

IDEA 1997

Improving the Education of Students with Disabilities in an Era of Education Reform

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“Since the passage of IDEA, 90 percent fewer developmentally disabled children are living in institutions, hundreds of thousands of children with disabilities attend public schools and regular classrooms; three times as many disabled young people are enrolled in colleges and universities; twice as many young Americans with disabilities in their 20s are in the American workplace. We have to continue to push these trends, to do everything we can to encourage our children with disabilities not only to dream of doing great things, but to live out their dreams.”

—President Bill Clinton, July 4, 1997, at the signing ceremony for the Individuals with Disabilities Education Act Amendments of 1997 (Public Law 105-17)

This *PEER Information Brief* highlights the specific features of the *Individuals with Disabilities Education Act Amendments of 1997 (IDEA)*¹ that relate to education reform. At the heart of current education reform efforts is the belief that high expectations, coupled with proven methods of teaching and learning, will result in the higher academic achievement of all students. Yet, for the most part, students with disabilities have not been a high priority for education reformers. The recently passed IDEA Amendments help correct this imbalance. The new amendments add clear and powerful new language that parents, educators, and advocates can use to make sure that students with disabilities benefit from school reform efforts. This *Information Brief* highlights the following specific aspects of IDEA, both new and long-standing, that have particular relevance for improving the education of students with disabilities in this era of education reform:

- Evaluations and Re-evaluations
- Individualized Education Program (IEP) Contents
- IEP Teams
- No Cessation of Services
- Periodic Progress Reports
- Regular Educational Environment
- Role of Regular Education Teachers
- Special Considerations
- IEP Reviews
- Assessment
- Performance Goals
- Accountability
- State Improvement Grants
- Charter Schools

¹ IDEA (*Individuals with Disabilities Education Act*) is the federal law guaranteeing a right to education to all children with disabilities. It was enacted in 1975, and its original title was the *Education for All Handicapped Children Act (EHA)*. It is considered both a civil rights law and an education law.





Background

Education reform is about making schools better. Today's education reform efforts began, in part, as a response to evidence that American students were not performing academically as well as their peers in other industrialized countries. They reflect widespread concern that education is not doing enough to equip students to meet the challenges of life and work in the twenty-first century.

Similar concerns about education for students with disabilities motivated Congress to add some important amendments to IDEA in 1997. Yes, as President Clinton emphasized at the signing ceremony for IDEA, there have been tremendous advances in education for students with disabilities over the past twenty-two years. The wholesale institutionalization of the 1970s has ceased. Thousands of students with disabilities have benefited from an education that would have been totally denied without the protection of the law. At the same time, however, students with disabilities are frequently excluded from regular education's offerings and given a watered-down curriculum. Consequently, students with disabilities have been far less likely than their nondisabled peers to graduate from high school, to participate in post-secondary education, or to be employed after their school years.

Within special education, the quality of education for minority students and

students with limited English proficiency is especially troubling. More minority children continue to be served in special education than would be expected from the percentage of minority students in the general school population. Poor African-American children are 2.3 times more likely to be identified by their teacher as having mental retardation than their white counterpart. And the drop-out rate is 68 percent higher for minorities than for whites.² African-American children who have been identified as needing special education are also more likely to be placed in segregated programs.

Studies have documented similar discrepancies in the number of students with limited English proficiency referred to and placed in special education classes. Furthermore, the U.S. Department of Education has found that services provided to students who have limited English proficiency often do not respond primarily to their academic needs. These trends pose special challenges since students from non-English speaking backgrounds comprise the fastest growing population of students in the nation.³

The introductory section to the 1997 IDEA amendments notes that twenty-two years after the special education law was first passed, low expectations still plague the education of *all* children with disabilities:

² 20 U.S.C. §1401(c)(8)

³ 20 U.S.C. § 1401(c)(7)(F)

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“ . . . The implementation of this Act has been impeded by low expectations . . . Over 20 years of research and experience has demonstrated that the education of children with disabilities can be made more effective by having high expectations for such children and ensuring their access in the general curriculum to the maximum extent possible.”⁴

The 1997 Amendments to IDEA provide important new tools that parents, students, educators, and advocates can use to ensure that all students with disabilities receive a high quality education. Among other provisions, the 1997 amendments emphasize that:

- students with disabilities must be given meaningful opportunities to acquire skills and knowledge in the same subject (or curriculum) areas that all other students are studying;
- students with disabilities must be taught in ways that effectively address their unique needs and that support their progress in the general curriculum, and
- students with disabilities must be included in state and district-wide assessments to ensure that they are progressing in the general curriculum.

