

LEGISLATIVE DEFINITIONS AROUND LEARNERS VULNERABLE TO EXCLUSION

Country Report: France



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See the [Legislative Definitions around Learners Vulnerable to Exclusion web area](#) for further information about this activity.



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INTRODUCTION

Since the foundation of the European Agency for Special Needs and Inclusive Education (the Agency) in 1996, there have been key conceptual changes in the thinking behind and policy priorities for developments on the journey towards inclusive education.

A first shift was from the concept of special educational needs (SEN) to special needs education (SNE). This represented a move away from focusing on the learner (special educational needs), towards a focus on the provision that learners who experience difficulties at school may need (special needs education). The term '**special needs education**' widened the focus beyond learners with disabilities to include learners who appeared to be failing in school for a wide variety of reasons – for example, children living in poverty or those from different linguistic or cultural backgrounds. Special needs education, however, continued the deficit or medical model that still saw the problems as being within the learner.

There has never been an agreed definition of SEN or SNE that could be used across countries. The groups of learners considered to have **special needs** requiring additional provision largely differ across countries.

Inclusion requires a move away from a concern with the categories a learner may or may not fall into, to focus on the barriers some learners experience that lead to marginalisation and exclusion. This leads to an overall focus on **learners vulnerable to exclusion** by the education system. Agency work focuses on supporting the development of **inclusive education** systems in its member countries to ensure every learner's right to inclusive and equitable educational opportunities. This aim is directed at **all learners**, while recognising the need to specifically address specific **learners vulnerable to exclusion**.

Agency work acknowledges that every learner has their own unique experiences of discrimination and/or barriers to learning. All aspects of Agency work aim to consider everything and anything that can marginalise learners and increase their chances of exclusion (European Agency, 2021¹). This requires a move away from a medical approach and labelling with separate provision for different groups, towards a rights-based approach that focuses on the barriers within the system ([European Agency, 2022a](#)).

Central to this commitment and understanding of inclusive education are the legal definitions or descriptions in policy that Agency member countries use to identify and potentially label learners to make additional provision and resources available for them based on their needs.

The Agency also acknowledges the growing need to take account of **intersectionality** – the interconnected nature of all social categorisations – when considering the needs of all learners. Intersectionality is the understanding that a person, group of people,

¹ European Agency for Special Needs and Inclusive Education, 2021. *Multi-Annual Work Programme 2021–2027 Parameters*. Odense, Denmark. Unpublished



organisation or social problem is affected and impacted upon by a number of pressures, forces, levers, discriminations and disadvantages. It considers everything and anything that can marginalise learners and increase their chances of exclusion. This includes, but is not limited to:

... gender, remoteness, wealth, disability, ethnicity, language, migration, displacement, incarceration, sexual orientation, gender identity and expression, religion and other beliefs and attitudes ([UNESCO, 2020](#), p. 4).

The Agency's current [Multi-Annual Work Programme](#) (2021–2027) highlights the concept of intersectionality.

The Legislative Definitions around Learners Vulnerable to Exclusion activity

[Legislative Definitions around Learners Vulnerable to Exclusion](#) aimed to collect information from Agency member countries focusing on legislative definitions around learners vulnerable to exclusion in education systems. It collected evidence to indicate where countries currently stand regarding the **definition of** and **approach to** learner groups and risk factors within inclusive education systems. There was a particular focus on legislative definitions and descriptions around a broad vision of inclusive education for **all learners**.

Specifically, the activity examined how Agency member countries legally define and describe learners' needs in terms of considering them as groups of **learners with special needs** or **learners vulnerable to exclusion**. It also considered how **anti-discrimination legislation** and **legislation for inclusive education** define and/or describe learners' needs, and explored the concept of **intersectionality**.

In the activity, the term '**learners' needs**' is understood as a way to highlight a requirement for educational provision and/or support without applying a label based on an external factor that in some way describes or impacts upon an individual or group of learners. Using the non-categorical term 'learners' needs' would be an **ideal** approach for countries to take and is in line with the Agency position on inclusive education systems ([European Agency, 2022b](#)).

The **reality** – as evidenced by analysing countries' legislative definitions or descriptions in policy around learners' needs – clearly indicates that legislation and policy documents describe learners' needs with less of a focus on learner requirements for provision and support, and more on externally generated labels that identify groups of learner characteristics.

