



Accessibility of school facilities for students with disabilities following the law on persons with disabilities

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Abstract

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The Law on Persons with Disabilities mandates accessibility of facilities for people with disabilities in various sectors and spaces, including in the education sector in schools. The mandate for accessibility of school facilities is in line with several related laws and regulations. This mandate must be understood by the central government, local governments, educators, education personnel, and educational unit administrators so that they can serve students with disabilities. This research employed qualitative methods, normative legal research, a statutory approach, and descriptive analysis. Data collection techniques were carried out through literature studies. This article describes the mandate for accessibility of facilities in schools according to the Law on Persons with Disabilities and related laws and regulations. This research aims to facilitate understanding for the parties given the mandate, so it is hoped that related services for students with disabilities can be fulfilled properly. The mandate consists of at least physical and non-physical accessibility that should be available in schools, along with other related matters.

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INTRODUCTION

Law Number 8 of 2016 concerning Persons with Disabilities (the Law on Persons with Disabilities) mandates the implementation and fulfillment of the rights of persons with disabilities, as stated in Article 2 and Article 3 of the Law on Persons with Disabilities. One of the main principles in the implementation and fulfillment of the rights of persons with disabilities is accessibility (Article 2, letter h of the Law on Persons with Disabilities), emphasizing the importance of facilities provided for persons with disabilities to realize equal opportunities. According to Article 1, number 8 of the Law on Persons with Disabilities, accessibility is a facility provided for persons with disabilities to realize equal opportunities (Article 1, number 8 of the Law on Persons with Disabilities). Meanwhile, equal opportunities are interpreted as conditions that provide opportunities and/or provide access to persons with disabilities to channel their potential in all aspects of state and community administration (Article 1, number 2 of the Law on Persons with Disabilities). Thus, accessibility is not merely a technical issue, but is a fundamental principle in guaranteeing the rights of persons with disabilities.

This research focuses on the legal accessibility of educational facilities within the school environment, by exploring the link between the principle of accessibility, the concept of accommodation, and the obligations of education providers under the Law on Persons with Disabilities. The research not only describes the concept but also elaborates on the authority, responsibility, and opportunities for strengthening regulations in the context of inclusive education. Existing legal studies conducted on education for persons with disabilities are still general and have not focused on the substance of school facility regulations.

Persons with disabilities have the right to accessibility (Article 5 paragraph (1) letter m of the Law on Persons with Disabilities). The right to accessibility for persons with disabilities includes the right to obtain accessibility to utilize public facilities and obtain reasonable accommodation as a form of accessibility for individuals (Article 18 of the Law on Persons with Disabilities). Reasonable accommodation is the appropriate and necessary modification and adjustment to guarantee the enjoyment or implementation of all human rights and fundamental freedoms for persons with disabilities based on equality (Article 1, number 9 of the Law on Persons with Disabilities). This means that accessibility is related to reasonable accommodation.

The mandate for appropriate accommodation is in line with the objectives of the Law on Persons with Disabilities. The implementation and fulfillment of the rights of persons with disabilities aims to realize, guarantee, and ensure the implementation of efforts to respect, advance, protect, and fulfill the rights of persons with disabilities (Article 3 letters a, b, and e of the Law on Persons with Disabilities). Based on this, this study aims to examine the regulation of accessibility of school facilities for students with disabilities according to the Law on Persons with Disabilities and related laws and regulations. This study includes the forms of accessibility guaranteed in the educational environment, the parties responsible for providing it, strengthening the principles of justice and inclusivity in the education system, and guaranteeing accessibility of school facilities for students with disabilities. In this context, it is necessary to understand the regulation of accessibility of school facilities for students with disabilities according to the Law on Persons with Disabilities and related laws and regulations. In addition, it is also necessary to understand the parties who provide and guarantee accessibility of school facilities for students with disabilities, as well as what accessibility is meant to be. The results of this study can be a reference for stakeholders, especially educational institution organizers and the government, to better understand their legal responsibilities in realizing inclusive and accessible education for students without discrimination.

METHOD

This research was a normative legal research with a statute approach. The primary legal sources in this study include the 1945 Constitution of the Republic of Indonesia, Law Number 8 of 2016 concerning Persons with Disabilities, and other related derivative regulations such as Government Regulations, Presidential Regulations, Ministerial Regulations, and other technical provisions in the field of inclusive education. Meanwhile, secondary legal sources include literature, previous research results, and academic documents discussing the issue of accessibility and the rights of persons with disabilities in the education system. Data collection techniques were carried out through literature studies. Data analysis was carried out descriptively and qualitatively by reviewing, interpreting, and constructing applicable legal norms to provide a complete picture of the forms, principles, and responsibilities of accessibility of educational facilities for students with disabilities.

