

## Providing Access to K-12 Digital Learning Schools and Programs for Special Populations

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**Abstract:** The purpose of this paper is to review civil rights policy efforts in K-12 digital learning schools and programs in relation to so-called special populations. We then overview key ideas from research for high(er) researched groups—students needing credit recovery, special education, multilingual learners and then we give very brief mentions of other groups that are un/under-researched in online learning. We end with implications for research that are based in understandings about special populations and civil rights enactment in K-12 digital learning schools and programs.

### Introduction

Although many states have pledged access to educational opportunities in their state constitutions, there is no federal guarantee of education in the United States Constitution. The federal government has historically maintained aggregate educational statistics, provided funding for federal legislative mandates related to civil rights, and managed complaints through its executive agencies (Kaestle & Smith, 1982). Starting in the 1960s and leading into the early 2000s, the U.S. Congress passed legislation granting educational rights (e.g., Americans with Disabilities Act, 1991; Title VI of the Civil Rights Act of 1964; Individuals with Disabilities in Education Act, 2004, Rehabilitation Act of 1973, Section 504; Equal Opportunity in Education Act, 1974). As the number of K-12 digital learning programs grew in size and increased in number, a research subcommittee from the North American Council for Online Learning (NACOL, later the International Association for K-12 Online Learning or iNACOL) began collecting information from its attempt to understand demographics for online programs which held promise for understanding the access to educational rights in K-12 digital learning courses and programs.

The original NACOL Research Committee recognized that a growing number of states, districts, and schools had started using various forms of K-12 digital learning, but that many of those programs had, in the rush to create digital learning options for their students, likely overlooked how they were going to set up policies and procedures to ensure basic civil rights for K-12 digital learning. The publication *Access and Equity in Online Classes and Virtual Schools* was the first to attempt to ask questions about how K-12 digital learning could take the civil rights of students and families seriously (Rose & Blomeyer, 2007). Little attention was paid to the report at the research or practice arenas (Rose, 2011). For example, while early virtual high school programs did enroll students with special educational needs, there was not an awareness among the faculty that there were students with learning differences and/or special needs until mid-way through the first year of the program (Rose, 2014). Findings from a later iNACOL survey revealed that programs were generally aware of their enrollment numbers but had little information about the demographic characteristics of students, including an understanding of their challenges, strengths, and needs that would qualify them for special services under any federal or state programs (Patrick et al., 2012).

As a result, an update *Access and Equity for All Learners in Blended and Online Education* was published by iNACOL as an attempt to garner attention for civil rights in education and provide some ideas for framing civil rights in K-12 digital learning settings (Rose, 2014). This publication addressed a range of civil rights issues including Public Law 94-142, Title VI of the Civil Right Act of 1964, the U.S. Supreme Court case *Lau v. Nichols*, Americans with Disabilities Act, the Individuals with Disabilities in Education Act (2004), Section 504 of the Rehabilitation Act of 1973, Title IX of the Educational Amendments (1972), and the Twenty-First Century Communications and Video Accessibility Act from the Federal Communications Commission (2014). Given these early efforts and the difficulties that advocates have experienced, what key ideas have emerged in research and practice for the educational and civil rights of historically underserved students, collectively referred to as *special populations*, more recently? We will examine credit recovery for so-called at-risk students, students identified with disabilities, multilingual learners, and gifted students.

## Online Credit Recovery

Providers of online learning identified credit recovery as an early potential use that might increase enrollment in their programs and give students who had not been able to perform successfully during in-person courses a chance to do so online. Early research focused on making the argument that students could recover the credit as well or better than they could while participating in in-person recovery programs (Rickles et al., 2018). The logic of having students who cannot do assignments in a synchronous in-person setting but might be more successful in an asynchronous online setting comes from the perceived benefits of being able to work at an individual pace. Most of these studies found that credit recovery helped students recover credit. For example, Oliver and Kellogg (2015) found that students who were working online were able pass courses that they had previously failed. Later research from Viano (2018; 2023) and Viano and Henry (2024) that studied online credit recovery found that children who have been labeled Hispanic, and/or Black, have been the most frequently identified for credit recovery efforts. While students in online credit recovery *do* recover the credit, they *do not* usually recover their ability to graduate, or to recover other assessment scores to access other life opportunities. A proactive, practical implication of the work was that educators who wanted to help should consider redesigning credit recovery that does not merely recover credit but recovers opportunities. More information about who finishes programs and courses, and who graduates should be gathered and evaluated. The students and their families might have important information about what they need to be successful with more than just the credit.