Students with disabilities must be given the opportunity to reach the same standards set for all students. These IDEA provisions underscore that school districts are now responsible and accountable for the high achievement of all students with disabilities.

⁴ 20 U.S.C. § 1401(c)(4) - (5)(A).

Not all of these requirements are new. For a long time, they have been part of federal law. IDEA, Section 504 of the Rehabilitation Act of 1973, and more recently, the Americans with Disabilities Act (ADA), have consistently required schools to provide special education programs that allow students with disabilities opportunities to attain the skills and high standards of learning that all other children are expected to attain. Despite these requirements, however, many schools and school districts have continued to provide a separate, watered-down curriculum to students with disabilities and have excluded students from state assessment and accountability systems. These continued violations of federal law reflect outmoded attitudes and low expectations that are just beginning to give way.

The 1997 IDEA Amendments specify and emphasize these existing rights and requirements. Congress also cited barriers to quality education for students with disabilities and emphasized the critical importance of:

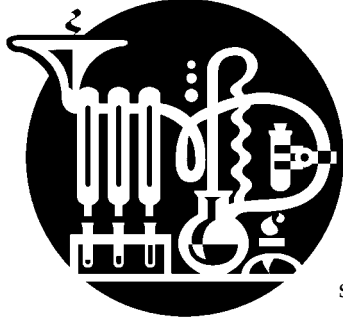
- high expectations,
- maximum possible access to the general curriculum, and
- effective teaching that allows children with disabilities to meet the challenging expectations that have been set for all students.⁵

IDEA clearly cites many procedures that parents, educators, and advocates can use to transform these rights into reality.

⁵ 20 U.S.C. §1400(c)(5), as amended.



IDEA Provisions Related to Education Reform⁶



Evaluations/Re-evaluations

Evaluations and re-evaluations must now include information about special education strategies, services, and interventions necessary for a child with a disability to be involved and progress in the general curriculum. These provisions will help ensure that students with disabilities receive the supports necessary to fully meet high standards established through general education reform initiatives.

IDEA-97 maintains the requirement for re-evaluating students with disabilities every three years, but provides additional flexibility to school districts in meeting this requirement. IDEA now requires IEP teams to review existing evaluation data of the child and, with the parents, determine if further testing is necessary. The school must notify parents (as members of the team) if the IEP team decided further assessments are not necessary. However, the parents can still request additional testing. If the parents do request additional testing, the school must perform the re-evaluation requested by parents.

Individualized Education Program (IEP) Contents

IDEA now requires that every child's IEP contain the following additional components related to education reform:

- IEPs must describe how the child's disability affects involvement and progress in the general curriculum.

- IEPs must specify the measurable annual goals, including benchmarks and/or short-term objectives, that will enable the student to be involved and progress in the general curriculum.
- IEPs must now describe the special education, related services, and supplementary aids and services provided directly to *the child* or on behalf of the child in order for the child to be involved and progress in the general curriculum and participate in extra curricular and non-academic activities. In addition, IEPs must describe the program modifications or supports for *school personnel* that are necessary to ensure the child's involvement and progress in the general curriculum.
- IEPs must specifically explain the extent, if any, to which a child will *not* participate with nondisabled children in the regular class, including all academic, non-academic, and extracurricular activities.
- To encourage provision of services in the regular classroom, IEPs must describe the location where special education and the services and modifications described in the student's IEP will be provided to the student, including special education, related services, and supplementary aids and services.
- IEPs must include a list of any individual modifications a student needs to participate in general state or districtwide assessments (*see discussion below*). If the IEP team determines that the student should participate by taking an

⁶ Legal citations for IDEA provisions are listed in the Resources section of this document.

alternate assessment, the IEP must include a statement of why the regular assessment is not appropriate and specify how the child will be included in the state or districtwide program through the use of an alternate assessment.

IEP Team Members

IEP Teams must now include the following members:⁷

1. The parents,
2. A representative of the local educational agency (LEA)⁸ who is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities; **is knowledgeable about the general curriculum**; and is knowledgeable about the availability of resources of the local educational agency,
3. A person qualified to interpret the **instructional** and other implications of evaluation results,
4. **At least one of the child’s regular education teachers, if the child is or may be participating in the regular education environment,**⁹
5. At least one of the child’s special education teachers,
6. At the discretion of the parents or school district, other individuals who have knowledge or special expertise regarding the child; and
7. The child, whenever appropriate.

⁷ New provisions or emphases are highlighted in bold.

⁸ Local educational agency usually refers to the local school district.

