



## National Dissemination Center for Children with Disabilities

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Welcome to NICHCY and a wealth of information on disabilities!

NICHCY stands for the *National Dissemination Center for Children with Disabilities*. We serve the nation as a central source of information on:

- disabilities in infants, toddlers, children, and youth,
- IDEA, which is the law authorizing special education,
- No Child Left Behind (as it relates to children with disabilities), and
- research-based information on effective educational practices.

Feel free to communicate with us in English or Spanish. We're here, we're listening, and it would be our pleasure to help you. In the meantime, we invite you to explore our Web site and make full use of all that we offer here.

*Quick jump links to NICHCY hot spots...*

[Looking for information on a specific disability such as autism or LD?](#)

If you've seen something recently on TV or heard on the radio about NICHCY and the information we offer on disabilities of all kinds, we welcome you, we're glad you're

here---please come this way.

[Did you hear the draft IDEA 2004 regs are available?](#)

Jump to info on this June 2005 event and what it means.

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IDEA – Reauthorized Statute  
**SECONDARY TRANSITION**

The reauthorized *Individuals with Disabilities Education Act* (IDEA) was signed into law on Dec. 3, 2004, by President George W. Bush. The provisions of the act will be effective on July 1, 2005, with the exception of some elements of the definition of “highly qualified teacher” that took effect upon the signing of the act. This is one in a series of documents, prepared by the Office of Special Education and Rehabilitative Services (OSERS) in the U.S. Department of Education, that covers a variety of high-interest topics and brings together the statutory language related to those topics to support constituents in preparing to implement the new requirements.<sup>1</sup> This document addresses only the changes to provisions regarding transition services of IDEA that will take effect on July 1, 2005. It does not address any changes that may be made by the final regulations.

**IDEA 2004:**

**1. Changes in the purpose of IDEA: added “further education.”**

The purpose of IDEA is to ensure that all children with disabilities have available to them a free and appropriate public education (FAPE) that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment and independent living. [602(d)(1)(A)]

**2. Change in language.**

In Section 602(34) the language in IDEA is changed from ‘student’ to ‘child.’

**3. Changes to definition of “transition services.”**

The term “transition services” means a coordinated set of activities for a child with a disability that:

- Is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child’s movement from school to post-school activities, including postsecondary education; vocational education; integrated employment (including supported employment); continuing and adult education; adult services; independent living or community participation; and [602(34)(A)]
- Is based on the individual child’s needs, taking into account the child’s strengths, preferences and interests. [602(34)(B)]

**4. Changes in performance goals and indicators.**

Address graduation rates and dropout rates, as well as such factors as the state may determine. [612(a)(15)(A)(iii)]

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<sup>1</sup> Topics in this series include: Disproportionality and Overidentification; Early Intervening Services; Changes in Initial Evaluations and Reevaluations; Individualized Education Program (IEP); Discipline; Statewide and Districtwide Assessments; Individualized Education Program (IEP) Team Meetings and Changes to the IEP; Part C Option: Age 3 to Kindergarten Age; Procedural Safeguards: Surrogates, Notice, Consent; Procedural Safeguards: Mediation and Resolution Sessions; Procedural Safeguards: Due Process Hearings; Alignment with the *No Child Left Behind Act*; Highly Qualified Teachers; Children Enrolled by Their Parents in Private Schools; State Funding; Local Funding; and Secondary Transition. Documents are available on the OSERS Web site at: [www.ed.gov/about/offices/list/osers/index.html](http://www.ed.gov/about/offices/list/osers/index.html).

## **5. Procedures for reevaluations.**

A local educational agency (LEA) must ensure that a reevaluation for each child with a disability is conducted in accordance with Sections 614(b) and 614(c) if:

- The LEA determines that the educational or related services needs, including improved academic achievement and functional performance, of the child warrant a reevaluation; or
- The child's parents or teacher requests a reevaluation.

However, a reevaluation shall occur not more frequently than once a year, unless the parent and the LEA agree otherwise; and at least once every three years, unless the parent and the LEA agree that a reevaluation is unnecessary. [614(a)(2)]

## **6. Exception to requirements for evaluation before a change in eligibility.**

An evaluation is not required before the termination of a child's eligibility if the termination of eligibility is:

- Due to graduation from secondary school with a regular high school diploma; or
- Because the child exceeds the age of eligibility for a free and appropriate public education under state law.