## Special Education/Special Needs Services

Students identified with disabilities who are enrolled in or who want to enroll in online learning and other K-12 digital learning programs have drawn much research attention, perhaps more than any of the so-called special populations groups (Rice & Dykman, 2018). In a recent review of literature, Rice et al. (2025) used the large literature base that included pre-, during, and post-pandemic studies to articulate a framework for meeting the needs of students with disabilities online. This framework centers on the biopsychosocial needs of the child, with two types of access (i.e., digital and instructional) and two types of support (i.e., learner and policy). Students who qualify for services under the Individuals with Disabilities Education Act (IDEA, 2004) are not supposed to be denied services, even in K-12 digital learning opportunities. The entitlement to services was true before the pandemic (Swenson & Ryder, 2016), and it was reaffirmed during it (U.S. Department of Education, 2020). Much of the early research in this area found that parents were opting to place their children in online environments as a *Hail Mary*, or a final effort to help their children, because they were frustrated with their local assigned school (Ortiz et al, 2021). While parents who stayed in the fully online environment did find the amount of support they now had to provide overwhelming at times and out of step with their expectations, they were often willing to do this to help

their children stay working at home and away from whatever was happening in the in-person school that finally made them leave (Rice & Ortiz, 2022). Educators in K-12 digital learning environments found serving students who were identified with having disabilities or who needed information gathered that might lead to identification to be, at times, frustrating, and they thought they were making Herculean efforts themselves to provide the support (Crouse et al., 2018). In the meantime, some studies have shown that students who have been most likely to fail to achieve or fail to persist were the students identified with disabilities (e.g., Freidhoff, 2015).

It has been difficult to find studies that map achievement of students with disabilities. One reason is that matched studies with peers is difficult to do when children have a variety of qualifying conditions, and sometimes multiple disabilities (Shilling et al., 2013). Also, data about children with disabilities is not always interoperable or well-kept under the discourse that *the online school is inherently accommodating* or *all our students have individual plans* so there is no need for a plan organized through IDEA (2004) (Connell et al., 2017). In addition, schools might be unwilling to provide accurate performance data because of fears that it will demonstrate outcomes that make the school look non-compliant and might bring sanctions (Rice & Ortiz, 2020). One major concern in terms of Civil Rights has been whether having a disability or special need should result in being denied access to online learning programs (Swenson & Ryder, 2016). While sometimes there is an attempt to argue that online learning is a program or school of choice, if it is public, including charter, programs, students with disabilities are entitled to access and accommodations (Americans with Disabilities Act, 1991, Title II, rev. 2023).

## Multilingual Learners

Children who speak multiple languages at whatever degree of proficiency across a variety of tasks and contexts are multilingual learners. These students are protected by various state and Federal laws and case laws that ensure their right to education, including the Civil Rights Act of 1964. These learners may include children who have migrated from other countries as well as those born in the United States, including individuals whose families have resided in the country for generations. In many regions, there are significant populations of multilingual learners who speak and learn English at school while using multiple other languages at home. For instance, a child in the American Southwest might speak Spanish and an Indigenous language (or several) at home and in the community (McConnell & Leclere, 2002). Multilingual children in online learning settings have had much less access to online learning opportunities because they have much less access to the internet. Internet access on Indigenous Tribal lands, for instance, is the worst in the United States (Early & Hernandez, 2021). Children who are multilingual may never be informed of opportunities to learn online and because the funding streams for serving multilingual learners are much less and much less reliable than those that flow through from disability legislation like IDEA (2004), they might be counseled out, uninvited, or allowed to withdraw without much ado. During the pandemic, language disparities were highlighted by the fact that children whose parents had less access to English were less able to form communities among their neighbors or access resources from school to receive help with emergency online learning (Domina et al., 2021). Gaps in access to school and community likely present in non-emergency online learning. Proactive online educators could fill in these gaps with language support in multiple languages, communication that is in multiple formats and instructional materials that meet general accessibility requirements (e.g., captions) but also allow for language translation.

The current U.S. political milieu casts multilingual families, particularly those who are non-White, as an underclass that needs to be eradicated. The search for individuals as part of what was framed as an immigration crackdown has resulted in many multilingual families having civil rights violated in the process of coming to and leaving from schools, regardless of citizenship status (Raj & Hernandez, 2025). Online learning programs might be sought as part of an attempt to avoid going out in the community in person, but it also generates more data. Proactive practitioners should consider how language support can be provided—both for English and for other

languages. Moreover, practitioners have decisions to make about how to ensure the safety of students both physically and digitally when they enter or log on to school.