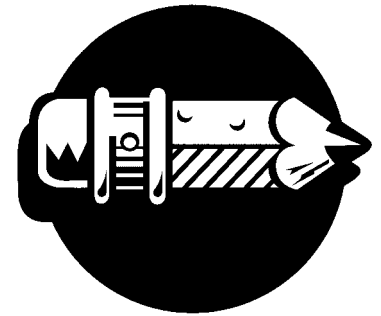
⁹ 20 U.S.C. §1414(d)(1)(B)(iv) and (v). A regular education teacher must be included even if a child is currently in a restrictive program, but “may be” participating in the regular education environment.

In addition to being IEP team members, *parents must be members of any group that makes placement decisions* about their child.¹⁰

Previously, IDEA only required participation of “one of the child’s teachers,” which frequently resulted in the attendance of only the special education teacher who often was not well informed about the general curriculum. Required participation of the regular education teacher along with attendance of a local educational agency (LEA) representative knowledgeable about the general curriculum will facilitate inclusion of children with disabilities in education reform initiatives.

Education for All Children/ No Cessation of Services

Schools must now provide all children with disabilities, ages 3–21, a free appropriate public education. IDEA-97 specifically require schools to educate children with disabilities who have been suspended or expelled from school. IDEA now clearly establishes that all children with disabilities have the right to receive the benefits of education reform. Schools must raise their expectations and improve the achievement of all students, including those students with disabilities who had previously been excluded from school.



Periodic Progress Reports

Schools must inform parents of children with disabilities about their children’s progress. Parents must be regularly informed, at least as often as parents of

¹⁰ 20 U.S.C. §1414(d)(1)(B), 1414(f) as amended.



nondisabled children are informed about their children's progress. Progress reports must describe the child's progress in meeting the goals of the general curriculum and the child's progress in meeting all other IEP goals and objectives. The required reports should give parents the information they need to monitor whether children are receiving the full benefits of education reform initiatives.

Regular Education Environment

IDEA-97 continues to include the strong preference to educate children with disabilities in regular classrooms with their age peers who are not disabled, with appropriate supplementary aids and services:

To the maximum extent appropriate, children with disabilities, including children within public or private institutions or other care facilities, are educated with children who are not disabled, and special classes, separate schooling...or other removal of children with disabilities from the regular education environment occurs only when the nature or severity of the disability of a child is such that the education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.¹¹

The 1997 Amendments to IDEA presume that children with disabilities will be educated in regular classes. Now, IEPs must give a reason why a child will not participate with nondisabled children in the regular class for any amount of time. This requirement covers curricular, non-academic,

and extra-curricular services and activities. The "Report" from Congress that accompanied IDEA-97 explains:

Every child is unique and so will be his or her program needs. Nonetheless, when the decision is made to educate the child separately, an explanation of that decision will need, at a minimum, to be stated as part of the child's IEP.¹²

A child cannot be removed from the mainstream without a compelling educational justification.

To support the meaningful inclusion of children with disabilities in the regular education environment, IDEA now also requires schools to give educators the training and help they need. Therefore, IEPs must specify program modifications and supports for school personnel necessary for the child to be involved and progress in academic and non-academic regular education activities and to achieve general curriculum goals.

In yet a further measure to increase the participation of students with disabilities in regular education settings, the IDEA now prohibit states from developing funding formulas that result in placement of children of disabilities that violate the least restrictive environment requirements of IDEA. According to the Senate "Report," the problem of providing financial incentives for segregated settings "is most intense with minority children, especially African-American males." The Report continues:

¹¹ 20 U.S.C. §1412(a)(5)

¹² Senate Report 105-17. (May 9, 1997.) Jeffords, J. Committee on Labor and Human Resources, p. 21.

Over-identification of minority children particularly in urban schools with high proportions of minority students, remains a serious and growing problem in this Nation. The problem also contributes to the referral of minority special education students to more restrictive environments.¹³

States which distribute funds based on different types of settings must take steps to ensure compliance with this provision of IDEA-97.

Role of Regular Education Teachers

In three separate places, IDEA-97 requires the participation of regular education teachers in the IEP process:

1. The regular education teacher is now identified as a required member of the IEP team.
2. The regular education teacher, as a member of the IEP team, must participate to the extent appropriate in deciding appropriate positive behavioral interventions and strategies, supplementary aids and services, program modifications, and support for school personnel necessary for the child to attain IEP goals and progress in the general curriculum.
3. The regular education teacher must also participate in the review and revision of IEPs.

The repeated emphasis on the active participation of regular education teachers is directly linked to the requirement to include children with disabilities in education reform. Congress amended IDEA to require

that regular education teachers participate in decisionmaking as a way to ensure the full participation of children with disabilities in the general curriculum.