For a child whose eligibility under IDEA terminates under circumstances described above, an LEA must provide the child with a summary of his or her academic achievement and functional performance, including recommendations on how to assist the child in meeting postsecondary goals. [614(c)(5)(B)]

## **7. Changes to definition of an individualized education program (IEP).**

- IEPs are required to include:
  - A statement of measurable annual goals, including academic and functional goals, that meet the child's needs that result from the child's disability to enable the child to be involved in, and make progress in, the general education curriculum; and that meet each of the child's other educational needs that result from the child's disability; [614(d)(1)(A)(i)(II)]
- IEPs are required to include:
  - A description of how the child's progress toward meeting the annual goals will be measured; and
  - A description of when periodic reports on the progress the child is making toward meeting the annual goals will be provided to the parents. Reporting may include quarterly reports, or other periodic reports, concurrent with the issuance of report cards. [614(d)(1)(A)(i)(III)]
- Beginning not later than the first IEP to be in effect when the child turns 16 and then updated annually thereafter, the IEP must include:
  - Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment and independent living skills, where appropriate;
  - Transition services needed to assist the child in reaching those goals, including courses of study; and
  - Beginning not later than one year before the child reaches the age of majority under state law, a statement that the child has been informed of the child's rights

under this title, if any, that will transfer to the child on reaching the age of majority under Section 615(m). [614(d)(1)(A)VIII]

**8. Rule of construction.**

Nothing in Section 614 shall be construed to require (1) that additional information be included in a child's IEP beyond what is explicitly required in Section 614 or (2) require the IEP team to include information under one component of a child's IEP that is already contained under another component of such IEP. [614(d)(1)(A)(ii)]

**9. Added specific requirements to development of an IEP.**

In developing each child's IEP, the IEP team, subject to Subparagraph (C), shall consider the academic, developmental and functional needs of the child. [614(d)(3)(A) (iv)]

**INDIVIDUALIZED EDUCATION PROGRAM (IEP)****(See also Statewide and Districtwide Assessments)**

The reauthorized *Individuals with Disabilities Education Act* (IDEA) was signed into law on Dec. 3, 2004, by President George W. Bush. The provisions of the act will be effective on July 1, 2005, with the exception of some elements of the definition of “highly qualified teacher” that took effect upon the signing of the act. This is one in a series of documents, prepared by the Office of Special Education and Rehabilitative Services (OSERS) in the U.S. Department of Education, that covers a variety of high-interest topics and brings together the statutory language related to those topics to support constituents in preparing to implement the new requirements. This document addresses only the changes to provisions regarding the content of Individualized Education Programs (IEPs) of IDEA that will take effect on July 1, 2005. It does not address any changes that may be made by the final regulations.

**IDEA 2004:****1. Changes regarding present levels of educational performance.**

- IEPs must include:
  - Present levels of academic achievement and functional performance; and
  - A statement of measurable annual goals, including both academic and functional goals
- IEPs must include a description of benchmarks, or short-term objectives only for children who take alternate assessments aligned to alternate achievement standards.

[614(d)(1)(A)(i)(I)]

**2. Changes regarding assessments in the IEP.**

- A statement of any individual appropriate accommodations that is necessary to measure:
  - Academic achievement and functional performance on statewide and districtwide assessments.
- If the IEP team determines that the child will take an alternate assessment, a statement must be provided that indicates why the IEP team selected a particular alternate assessment, and why it is appropriate for the child.

[614(d)(1)(A)(i)(VI)(aa), (bb)(BB)]

**3. Changes to annual goals.**

- IEPs are required to include:
  - A statement of measurable annual goals, including academic and functional goals.

[614(d)(1)(A)(i)(II)]

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<sup>1</sup> Other topics in this series include: Disproportionality and Overidentification; Early Intervening Services; Changes in Initial Evaluations and Reevaluations; Individualized Education Program (IEP); Discipline; Statewide and Districtwide Assessments; Individualized Education Program (IEP) Team Meetings and Changes to the IEP; Part C Option: Age 3 to Kindergarten Age; Procedural Safeguards: Surrogates, Notice, Consent; Procedural Safeguards: Mediation and Resolution Sessions; Procedural Safeguards: Due Process Hearings; Alignment With the *No Child Left Behind Act*; Highly Qualified Teachers; Children Enrolled by Their Parents in Private Schools; State Funding; and Local Funding. Documents are available on the OSERS Web site at: [www.ed.gov/about/offices/list/osers/index.html](http://www.ed.gov/about/offices/list/osers/index.html).

#### **4. Changes to measuring progress and reporting.**

- IEPs are required to include:
  - A description of how the child's progress toward meeting the annual goals will be measured; and
  - A description of when periodic progress reports will be provided to the parents.
- Reporting may include:
  - Quarterly reports; or
  - Other periodic reports concurrent with issuance of report cards.

