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## **Summary of Major Provisions of the Individuals with Disabilities Education Act of 2004**

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The Individuals with Disabilities Education Act (IDEA) was last reauthorized in 1997. We have since learned a great deal more about what it takes to make IDEA work. What it takes to better educate and measure progress of students with disabilities. What it takes to make sure schools are doing their part to see every child succeed. What it takes to make sure parents are involved in their child's education and have a voice in the decisions that affect their child's learning.

The Individuals with Disabilities Education Act of 2004 will modernize and improve the IDEA for students with disabilities, their parents, teachers and other school personnel, and school districts by:

**1) Doing What It Takes To Improve Accountability for Educating Students with Disabilities:**

- Emphasizes the goal of improving academic achievement and functional performance within a child's individualized education program (IEP).
- Ensures that States include students with disabilities who take alternate assessments in their State No Child Left Behind Act accountability systems.
- Provides for a national study of valid and reliable alternate assessment systems and how alternate assessments align with state content standards.
- Ensures that local educational agencies measure the performance of students with disabilities on State or district-wide assessments, including alternate assessments aligned to the State's academic content standards or extended standards.
- Requires that, to the extent possible, all alternate assessments utilized incorporate universal design principals.
- Requires states to report, with the same frequency they report on assessments of non-disabled students, the number of children with

disabilities participating in both regular and alternate assessments and the results of these assessments.

- Improves data collection, including requiring the disaggregating of suspension and expulsion data by race, along with the requirement that graduation rates of students with disabilities be cataloged along with drop-out rates for students with disabilities – painting a more accurate picture of student achievement.
- Clarifies the IEP team’s role in determining whether a child with a disability should take regular assessments with or without accommodations, or alternate assessments, consistent with State standards governing such determinations.
- Requires states to adopt policies and procedures, if they don’t have any currently, to prevent the disproportionate representation by race or ethnicity of students in special education.
- Requires states who use funds for early intervening purposes to catalog the number of children served and how many of these students went on to special education.

### **Doing What It Takes to Expand Services to Students with Disabilities:**

- Expands definition of related services to be provided to students with disabilities to include school nurse services and interpreting services, in addition to current law services including speech-language, physical and occupational therapy, and psychological services.
- Improves services for homeless and foster care students with disabilities who frequently transfer from one school to another during a year, including clarifying the consent process when a parent or guardian is absent.
- Provides for the establishment or designation of a National Instructional Materials Access Center to provide schools with a one-stop provider of materials for students who are blind or with other disabilities which need textbooks or other written materials in alternate formats. [on HOLD]

- Requires early intervention services provided to children age 0-3 with a developmental delay in their physical, cognitive, communication, social or emotional or adaptive development.
- Increases the focus of early intervention services on achieving school readiness, by incorporating science-based pre-literacy, language, and numeric skills work.
- Requires states to set a rigorous developmental delay standard that triggers eligibility for early intervention services in every state, including a new mandate to serve infants who are abused, neglected, drug-exposed or exposed to violence.

**2) Doing What It Takes To Implement, Monitor, and Enforce the Act:**

- Provides the Secretary and the States with greater authority and new tools to implement, monitor, and enforce the law using performance data.
- Requires States to develop a plan, establish targets and meet them in the delivery of a free appropriate education, general supervision, transition services, and disproportionate representation of minorities.
- Requires the Secretary to apply appropriate sanctions to States if they fail to address non-compliance with their State plan, including technical assistance, redirection of funds, redaction of funds, withholding of funds, or referral to the Department of Justice or Office of the Inspector General, among other options.
- Ensures that State regulations are consistent with the Act and that any additional State-imposed reporting requirements are clearly identified to Local Education Agencies and the Secretary.

**3) Doing What It Takes To Improve and Simplify Parental Involvement:**

- Provides flexibility for parents and schools by allowing them to agree to make minor changes to a child's IEP during the school year without reconvening the IEP team, and encouraging the consolidation of IEP and reevaluation meetings.

