

# China's Inclusive Education Legislation, Law, and Policy

Subjects: [Education, Special](#) | [Psychology](#)

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Laws and policies, no matter how well designed, can fail if they are not implemented correctly. This can occur when there is no interaction between policymakers and those who are working on the ground.

special education

inclusive education

policy

law

legislation

China

## 1. Law, Legislation and Policy

For any policy to be successfully implemented, the interaction between policies, policy-makers, decision-makers, and stakeholders is essential. In the context of special education and inclusive education in China, it is worthwhile to explore the perspectives and experiences of administrators, practitioners, and academics in the field in relation to legislation, law, and policy.

To gain a better understanding of the status of special and inclusive education policies, following the synthesis. Fu et al. mentioned that “in several key government documents on national educational development, the Chinese government persists in developing more special schools” <sup>[1]</sup> (p. 581) but also raised their concern on “the contradictions in the new regulations reflecting long-rooted disagreements about inclusive education in reality” <sup>[1]</sup> (p. 581). Further, barriers hindering the development of inclusive education include a competitive exam-based school system, large class sizes ( $\geq 45$ ), economic development and more investment, three modes of education (i.e., learning in regular classrooms (LRC), mainstreaming, and home learning), and a paucity of inclusive education in senior middle school (i.e., high school). In order to develop inclusive education, the authors proposed: improving legislation for inclusive education in general, providing detailed laws and policies, identifying the responsible agencies and roles of each in relation to special education and inclusive education, involving the community in legislation processes, repealing laws that are not consistent with the Convention on the Rights of Persons with Disabilities (CRPD), for instance, the law which requires opening special education schools in counties with populations of more than 300,000, as this encouraged segregation and decreased the expansion of inclusion <sup>[1]</sup>.

Moreover, Huang and Zhang conducted a study on the allocation of special education resources in 31 provinces of China (excluding Macau, Hong Kong, and Taiwan) with reference to the National medium and long-term educational reform and development program (2010–2020) and the thirteenth 5 Year Plan for National Education Development <sup>[2]</sup>. The authors found “Shanghai, Liaoning, Shandong, Jilin, Tianjin, Hebei, Zhejiang, Heilongjiang, Shanxi, and Beijing” are the top provinces in resources allocation of special education as compared to the lowest ones “Sichuan, Chongqing, Fujian, Jiangxi, Guizhou, Guangxi, Qinghai, Yunnan, Hainan, and Anhui”, with the rest 11 provinces in the middle <sup>[2]</sup> (p. 19). The authors also mentioned that while both Beijing and Shanghai have the advantage of being the most developed

provinces, they have the disadvantage of having the largest number of special education students [2]. The authors recommended the issuance of province-based policies and the allocation of resources to bridge the gap in the imbalance among the provinces and provide equal education to people with disabilities, increasing the number of special education schools, the recruitment and preparation of teachers that are more professional, communication among provinces, research on special education and increasing numbers of LRC students [2].

Based on the description by authors in reference [2], the first indication of special education appeared in the Book of Rites (i.e., Chinese classics), influenced by Confucian thoughts. Among these is the idea that there must be social harmony, albeit it looked at people emotionally with the view that their disability is due to evil power and ranking them at the lowest social level. The second indicator is the Western missionaries in the mid-19th century, followed by the open reform in 1986. The open reform resulted in major reforms in special education, including the Compulsory Education Law in 1986, moving to inclusive education (i.e., LRC) between 1980 and 1994, the National Plan 2010–2020, and the thirteenth 5 year education development plan [2].

To conclude, the levels of legislation in China in relation to inclusive education are hierarchical [1]. The constitutional law did not mention inclusion directly, but its arrangement is discussed within Article 45. The National People's Congress and its Standing Committee issued several laws that are general and specific. General laws include civil law, criminal law, and administrative law. Specific laws include the Law of Compulsory Education in 1986 on the hosting of special classes and schools and the Law of the People's Republic of China on the Protection of Persons with Disabilities in 1990. This latter one was amended in 2008 before the ratification of the CRPD. The next level of laws included regulations from education authorities, including Chinese law on education in 1996, mainly Article 10, supporting special education. Regulations made by the State Council have less legal power, and this includes the Regulations Education for Persons with Disabilities in 1994. Further, local provinces' people's representatives' congresses issue ministry regulation and local governmental regulations (e.g., The Shanghai Implementation of the Chinese Law on Protection of Persons with Disabilities. Finally, the ministries and local governments' regulations like the National Plan 2014 to enhance special education [1].

## 2. Rights of Learners with Special Educational Needs

The rights of learners with Special Educational Needs (SENs) are emphasized in Chinese law, legislation, and policies. They strictly inform all education sectors and relevant sectors to ensure *equality*, *learning*, and a *sense of belonging* to all learners with SENs. For instance, the Compulsory Education Law of the People's Republic of China, Article 19, stated two forms of providing education through special education classes (segregation) or through regular education classes (i.e., LRC) [3]. Another example is the Regulation on the Education of the Disabled details four forms of education for learners with SENs: (a) full inclusion for learners who have mild disabilities, (b) partial inclusion (mainstreaming) for learners who need minor preparation to fully join the regular education system, (c) segregation on special education schools for those who cannot match any of the previous two methods requirements, and (d) exclusion (i.e., home education) for those whose disabilities and conditions do not allow them to join schools on campus [4].

Historically, the government has always been highly concerned with ensuring the rights of learners with SENs. The Chinese constitution starting from 1982—revised frequently in 1988, 1993, 1999, and 2004—ensures the protection of

people with disabilities. Other important laws include (a) The Law on the Protection of Disabled Persons, 1991, (b) The Rules on the Employment of Disabled Persons, 2007, (c) The Employment Promotion Law, 2007, (d) The Twelfth 5 Year National Programme on Disability (2011–2015), (e) Regulations on Construction of Accessible Environment (2012), and (f) Mental Health Law (2012) (International Labour Organization [ILO], as cited in [\[5\]](#)).

Of particular significance, the China Disabled Persons' Federation (CDPF) was established in 1988 to advocate for the rights and well-being of over 85 million individuals with special educational needs (SENs). As a result, numerous specialized and general associations and organizations have been established to represent this community of learners. These include the State Council Working Committee for Persons with Disabilities, China Association of the Deaf, China Association of the Blind, China Association of the Physically Handicapped, China Association of Persons with Intellectual Disabilities and their Families, China Association of Persons with Mental Disabilities and their Families (ILO) as cited in [\[5\]](#)[\[6\]](#)[\[7\]](#).

Further, major national policies emphasized ensuring equality, learning, and a sense of belonging for learners with SENs. Among these policies is the National Plan 2010–2020, which was part of the used policy documents here—addressing inclusion and segregation [\[8\]](#). Another yet recent national policy is China Education Modernization 2035 which again emphasized the development of special and inclusive education with more focus on quality [\[9\]](#).

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