[614(d)(1)(A)(i)(III)]

#### **5. Changes to statement of services.**

Adds to the statement of the special education and related services and supplementary aids and services, for the child or on behalf of the child—that they be based on peer-reviewed research, to the extent practicable. [614(d)(1)(A)(i)(IV)]

#### **6. Changes to transition requirements.**

Beginning not later than the first IEP to be in effect when the child turns 16 [note: eliminates age 14 requirements] and then updated annually thereafter, the IEP must include:

- Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment and independent living skills, where appropriate;
- Transition services needed to assist the child in reaching those goals, including courses of study; and
- Beginning not later than one year before the child reaches the age of majority under state law, a statement that the child has been informed of the child's rights under this title, if any, that will transfer to him or her on reaching the age of majority.

[614(d)(1)(A)(i)(VIII)]

#### **7. Requirements for children with disabilities transferring within a state and between states.**

- Within-state transfers:
  - In the case of a child with a disability who transfers school districts within the same academic year, who enrolls in a new school, and who had an IEP that was in effect in the same state, the new local educational agency (LEA) must provide such child with a free appropriate public education (FAPE), including services consistent with the previous district's IEP, in consultation with parents, until it adopts the previously held IEP or develops and implements a new IEP that is consistent with federal and state law.

[614(d)(2)(C)(i)(I)]

- Between-state transfers:
  - In the case of a child with a disability who transfers school districts within the same academic year, who enrolls in a new school, and who had an IEP that was in effect in another state, the new LEA must provide such child with FAPE, including services consistent with the previous IEP, in consultation with parents, until the new LEA conducts an evaluation pursuant to Section 614(a)(1), if determined to be necessary by such agency, and develops a new IEP that is consistent with federal and state law.

[614(d)(2)(C)(i)(II)]

- Transmittal of records--to facilitate the transition for a child described above, the new school shall take reasonable steps to promptly obtain and transfer the child's records, including the IEP and supporting documents and any other records relating to the provision of special education or related services to the child, from the previous school; and the previous school must take reasonable steps to promptly respond to such request.

[614(d)(2)(C)(ii)]

**8. Rule of construction.**

Nothing in Section 614 shall be construed to (1) require that additional information be included in a child's IEP beyond what is explicitly required in Section 614, or (2) require the IEP team to include information under one component of a child's IEP that is already contained under another component of such IEP. [614(d)(1)(A)(ii)]

## INDIVIDUALIZED EDUCATION PROGRAM (IEP) TEAM MEETINGS AND CHANGES TO THE IEP

The reauthorized *Individuals with Disabilities Education Act* (IDEA) was signed into law on Dec. 3, 2004, by President George W. Bush. The provisions of the act will be effective on July 1, 2005, with the exception of some elements of the definition of “highly qualified teacher” that took effect upon the signing of the act. This is one in a series of documents, prepared by the Office of Special Education and Rehabilitative Services (OSERS) in the U.S. Department of Education, that covers a variety of high-interest topics and brings together the statutory language related to those topics to support constituents in preparing to implement the new requirements. This document addresses only the changes to the provisions regarding Individualized Education Program (IEP) team meetings and changes to the IEP of IDEA that will take effect on July 1, 2005. It does not address any changes that may be made by the final regulations.

### IDEA 2004:

#### 1. Members of the IEP team.

The IEP Team is composed of the following persons:

- The parents of a child with a disability;
- Not less than one regular education teacher (if the child is, or may be, participating in the regular education environment);
- Not less than one special education teacher, or when appropriate, not less than one special education provider;
- A representative of the local educational agency (LEA) 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 education curriculum; and is knowledgeable about the availability of resources of the LEA;
- An individual who can interpret the instructional implications of evaluation results, who may be a member of the team described above;
- Other individuals, at the discretion of the parent or the agency, who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and
- Whenever appropriate, the child with a disability.

[614(d)(1)(B)]

#### 2. IEP team meeting attendance not necessary.

A member of the IEP team is not required to attend an IEP meeting, in whole or in part, if:

- The parent of a child with a disability and the LEA agree, due to the fact that the member’s area of the curriculum or related services is not being modified or discussed. The parent’s agreement must be in writing. [614(d)(1)(C)(i) and (iii)]

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<sup>1</sup> Other topics in this series include: Disproportionality and Overidentification; Early Intervening Services; Changes in Initial Evaluations and Reevaluations; Individualized Education Program (IEP); Discipline; Statewide and Districtwide Assessments; Individualized Education Program (IEP) Team Meetings and Changes to the IEP; Part C Option: Age 3 to Kindergarten Age; Procedural Safeguards: Surrogates, Notice, Consent; Procedural Safeguards: Mediation and Resolution Sessions; Procedural Safeguards: Due Process Hearings; Alignment With the *No Child Left Behind Act*; Highly Qualified Teachers; Children Enrolled by Their Parents in Private Schools; State Funding; and Local Funding. Documents are available on the OSERS Web site at: [www.ed.gov/about/offices/list/osers/index.html](http://www.ed.gov/about/offices/list/osers/index.html).

