory accessibility by the broadest number of users and vendors of communications products and services to public telecommunications networks used to provide telecommunications service through—
- “(A) coordinated public telecommunications network planning and design by telecommunications carriers and other providers of telecommunications service; and
- “(B) public telecommunications network interconnectivity, and interconnectivity of devices with such networks used to provide telecommunications service; and
- “(2) to ensure the ability of users and information providers

to seamlessly and transparently transmit and receive information between and across telecommunications networks.

**Intent**

“(1) shall establish procedures for Commission oversight of coordinated network planning by telecommunications carriers and other providers of telecommunications service for the effective and efficient interconnection of public telecommunications networks used to provide telecommunications service; and  
 “(2) may participate, in a manner consistent with its authority and practice prior to the date of enactment of this section, in the development by appropriate industry standardssetting organizations of public telecommunications network

**Definition**

“(1) **DISABILITY**.—The term ‘disability’ has the meaning given to it by section 3(2)(A) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(2)(A)).

**Convention on Rights for People with Disabilities (U.N.T.S. 44910, 2006)**

**Purpose**

The purpose of the present Convention is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity.

**Definition**

Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.