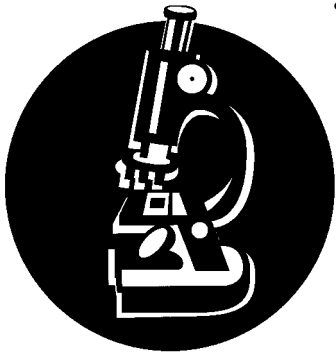
Special Considerations

IEPs must now specifically address the educational needs of children *with behavioral issues*, children with *limited English proficiency*, children who are *blind or visually impaired*, children who are *deaf or hard of hearing*, and children requiring *assistive technology*. IEP teams must now consider the following specific factors in developing the IEP:

- *For a child whose behavior impedes his or her learning and that of others:* The IEP team must consider, as appropriate, strategies, including positive behavioral interventions, strategies, and supports to address that behavior.
- *For a child with limited English proficiency:* The IEP team must consider the language needs of the child that relate to the child's IEP.
- *For a child who is blind or visually impaired:* The IEP team must provide for instruction in Braille and the use of Braille, unless the IEP team determines, after an appropriate evaluation, that instruction in Braille or the use of Braille is not appropriate.
- *For a child who is deaf or hard of hearing:* The IEP team must consider the child's language and communications needs, including opportunities for direct communication with peers and professional personnel and direct instruction in the child's language and communication mode.



¹³ Senate Report 105-17, p. 9.



- *For all children:* The IEP team must consider whether the child requires assistive technology devices and services.

IDEA specifically requires IEP teams to fully address these special factors when considering the learning needs of children with disabilities. These provisions help ensure that supports and services are provided to improve academic achievement and progress in the general curriculum for all children.

IEP Reviews

In conducting annual IEP reviews, IEP teams must address, among other things, the child's lack of expected progress in the general curriculum and lack of expected progress toward achieving annual goals. Requiring IEP teams to consider the general curriculum during the IEP review process is an important change in the law. It underscores the mandate that IEP teams continually emphasize a child's meaningful participation in the general curriculum throughout a child's educational career.

Statewide or Districtwide Assessments

Children with disabilities must be included in general state and districtwide assessments, with appropriate accommodations where necessary. Through the IEP process, decisions must be made about how a student with a disability will participate in the assessment. Some students will participate in the assessment "as is" (without accommodations), and some students will require accommodations in order to participate.

In most cases, students with all types of disabilities will be able to participate in the regular assessment, with necessary accommodations. IEP teams must now consider the full range of accommodations, including but not limited to, those utilized in the child's classroom instruction. IDEA requires the IEP team to choose accommodations based on the student's individual needs, and leaves the decision about which accommodations are appropriate for an individual child to the IEP team. To fulfill new IDEA requirements, most states and districts will need to expand the type and range of accommodations provided for testing. Issuing restrictive lists of approved accommodations would be inconsistent with IDEA-97 as it would remove the decision about accommodations from individuals who are most knowledgeable about the child.

For the relatively small number of students who cannot participate in the general assessment even with accommodations, states and school districts must provide for their participation through alternate assessments. If the IEP teams properly make individualized decisions about the participation of each child with a disability in general state and districtwide assessments, including the use of appropriate accommodations, modifications, and individual modifications in administration, it will be necessary to use alternate assessments for a relatively small percentage of children with disabilities.

An alternate assessment will provide a mechanism for those children with significant disabilities who require a different kind of test to demonstrate what they know and can do, and the degree to which they have mastered the general curriculum standards. There are at

least two groups of children with disabilities who may require alternate assessments: students with disabilities who have mastered the general curriculum but need a different kind of assessment to demonstrate their knowledge and ability and students with significant cognitive disabilities.

Performance Goals

States must set goals for the performance of students with disabilities. These goals must be consistent, to the maximum extent appropriate, with any goals and standards the state has set for students in general. This means that the state cannot set separate, weaker standards for students with disabilities. Rather, the state must ensure that the same high goals and standards it uses for all students be applicable to students with disabilities. The state may supplement the goals and standards it uses for all students with any additional ones required by the unique needs of children with disabilities.

Accountability

IDEA now requires states and school districts to gather and publicize information that parents can use to hold schools accountable for the achievement of children with disabilities in school. In addition to setting goals, states must set “performance indicators” that they will use to determine whether a school or school system is successfully educating children with disabilities. These “performance indicators” must at a minimum include data on assessment results and data on drop-out and graduation rates of students with disabilities. The state must now use these indicators to report to the public on the progress of children with disabilities every two years.