FINDINGS AND DISCUSSION

Legal Basis for Regulating Accessibility of School Facilities for Students with Disabilities by the Law on Persons with Disabilities and Related Legislation

The right to education includes the right to receive adequate accommodation as a student (Article 10, letter d of the Law on Persons with Disabilities). The central government and regional governments are obliged to facilitate educational institutions in providing adequate accommodation (Article 43, paragraph (1) of the Law on Persons with Disabilities). The appropriate accommodation referred to is also related to public services.

The right to public services for persons with disabilities includes the right to obtain appropriate accommodation in public services in an optimal, fair, dignified manner without discrimination, as well as assistance, translation, and provision of easily accessible facilities at public service locations without additional costs (Article 19 of the Law on Persons with Disabilities). Public services are regulated by Law Number 5 of 2014 concerning State Civil Apparatus (ASN Law) and Law Number 25 of 2009 concerning Public Services (Public Services Law).

Public service is an obligation and a reflection of the central and regional governments' protection of the wider community. As the implementer of the state's role, the central government is obliged to comply with applicable laws and regulations in providing public services, as are regional governments in each province and district/city (Amrullah, 2023: 2).

This means that the central and regional governments, along with all State Civil Apparatus (ASN) throughout Indonesia, must be able to provide public services with special treatment for people with disabilities, as stipulated in the Law on Persons with Disabilities. These public services must be provided across various sectors, including education. In this context, there is a mandate of will and ability to provide public services in the education sector, particularly primary and secondary education provided by public schools and ASN teachers.

The Law on Persons with Disabilities also regulates sanctions. Everyone is prohibited from obstructing and/or prohibiting persons with disabilities from obtaining their right to education (Article 143, letter a of the Law on Persons with Disabilities). Anyone who obstructs and/or prohibits persons with disabilities from obtaining these rights shall be subject to a maximum prison sentence of 2 (two) years and a maximum fine of Rp200,000,000.00 (two hundred million rupiah).

In addition to the Law on Persons with Disabilities, there is the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), which was ratified through Law Number 19 of 2011 concerning the Ratification of the Convention on the Rights of Persons with Disabilities (Convention on the Rights of Persons with Disabilities). Ratification of this international convention is a form of state and government recognizing the rights of persons with disabilities to education at every level (Article 24, paragraph 1) of the UNCRPD.

To ensure the fulfillment of these rights, states must adopt appropriate policies to employ teachers, including teachers with disabilities, who are qualified in sign language and/or braille. In addition, states must also adopt appropriate policies to train professionals and staff working at various levels of education to support persons with disabilities (Article 24, paragraph (4) UNCRPD). This means that the training is intended for teachers and school staff.

The training covers disability awareness, the use of communication forms, tools, and formats, as well as augmentative and alternative educational techniques and materials, such as Augmentative and Alternative Communication (AAC). AAC is a way of communicating other than speaking or verbally. This alternative method adapts to a person's ability to speak or verbally communicate and their ability to understand. Meanwhile, this augmentative method adds elements to speech to make the message clearer. This can include images and writing, as well as the use of special speech applications or devices (UW Autism Center, 2019: 1).

Technical Regulations for Accessibility of School Facilities for Students with Disabilities by the Law on Persons with Disabilities

Technical regulations for accessibility of school facilities for students with disabilities by the Law on Persons with Disabilities under the Law on Persons with Disabilities include

Regulation of the Minister of Education, Culture, Research, and Technology Number 48 of 2023 concerning Appropriate Accommodation for Students with Disabilities in Formal Early Childhood Education Units, Elementary Education, Secondary Education, and Higher Education (*Permen Dikbud Ristek 48/2023*).

Accessibility relates to adequate accommodation, as outlined in the Law on Persons with Disabilities, as explained in the Introduction to this article. Provision of adequate accommodation for students with disabilities is carried out by local governments, educational institution administrators, and educational institutions (Article 3 of Regulation of the Minister of Education, Culture, Research, and Technology No. 48/2023).

In this case, the local government facilitates and guarantees the provision of appropriate accommodations for students with disabilities in educational institutions run by the local government within its jurisdiction. Community-run educational institutions facilitate and guarantee the provision of appropriate accommodations for students with disabilities, and educational institutions also provide appropriate accommodations.

The beneficiaries of the provision of appropriate accommodation and the establishment of Disability Service Units (ULD) are intended for students with disabilities at all levels of education (Article 4 of Regulation of the Minister of Education, Culture, Research and Technology 48/2023). Facilitation of the provision of appropriate accommodation is carried out at least through the provision of budget support and/or funding assistance, as well as the provision of facilities and infrastructure (Article 5 (1) of Regulation of the Minister of Education, Culture, Research and Technology 48/2023).