The activity uses the terms '**categories of groups of learners**' and '**groups of learners**'. They refer to the groups of learners identified through the analysis conducted in this activity. However, it must be made clear that references to categories of groups of learners do not in any way endorse or promote the labelling of learners. The term 'groups of learners' has been applied as a way of investigating where and how country legislation and policy make distinctions between different groups of learners who may be vulnerable to exclusion.



As with the journey towards inclusive education, legal definitions may be developing towards **learners vulnerable to exclusion** and the consideration of **intersectionality**. Therefore, to respect the context of all countries, information on **special needs** categories is considered, as well as definitions considering **all learners**.

Please refer to the [Legislative Definitions around Learners' Needs – Policy Brief](#) for more information about the activity.

How the country reports were prepared

Agency team members compiled evidence from 35 Agency member countries.

Agency team members collected the information in this country report from Agency reports, the [country information pages](#) and [Eurydice](#) sources. The extracts focus on identifying **legal definitions** around learners vulnerable to exclusion. They do not cover the different forms of provision for these learners. However, it is recognised that in some cases there may be *operational* definitions rather than *legal* definitions.

The extracts are considered evidence of a *legal definition* and are included if they explain how a term is understood within legislation and policy. In some cases, there may not be an extract that provides this information; however, the legal documents provide indirect evidence that a legal definition may exist. Where this indirect evidence was found, it has been included.

It is to be expected that there may not be information available in response to every question, as country contexts differ and each country is at a different stage on the journey to develop inclusive education. Therefore, a wide range of questions was selected to allow evidence to be collected from every Agency member country.

Each of the first three sections begins by clarifying key terminology.

This report includes three sections with information that the Agency team compiled:

1. [Legal definitions of special needs](#)
2. [Legal definitions of learners vulnerable to exclusion](#)
3. [Legal definitions of inclusive education](#).

Section 4 contains [additional questions](#) that country representatives could choose to answer. Country representatives also had the option to review and amend sections 1–3.

The completed country reports served to identify trends within and across countries on legal definitions related to learners vulnerable to exclusion. The activity report, [Legislative Definitions around Learners' Needs: A snapshot of European country approaches](#), explains how the country reports were used for the analysis and presents the findings.



LEGISLATIVE DEFINITIONS AROUND LEARNERS' NEEDS IN FRANCE

1. Legal definition of special needs

A learner with special needs is understood as a learner who:

... for a wide variety of reasons, require[s] additional support and adaptive pedagogical methods in order to participate and meet learning objectives in an education programme. Reasons may include (but are not limited to) disadvantages in physical, behavioural, intellectual, emotional and social capacities ([UNESCO Institute for Statistics, 2012](#), p. 83).

1.1 There is a legal definition of special needs

Evidence

In France, special needs in education falls within two fields of action: disability (schooling of learners with disabilities) and adaptation (adapted education for learners with severe educational difficulties).

There is a legal definition of disability:

A disability is any limitation of activity or restriction of participation in society suffered by a person in his/her environment due to a substantial, lasting or permanent impairment of one or more physical, sensory, mental, cognitive or psychological functions, a multiple disability or a disabling health disorder. ([Law 2005-102 of 11 February 2005](#) on the equal rights and opportunities).

1.2 The legal definition of special needs is found in laws and policies

Evidence

[Decree 2017-169 of 10 February 2017](#) on the certificate of professional competence in inclusive education practices and specialised vocational training (CAPPEI): This decree on specialist teacher training and certification gives a broader scope to special needs in education. Special needs education does not only relate to children with disabilities and ill children but also to children with severe educational difficulties.

This certificate is intended to attest to the professional skills of primary and secondary school teachers called upon to carry out their duties in schools, and in establishments and services accommodating learners with special educational needs related to a disability, severe educational difficulties or illness, and to contribute to the task of preventing learning difficulties and adapting teaching ([Decree 2017-169 of 10 February 2017](#)).



1.3 The legal definition of special needs is found in strategies and programmes

Evidence

[Decree 2021-1246 of 29 September 2021](#) on the processing of personal data known as 'Livret de parcours inclusif' (LPI): The LPI is a digital booklet for inclusive learning pathways. It introduces a more pedagogical approach based on teachers' assessment of the learners' educational needs. The application allows teachers (more broadly, the pedagogical team) to plan and monitor pedagogical adaptations and/or additional support.