## **Gifted or Advanced Learners**

In many states, students with gifted status are served under IDEA (2004) and have Individualized Educational Programs developed on their behalf with their parents. Since there is not always a designated separation, it can be difficult to distinguish between the populations for study or interpretation when evaluating results from large sets of data (Allday & Allday, 2011). It is possible to have an identified disability and be classified as gifted. It is even possible to also be a multilingual learner who claims any of these identities and is enrolled in a K-12 digital learning course, program, or school. While there was much speculation about access to advanced coursework in K-12 digital learning environments, there are few studies on the topic. Some research is in rural areas expressed hope that online access would provide advanced students with opportunities to take Advanced Placement courses (Gemin et al., 2018). However, researchers have found that access is not easy since rural areas are also often lacking in broadband access and there is still a need for a teacher to do at least some facilitation of these courses (Running Bear et al., 2021; Valentine et al., 2019). Proactive educators looking to support students who qualify for advanced placement need to prioritize consistent internet access and the identification and compensation of at least some teachers who understand Advanced Placement tests and systems and can give counsel.

## **Groups with Emerging Research Bases**

Other so-called special populations exist beyond these groups, but the availability of research literature is very slim. For example, there are some students who are considered homeless, transient, or highly mobile in online learning programs. There have not been many published, peer reviewed studies about this population of youth and only a handful of dissertations, theses, and capstone projects. Most of these projects present highly positive outcomes for online learning programs with this group of students (e.g., Creger, 2022). It makes sense that students without a home base could be successful online because a student who is highly mobile might benefit greatly from the consistency of being able to log on from anywhere, they are currently staying, such as a public library. Yet it is important to be cautious about over interpreting based only on a few studies. There might be many variables at play such as why the youth is without a home, for how long, whether there is a need for special education or other support alongside housing support, and so forth. Of course, broadband access seems likely to be a major variable.

Youth in custody are also another unresearched group. Pytash (2018) highlighted emerging uses of computing technology with youth who have been entangled in the industrial prison complex, such as youth detention or who have been imprisoned as adults. While there is some promise reported for online learning in the studies the Pytash extrapolated from around information technology access, it important to understand that access to education is key to preventing recidivism (re-offence). The nuances of modality have not been fully teased out. Other demographic groups that have been historically underserved in in-person schooling and are attempting to move to online schools and programs include students of color, including students who claim Black and/or African American identities and students who claim LGBTQIA+ identities. In their study of Black girls who moved to online schooling, Wandix-White et al. (2023) found that the girls enjoyed learning online because they faced less racism when teachers had less information about their race.

Folkman and Li (2026) found that teachers in one program recognized that a major reason some LGBTQIA+ students were coming to online learning programs was because of bullying. Some felt that they had a responsibility to help the students sense belonging in the online program, but they did not necessarily have resources or preparation for this task. Some teachers also felt that students were unsafe in their homes and communities, and they did not know how to access resources for students. These findings show how untoward it is for K-12 digital

learning schools and programs to consider targeting certain demographics for recruitment and then not provide a full range of support for students' civil rights. This is true for all the so-called special populations.

## Planning Future Research

The following are questions that might support practices for special populations in schools. These also might serve to support research in online schools concerned with special populations and/or civil rights more generally.

*Student Learning and Support.* We need to know more about how educators in K-12 digital learning make planning and enactment decisions providing intervention and tutoring support to children as an effort to regard civil rights. There seems to be some interest in achievement and persistence, for instance, but there have not been meaningful efforts to merge civil rights adherence with student support. We also need to know more about how children from so-called special populations experience K-12 digital learning on a daily or weekly basis (as opposed to studies that capture a general experience). It seems that there should be an abundance of outcome data at this point, but there are important questions about what the data is really being used for and whether those purposes are helping children gain access to more opportunities or whether that data is being used for other purposes.

*Family/Community Collaboration.* Additionally, we need to know more about family roles and responsibilities. Specifically, we need to be thinking about how roles and responsibilities are meaningfully shared in K-12 digital learning (as opposed to schools telling families what they think their responsibilities should be)? This type of collaboration will be especially important for thinking about how to meet the needs of multilingual children who might be extremely imperiled now. While teaching English does not seem like a problematic goal, there seem to be room for more attention to holistic needs.

*Practice/Research/Policy Disconnects.* While there historically has been some concern about the research/practice divide, there might also be a wide divide between research and policy and policy and practice, particularly when it comes to Civil Rights. How can what research has learned about teacher preparation and student learning for special populations reach policy makers, teacher preparation programs, and online learning administrators?

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