- Provides parents with greater opportunities for involvement in IEP meetings by allowing the use of teleconferencing, video conferencing, and other alternative means of participation.
- Clarifies that either the parent or the school may request an initial evaluation of a child to determine whether the child qualifies for IDEA services.
- Requires quarterly reports to parents on the progress their child is making toward meeting IEP goals and how that progress is being measured, and short-term objectives for students with significant disabilities.
- Encourages parent and community training information centers (PTIs) to focus on improving parent-school collaboration and early, effective dispute resolution.
- Encourages PTIs to use scientifically-based practices and information in assisting parents, and to work collaboratively with Regional Resources Centers.
- Provides increased resources to support parents through dispute resolution and due process.

**4) Doing What It Takes To Support Teachers, Principals and Other School Personnel:**

- Enhances the preparation, professional development, and support for special educators, principals, administrators, and general educators working with children with disabilities to ensure that these educators possess the necessary skills and knowledge to provide instruction to students with disabilities, including by creating a new program grant for institutions of higher education focused exclusively on training beginning special educators through an extended clinical experience or teacher-faculty partnerships.
- State Improvement Grant program is renamed State Personnel Development Grant program, under which states are required to target 100% of the funding for personnel preparation and professional development activities

with an increased emphasis on States' efforts to recruit, prepare, and retain highly qualified special education teachers.

- State educational agencies are required to formulate a comprehensive plan that identifies and addresses the State's personnel needs in order to receive a State Personnel Development Grant.
- Promotes training for teachers and other school personnel on the unique needs of students with limited English proficient students and their parents, and how to prevent overrepresentation of these students in special education.
- Authorizes local educational agencies to flexibly use Part B funds to provide professional development for teachers to enable them to deliver scientifically based academic instruction and behavioral interventions and provide them with functional training.
- Allows States to use state-activities funds to assist local educational agencies in meeting personnel shortages, and provide technical assistance and professional development to teachers.
- Clearly defines a highly-qualified special education teacher to require that all special education teachers obtain a bachelors degree, be state certified as a special education teacher, and demonstrate subject knowledge.
- Requires States to ensure that all special education teachers are highly qualified by the 2006-2007 school year, and that measurable steps are being taken to ensure that all other personnel are highly-qualified. [on HOLD]

**5) Doing What It Takes To Increase Transition Services for Students Leaving School:**

- Simplifies the rules for transition services (activities that help a student begin planning for life after high school) by requiring that transition services and planning begin at age 16.
- Strengthens the involvement of the Vocational Rehabilitation system with students while still in secondary school.

- Facilitates transition to post-secondary activities by focusing exit evaluations on recommendations to assist the child in meeting post-secondary goals, and providing students with a summary of their academic achievement to present to employers or post-secondary schools.
- Maintains a focus on transition services throughout personnel preparation programs.
- Redefines transition services to focus not just on the academic achievement of a student but also the functional development of the child.
- Provides for the option of a seamless system of early intervention and care for children by giving states the option of creating a system of care for children from birth through kindergarten and giving incentives to states to do so, while preserving a child's right to a free appropriate education under Part B when they reach age three.
- Requires the IEP Team to consider the IFSP when crafting a student's IEP as they transition from early intervention and care services to elementary school services.

**6) Doing What It Takes To Provide Earlier Access to Services and Supports:**

- Authorizes local educational agencies to use up to 15% of IDEA funds for the development of a comprehensive educational support system to support students without disabilities in grades K-12 who require additional academic and behavioral supports to succeed in a general education environment.
- Allows for the development of new approaches to determine whether students have specific learning disabilities by clarifying that schools are not limited to using the IQ-achievement discrepancy model.
- Requires that initial evaluations for IDEA services occur within 60 days of referral unless the state currently has a policy that establishes a timeline for evaluation.

- Maintains the state option to provide behavioral supports to a student when their behavior impairs their learning or the learning of another student.
- Provides an option for 15 states to develop a 3-year IEP for students ages 18 to 21, to focus parents and schools on long-term goals for helping the student transition to postsecondary activities.

**7) Doing What It Takes To Improve and Streamline Discipline Procedures:**

- Improves current discipline provisions by simplifying the framework for schools to administer the law, while ensuring the rights and the safety of all children.
- Requires schools to determine if a child’s behavior was caused by or related to their disability or because of poor implementation of their IEP.
- Requires that schools conduct a functional behavioral assessment and provide functional behavioral services to students who are removed from their current educational setting for more than 10 days.
- Requires that schools continue providing services that enable students who are removed from their current educational setting to participate in the general curriculum and meet their IEP goals in appropriate alternate settings.
- Authorizes a new program to develop and enhance behavioral supports in schools while improving the quality of interim alternative education settings.
- Requires the Secretary to disseminate best practices for interim alternative educational settings, behavior supports, and systemic school interventions to help children with behavioral and emotional disabilities.