To this end, the purpose of the data processing is more specifically: To gather in a single document all the information on the situation of a learner with special educational needs, in order to facilitate the work of the pedagogical team in drafting the support provision, and, if necessary, the implementation of solutions differentiated according to the individual situation of each learner ([Decree 2021-1246 of 29 September 2021](#)).

1.4a Does your country's legal definition of special needs specify particular groups of learners?

Yes.

1.4b Which specific learner groups does the legal definition of special needs address?

Specific learner groups	Evidence
<p>The French legal definition of special needs does not address newly arrived children, nor children from itinerant families even though this specific group of learners is identified and benefit specific support provision. They are found in the second part of this document.</p> <ul style="list-style-type: none"> • Children with disabilities (physical, sensory, cognitive, psychological and multiples disabilities) • Ill children • Children with autism and neurodevelopmental disorders • Children with specific learning difficulties • Gifted children 	<p>Law 2005-102 of 11 February 2005 on equal rights and opportunities</p> <p>For deaf learners: Circular no. 2017-011 of 3 February 2017 on the implementation of deaf learners' school career</p> <p>Strategy for Autism 2018-2022 (full document in French, summary document in English)</p> <p>Article L321-4 of the Education Code</p>
Children with severe educational difficulties	Circular no. 2015-176 of 28 October 2015 on adapted schooling



Specific learner groups	Evidence
Children in prison Young offenders	Circular no. 2020-057 of 9 March 2020 on education in prisons Circular no. 2018-154 of 14 January 2019 on access to education and knowledge for minors in 'Centres éducatifs fermés' (CEF)

2. Learners legally considered vulnerable to exclusion from education

Within this document, the term **learners vulnerable to exclusion** encompasses all learners whose educational experience is 'impacted upon by a number of pressures, forces, levers, discriminations and disadvantages' (European Agency, 2021, p. 6). These learners may or may not fall into categories of special needs and a special type of provision may or may not be available to support them.

Although there may not be an official definition of learners vulnerable to exclusion, learner groups which are addressed in different legal documents as receiving support and not identified as learners with special needs are listed here.

2.1 There is a legal definition of learners vulnerable to exclusion from education

Evidence

No information.

2.2 The legal definition of learners vulnerable to exclusion from education is found in laws and policies

Evidence

The policy on the schooling of newly arrived children and children from itinerant families shows that learners with limited knowledge of the French language are vulnerable to exclusion.

[Circular no. 2012-143 of 2 October 2012](#) on the organisation of Centres at the *académie* level for the education of newly arrived, foreign-speaking learners and children from itinerant and travelling families (CASNAV):

(CASNAV's) priority is the command of the French language and school learning to give everyone access to the common base of knowledge and skills, which implies the enrolment of all pupils and the harmonious completion of their education.



2.3 The legal definition of learners vulnerable to exclusion from education is found in strategies and programmes

Evidence

No information.

2.4a Do your country's legislation, policies or strategies specify particular groups of learners?

Yes.

2.4b Which specific learner groups are legally considered to be vulnerable to exclusion from education across legislation, policies or strategies?

Specific learner groups	Evidence
Newly arrived children, foreign-speaking children Children from itinerant and travelling families	Circular no. 2012-143 of 2 October 2012 on the organisation of Centres at the <i>académie</i> level for the education of newly arrived, foreign-speaking learners and children from itinerant and travelling families (CASNAV) Circular no. 2012-141 of 2 October 2012 on schooling for newly arrived, foreign-speaking learners Circular No. 2012-142 of 2 October 2012 on the schooling and education of children from itinerant and travelling families

2.5a Does anti-discrimination and equal rights legislation address different learner groups in the education system?

Yes.

2.5b Which specific learner groups are listed in anti-discrimination and equal rights legislation?