The provision of budget support and/or financial assistance is carried out by regional governments, educational institution organizers, and universities by their respective authorities (Article 6 of Regulation of the Minister of Education, Culture, Research, and Technology 48/2023). This provision can take the form of costs to support the implementation of education according to the needs of students with disabilities, assistance or scholarships for students with disabilities, and/or funds to provide facilities and infrastructure that support adequate accommodation.

The provision of the facilities and infrastructure in question may be in the form of general facilities and infrastructure, special facilities and infrastructure, and/or facilities and infrastructure that support distance learning. (Article 7 (1) of the Minister of Education, Culture, Research and Technology Regulation 48/2023) Provisions regarding the facilities and infrastructure in question are listed in Attachment I of the Minister of Education, Culture, Research and Technology Regulation 48/2023.

ULD in formal early childhood education, basic education, and secondary education has a task, one of which is to prepare a needs analysis (Article 16 paragraph (1) letter b of the Minister of Education and Culture Regulation No. 48/2023). In carrying out the preparation of the needs analysis, ULD develops needs instruments, one of which is infrastructure for accessibility (Article 16 paragraph (3) letter a of the Minister of Education and Culture Regulation No. 48/2023). The facilities and infrastructure for carrying out the duties and functions of the ULD are provided by considering, among other things, the fulfillment of physical, information, communication, and technology accessibility (Article 21 letter c in conjunction with Article 16 of the Minister of Education and Culture Regulation No. 48/2023).

Public Facilities and Infrastructure

Public facilities and infrastructure related to communication media, mobility media, independence, academic support, adaptive technology, resource rooms, disability-friendly access in the educational unit environment, which can be used by all students with disabilities.

The provision of facilities and infrastructure can be achieved through the procurement and/or use of facilities and infrastructure that meet the accessibility requirements of buildings and the environment by statutory regulations. This provision includes accessibility to buildings, learning media/tools, and resource center spaces.

Accessibility in buildings, including ramps (inclined planes), elevators, hallways equipped with guide blocks, disabled toilets, handrails, braille signs, sliding doors, disabled parking, and building codes. Learning media/tools, including audio media, visual media, tactual media, and teaching materials. These learning media/tools are related to AAC, as explained in Point 1 Content and Discussion. Resource center spaces, including identification and assessment rooms, compensatory service rooms, consultation rooms, relaxation rooms, intervention rooms, remedial service rooms, and enrichment.

Special Facilities and Infrastructure

Special facilities and infrastructure, related to communication media, mobility media, independence, academic support, and adaptive technology, are provided according to the individual needs of students based on their type of disability. These special facilities and infrastructure are determined by specific provisions.

The specific provisions referred to include: wheelchairs and crutches for physical disabilities; self-help aids for intellectual disabilities; visual aids, alternative communication aids (for example, picture exchange communication systems), and environmental recognition media for mental disabilities; screen readers, magnifiers, portable Closed-Circuit Television (CCTV) with color contrast, braille symbols, audio books, and electronic books (e-books) for the blind; hearing aids, audio meters, speech training aids, and sign dictionaries for the deaf; and communication aids (object/picture symbols), mobility aids (special wheelchairs, modified study chairs), self-help aids (modified daily necessities), accommodations to reduce auditory, visual, and tactile distractions for multiple disabilities.

Facilities and infrastructure that support distance learning

Facilities and infrastructure that support distance learning and health protocols include communication aids and laptops equipped with screen readers and speech-to-text (speech recognition).

CONCLUSION

The regulation of school facility accessibility for students with disabilities, by the Law on Persons with Disabilities and related laws and regulations, contains specific mandates. These laws and regulations include the UNCRPD, ratified through Law 19/2011, as well as the Civil Servant Law and the Public Service Law for state schools and civil servant teachers. Technical regulations for these mandates are based on Ministerial Regulation No. 48/2023.

The mandate for accessibility of school facilities for students with disabilities includes at least physical and non-physical accessibility, which should be available at schools. Non-physical accessibility refers to accessibility to information services.

These accessibility measures must be supported by other related measures. Educators, education personnel, and educational institution administrators are required to provide accessible school facilities for students with disabilities. Both the central and regional governments are required to provide relevant training for education personnel and educational institution administrators.

Furthermore, both the central and regional governments are required to guarantee the accessibility of school facilities for students with disabilities. This guarantee includes budgetary support and/or financial assistance, the provision of facilities and infrastructure by

both the central and regional governments, and facilitation of the formation of ULDs by regional governments.

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