**8) Doing What It Takes To Provide New Tools to Resolve Disputes:**

- Clarifies current law allowing schools discretion to not suspend a student for a violation of the student code, if it is determined the student was unknowingly involved in the violation.

- Clarifies that schools and parents have equal access to the due process system.
- Requires a Local Educational Agency to send a prior written notice to a parent, if they haven't already done so, after a parent has filed a due process complaint.
- Provides new opportunities for parents and schools to address concerns before the need for a due process hearing.
- Clarifies that parents and schools must provide detailed information, including specific facts, about their complaints, in order so both parties can more clearly understand the issues and to facilitate earlier and more effective resolution of disputes.
- Requires relevant members of the IEP team, with knowledge of the issues, to be present at any dispute process.
- Ensures that both parents and schools can adequately prepare for due process hearings by not allowing either party to raise new issues at the due process hearing that were not included in their due process complaint notice, unless the other party agrees.
- Encourages parents and schools to address concerns promptly by establishing a two-year timeline for requesting a hearing, and a 90-day limit for filing appeals to court, unless State law provides for a different time frame.
- Requires that hearing officers make decisions based not on procedural violations alone, but also upon whether or not the child received a free and appropriate public education.
- Establishes a higher understanding of IDEA standard for hearing officers and requires that hearing officers may not have a personal or professional interest that would conflict with their objectivity in the hearing.

- Strengthens accountability by clarifying that hearing officer decisions, as well as agreements made through dispute resolution, are enforceable.

**9) Doing What It Takes To Reduce Unnecessary Paperwork:**

- Streamlines State and local requirements to ensure that paperwork focuses on improved educational results for children with disabilities.
- Requires the Secretary to develop model forms for the IEP, prior written notice, and procedural safeguards notice.
- Requires that a copy of procedural safeguards be given to parents at least once a year, but also when a child is initially referred for services or at a parents request for an evaluation, when a parent first enters a complaint, or upon request by a parent.
- Establishes a 15-state demonstration program that gives the Secretary of Education the authority to allow 15 states to implement novel approaches to reducing paperwork requirements, while preserving full civil rights protections for students in these states.

**10) Doing What It Takes To Reform Special Education Finance and Funding and Increase Local Flexibility:**

- Simplifies funding streams for IDEA Part B Grants to States and local educational agencies, including funding for state administration, other state-level activities, local educational agency and charter school risk pool funds, and local educational agency grants.
- Provides new resources to assist local educational agencies and charter schools that are local educational agencies in addressing the needs of high-need and high-cost students by establishing a risk pool fund to assist in meeting the needs of these students.
- Establishes an authorization of appropriations for IDEA that re-commits Congress to providing states with the full 40% federal share of special education costs by the year 2011.

- Adjusts the maximum grant funding formula for each state each year to reflect population and poverty changes.
- For state administration, allows a state to reserve the same amount as their 2004 level, or \$800,000, adjusted for inflation each year.
- For state-level activities, allows a state to reserve 10% of their total grant for 2005 and 2006, and then adjusted for inflation each year after. Small states would be allowed to reserve 10.5% in 2005 and 2006, and also adjust for inflation each following year.
- Allows a state to reserve 10% of their state-level funds to help local districts with costs for high need and high-cost students. If a state doesn't take advantage of this option, the amount they would be able to reserve for state-level activities would decrease.
- Allows local schools that are in compliance with the IDEA to use up to 50% of increased funds for purposes of programs under ESEA. [on HOLD]
- Local education agencies will be able to use 15% of their IDEA funds to provide services and supports for non-disabled students having difficulty academically or behaviorally.
- For States that provide 100% of the non-federal share of the cost of special education, they will also be able to use 15% of their funds for other education purposes.
- In early intervention for kids 0-5, allows states the flexibility to use funds to create a seamless system of early intervention from birth through kindergarten.