The state must also publicize statistics showing how children with disabilities perform on the general assessments, including participation and achievement statistics of all children. IDEA now requires states and districts to report the scores of students with disabilities in two ways. First, school, district, and statewide summaries must report the scores of all students with disabilities together with the scores of all other students (“aggregated” scores). This requirement is important because if the scores of students with disabilities are only reported separately, the achievement of students with disabilities is likely to be considered as less important when evaluating school performance and allocating resources.

School, district, and statewide summaries must also report the performance of children with disabilities separately from the scores of students without disabilities (“disaggregated” scores) to allow analysis of student performance and identification of specific trends and to hold schools and school districts accountable. The number of students with disabilities taking regular state or district assessments must be reported, as well as the number of students taking alternate assessments.¹⁴

State Improvement Grants

The IDEA Amendments of 1997 create a new set of state improvement grants.



¹⁴ To ensure accountability for students who may be excluded from regular testing for any reason, parents and advocates should find out what the procedure is for including the alternate test results for these students in testing reports. For example, Kentucky assigns the scores of all students to their neighborhood schools, regardless of the school they actually attend.

States can apply for these grants to address aspects of early intervention, general education, and special education programs that need to be improved to enable children with disabilities to meet the state performance goals. The state's improvement plan must be revised based on assessment of progress toward the state performance goals. The plan must describe how the state will change its policies and procedures to:

- address systemic barriers to improving children's educational results,
- hold LEAs and schools accountable,

- provide technical assistance to LEAs and schools to improve students' performance, and
- ensure provision of professional development to address the needs of school personnel.

Charter Schools

In many states, charter schools have been created as a part of education reform efforts. Over thirty states and the District of Columbia now have charter schools legislation. IDEA regulations state that students with disabilities attending public charter schools have the same rights as children attending other public schools.

Conclusion

The provisions of IDEA outlined in this *Information Brief* represent a critical shift in our nation's approach to the education of students with disabilities. Since the 1970s, parents and advocates have had to devote tremendous effort and energy simply to gain access to education for their children with disabilities. For many students with disabilities, education has consisted of day-long sessions focused only on daily-living skills; for many others, a watered-down curriculum in segregated classrooms or

schools was all that was offered.

These many new provisions of IDEA emphasize that mere access is insufficient. States and districts are specifically required to apply the many benefits of education reform to the education of students with disabilities. With IDEA, parents and others concerned with the education of students with disabilities have even greater legal authority to insist that their children receive real educational benefits from their years in school.

The PEER Project gratefully acknowledges the contribution of staff attorneys of the Center for Law and Education in preparation of this *Information Brief*. The PEER Project drew heavily on their work and legal analysis.

Resources

Boundy, Kathleen B., J.D. (1998). *Individuals with Disabilities Education Act Amendments of 1997 (IDEA) Stress Quality Education Reform for Students with Disabilities*. Washington, D.C.: Center for Law and Education.

Committee on Goals 2000 and the Inclusion of Students with Disabilities. (1997). *Educating One and All: Students with Disabilities on Standards-Based Reform*. McDonnell, Lorraine M., McLaughl, M., and Morison, P., (Eds.). Washington, D.C.: National Academy Press.

Lipton, Diane J., Esq., "Individuals with Disabilities Education Act Amendments of 1997: Overview and Summary of Changes with Emphasis on IEPs and Discipline." Vohs, J.R., (Ed.). *Coalition Quarterly*. 1998; 14 (2 & 3), 4-14. Boston: Federation for Children with Special Needs.

Citations for IDEA Provisions – 20 U.S.C 1400 *et seq.*

- Evaluation/Re-evaluations - §1414(a-c)
- Individualized Education Programs - §1414(d)
- IEP Teams - §1414(d)(B)
- No Cessation of Services - §1412(a)(1)(A)
- Periodic Progress Reports - §1414(d)(1)(A)(viii)(II)
- General Education Environment - §1412(a)(5); §1412(a)(5)(B)(i-ii); §1414(d)(1)(A)(iv)
- Role of Regular Education Teachers - §1414(d)(1)(B)(ii); 1414(d)(3)(C); 1414(d)(4)(B)
- Special Considerations - §1414(d)(3)(B)
- IEP Reviews - §1414(d)(4)
- Assessment - §1414(d)(1)(A)(v)(I-II); §1412(a)(17)
- Performance Goals - §1412(a)(16)
- Accountability - §1412(a)(16)(B-C); §1412(a)(17)(B)
- State Improvement Grants - §1451 *et seq.*
- Charter Schools - §1413(a)(5)