



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

DEPUTY COMMISSIONER FOR VOCATIONAL AND EDUCATIONAL SERVICES FOR INDIVIDUALS WITH DISABILITIES

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TO: District Superintendents
Superintendents of Schools
Superintendents of State-Operated and State-Supported Schools
Executive Directors of Approved Private Schools
Organizations, Parents and Individuals Concerned with Special Education
Commissioner's Advisory Panel for Special Education Services
SETRC Project Directors and Professional Development Specialists
Independent Living Centers

FROM: Rebecca H. Cort 

SUBJECT Individuals with Disabilities Education Improvement Act of 2004

The President signed the Individuals with Disabilities Education Improvement Act on December 3, 2004. In many key areas, the proposed changes in federal law strengthen, support and are in alignment with our current State and local efforts to improve education results for students with disabilities. This bill, which reauthorizes the Individuals with Disabilities Education Act (IDEA) and amends other Acts, includes landmark changes to:

- **Improve accountability and results for students with disabilities.**
 - Aligns the accountability systems for students with disabilities with the No Child Left Behind (NCLB) Act in such areas as performance goals and indicators, data reporting and priorities for federal and State monitoring.
 - Defines "highly qualified special education teacher" for special education teachers teaching to alternate achievement standards for students with significant cognitive disabilities and for special education teachers teaching multiple subjects to students with disabilities.
 - Requires guidelines for appropriate testing accommodations for State and districtwide assessments.
 - Replaces the Comprehensive System of Personnel Development (CSPD) requirements with State requirements to develop and maintain provider qualifications.



- **Improve services to students with disabilities.**
 - Adds interpreter and school nurse services as related services.
 - Addresses the needs of students who are in foster care, children who are homeless, migratory children and children with limited English proficiency.
 - Increases districts' responsibility for consultation with private schools regarding identification of and service provision for students who are parentally placed.
 - Requires that individualized education programs (IEPs) of students with disabilities address academic and functional achievement.
 - Promotes the use of scientifically- and peer-based research in instruction of students.
 - Ensures the availability of materials in accessible formats for students who are blind or print-disabled.
 - Requires State and districtwide assessments developed and delivered in universal design formats.
 - Supports early intervening services (prereferral).
 - Provides states flexibility to allow a parent to choose to continue his or her child in an early intervention program through age five.
 - Strengthens planning for transition from early intervention to preschool and school to postsecondary.
 - Consolidates transition planning requirements to begin at age 16 (previously 14 and 16).
 - Enhances behavioral supports in schools and improves the quality of interim settings.

- **Reduce procedural and paperwork requirements.**
 - Reduces content of IEPs (eliminates short-term objectives for most students with disabilities).
 - Reduces number of times procedural due process notices must be sent to parents.
 - Streamlines discipline process while maintaining the basic procedural rights of parents and students.
 - Allows 15 states to apply for waivers of federal statutory or regulatory requirements to reduce excessive paperwork and noninstructional time burdens.

- **Encourage cooperation with parents in the special education process.**
 - Allows changes to IEPs without IEP meetings in instances when parents and schools agree.
 - Allows exceptions to IEP team members when parents and schools agree.

- **Ensure less adversarial methods are used to resolve disputes between parents and school districts.**
 - Requires a due process complaint notice to be submitted by the party initiating an impartial due process hearing.
 - Gives schools and parents the opportunity through IEP resolution sessions to meet to resolve issues.
 - Requires impartial hearing decisions to be based primarily on the issues affecting the provision of a free appropriate public education to the student as opposed to procedural issues.

- Allows attorney fee reimbursement to a State or school district for complaints that are frivolous, unreasonable or without foundation or that are for improper purposes.
- **Focus federal and State monitoring, technical assistance and enforcement on meeting performance goals and indicators to improve the outcomes for students with disabilities.**
- **Establish a seven-year course to fully fund IDEA and increase the State's discretionary dollars.**
 - Increases the proportion of the State's allocation that can be retained by the Department to support improved services to and outcomes for students with disabilities.
 - Provides a state the option of using 10 percent of its State-level funds to establish an LEA Risk Pool to assist local educational agencies (LEAs) in addressing the needs of high need students with disabilities.
- **Provide flexibility in the use of IDEA funds by school districts to support improved achievement of students with disabilities.**
 - Allows LEAs to use up to 15 percent of IDEA funds to support early intervening services, prereferral services, administrative case management and high cost special education services and, in certain circumstances, implementation of NCLB requirements.
- **Provide federal grants and national activities to support State and local efforts to improve results.**
 - Supports personnel development and preparation of beginning special education teachers.
 - Provides supports to improve results for children with disabilities.
 - Promotes the use of scientifically based research in the instruction of students with disabilities.
 - Supports systemic school interventions to improve behavioral supports in schools.
 - Promotes accessible textbooks for print-disabled individuals.
 - Establishes a National Center for Special Education Research and promotes the dissemination of scientifically-based instructional practices.

Most of the 2004 IDEA amendments in Parts A, B and C and subpart 1 of Part D become effective on July 1, 2005. The highly qualified teacher provisions and subparts 2, 3 and 4 of Part D became effective upon enactment of the bill on December 3, 2004. Federal regulations to implement IDEA must be completed within 12 months of enactment, and New York State must align its own laws and regulations governing special education.

We will continue to provide updated information on the Department's web site at www.vesid.nysed.gov as to the status of this bill and implementation actions by the Department. Questions regarding this memorandum may be directed to the Special Education Policy and Partnerships Unit at 518-473-2878.