Specific learner groups	Evidence
Children with disabilities	Law 2005-102 of 11 February 2005 on equal rights and opportunities



Specific learner groups	Evidence
<p>Children whose schools fall within the 'priority education networks'.</p> <p>'Priority education' aims to overcome the impact of social and economic inequalities on educational achievements by strengthening pedagogical and educational efforts in schools located in areas with greatest social difficulties.</p> <p>French educational policies distinguish between disadvantaged educational areas (based on underprivileged context or remoteness). The entry to equal rights is geographical.</p>	<p>Article L111-1 of the Education Code: '(Education's) aim is to strengthen the supervision of learners in schools and educational establishments located in areas of social disadvantage and scattered settlements, and generally to enable learners with difficulties, whatever their origin, in particular health difficulties, to benefit from individualised support measures.'</p> <p>Circular no. 2014-077 of 4 June 2014 on the reform of priority education: 'Social determinism, i.e. the relationship between the socio-economic level of families and the academic achievements of pupils, has never been so strong in France and is the highest among OECD countries. France has become the country where social background has the greatest influence on school achievement.</p> <p>The reform of priority education is intended to ensure real equality of access to learning and academic achievement.</p> <p>Priority education is not a separate education system. It allows the education system to be the same for all in different social contexts with the same high standards. Its reorganisation has one ambition: to make it fairer and more effective, with the clear and measurable goal of tackling educational inequalities related to social background in order to ensure academic success for all.'</p>

3. Legal definition of inclusive education

The Agency views **inclusive education** as:

... a systemic approach to providing high quality education in mainstream schools that effectively meets the academic and social learning needs of all the learners from the school's local community ([European Agency, 2015](#), p. 2).



In inclusive education:

Learners are placed at the centre of a system that needs to be able to recognise, accept and respond to learner diversity. Inclusive education aims to respond to the principles of efficiency, equality and equity, where diversity is perceived as an asset. Learners also need to be prepared to engage in society, to access meaningful citizenship and to acknowledge the values of human rights, freedom, tolerance and non-discrimination ([Soriano, Watkins and Ebersold, 2017](#), p. 6).

3.1 There is a legal definition of inclusive education

Evidence

[Article L111-1](#) of the Education Code:

The public education service is designed and structured for pupils and students. It contributes to equal opportunities and to combating social and geographical inequalities in school and educational achievement. It recognises that all children share the capacity to learn and progress. It ensures inclusive schooling for all children, without distinction. It also ensures social diversity of the school population in school establishments.

[Circular no. 2017-084 of 3 May 2017](#) states:

Article L111-1 of the Education Code states that the public education service shall ensure the inclusion of all children in school without distinction. It thus enshrines a new approach: whatever the special needs of the pupil, it is up to the school to ensure that the environment is adapted to his or her education.

[Article L111-2](#) of the Education Code:

In order to foster equal opportunities, adequate provisions are made to ensure that everyone has access to the different types or levels of school education, according to his or her particular abilities and special needs.

3.2 The legal definition of inclusive education is found in laws and policies

Evidence

[Law 2019-791 of 26 July 2019: *Pour une école de la confiance*](#):

Every child has the right to schooling which, in addition to the activities of his or her family, shall contribute to his or her education. (...) In order to promote equal opportunities, adequate provisions shall be made to ensure that each child has access, on the basis of his or her abilities and special needs, to the different types or levels of school education.



3.3 The legal definition of inclusive education is found in strategies and programmes

Evidence

[Circular no. 2019-088 of 5 June 2019: *Pour une École inclusive*:](#)

A better reception of the learner upon his/her arrival in the school or establishment, adaptations and pedagogical arrangements put in place in the classroom, as well as a close monitoring of his/her needs, improve the fluidity of the learners' school careers and their opportunities to graduate with a view to their social and professional integration.

3.4 Do legal documents related to inclusive education refer to all learners, specific learner groups, or both all learners and specific learner groups?

Legal documents refer to both all learners and specific learner groups.

4. Additional questions

4.1 Are there other specific learner groups that receive additional support within the education system that have not been accounted for in this document? If yes, which legal documents (legislation, policies or strategies) address them?

No information.

4.2a Is the term or concept of 'intersectionality' mentioned in legislation?

No.

4.2b Share details on how the concept is mentioned in the legislation

No information.

4.3a Are there any proposals/plans for changes in legislation focused on learners vulnerable to exclusion?

No.

4.3b What proposals or plans exist for changes in legislation focused on learners vulnerable to exclusion?

No information.

4.4 Do you have any further comments?

No information.