- The member submits, in writing to the parents and the team, his or her input into the development of the IEP prior to the meeting. [614(d)(1)(C)(i) and (iii)]

### **3. Excusal from IEP meeting.**

A member of the IEP team may be excused from attending an IEP meeting, in whole or in part, if:

- The parent of a child with a disability and the LEA agree, due to the fact that the member's area of the curriculum or related services is not being modified or discussed.
- The parent consents in writing, and the agency also; and
- The member submits, in writing to the parents and the team, his or her input into the development of the IEP prior to the meeting.

[614(d)(1)(C)(ii) and (iii)] of the IDEA 2004.

### **4. New provisions for making changes to the IEP.**

In making changes to a child's IEP after the annual IEP meeting for a school year, the parent of a child with a disability and the LEA may agree not to convene an IEP meeting for the purposes of making such changes, and instead may develop a written document to amend or modify the child's current IEP. [614(d)(3)(D)]

Changes to the IEP may be made either by the entire IEP team or, as provided in Section 614(d)(3)(D), by amending, rather than redrafting the entire IEP. Upon request, a parent shall be provided with a revised copy of the IEP with the amendments incorporated. [614(d)(3)(F)]

### **5. Consolidation of IEP meetings.**

To the extent possible, the LEA will encourage the consolidation of reevaluation meetings and other IEP team meetings for the child. [614(d)(3)(E)]

### **6. Alternative means of meeting participation.**

When conducting IEP team meetings and placement meetings pursuant to Sections 614, 615(e), and 615(f)(1)(B), and carrying out administrative matters under Section 615 (such as scheduling, exchange of witness lists and status conferences), the parent of a child with a disability and the LEA may agree to use alternative means of meeting participation, such as video conferences and conference calls. [614(f)]

**ALIGNMENT WITH THE NO CHILD LEFT BEHIND ACT****(See also Highly Qualified Teachers)**

The reauthorized *Individuals with Disabilities Education Act* (IDEA) was signed into law on Dec. 3, 2004, by President George W. Bush. The provisions of the act will be effective on July 1, 2005, with the exception of some elements of the definition of “highly qualified teacher” that took effect upon the signing of the act. This is one in a series of documents, prepared by the Office of Special Education and Rehabilitative Services (OSERS) in the U.S. Department of Education, that covers a variety of high-interest topics and brings together the statutory language related to those topics to support constituents in preparing to implement the new requirements. This document addresses provisions of IDEA regarding the alignment between IDEA and *No Child Left Behind*, referred to in this document as the *Elementary and Secondary Education Act* (ESEA) of 1965, which will take effect on July 1, 2005. It does not address any changes that may be made by the final regulations.

**IDEA 2004:****1. Adds new definitions.**

**Core Academic Subjects:** the term “core academic subjects” means English, reading or language arts; mathematics; science; foreign languages; civics and government; economics; the arts; history; and geography. [9101] of ESEA; [602(4)] of IDEA.

**Limited English Proficient:** the term “limited English proficient,” when used with respect to an individual, means an individual:

- Who is aged 3 through 21;
- Who is enrolled or preparing to enroll in an elementary school or secondary school;
- Who was not born in the United States or whose native language is a language other than English;
  - Who is a Native American or Alaska Native, or a native resident of the outlying areas; and
  - Who comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; or
  - Who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and
- Whose difficulties in speaking, reading, writing or understanding the English language may be sufficient to deny the individual:
  - The ability to meet the state's proficient level of achievement on state assessments described in Section 1111(b)(3) of ESEA;

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- The ability to successfully achieve in classrooms where the language of instruction is English; or
- The opportunity to participate fully in society.

[9101] of ESEA; [602(18)] of IDEA.

Highly Qualified: for a complete definition of the term “highly qualified,” please refer to the “Highly Qualified Teachers” document. [9101] of ESEA; [602(10)(F)] of IDEA.

**2. Funds reserved to carry out state-level activities can be used** ...to support the development and provision of appropriate accommodations for children with disabilities, or the development and provision of alternate assessments that are valid and reliable for assessing the performance of children with disabilities, in accordance with Sections 1111(b) and 6111 of ESEA. [611(e)(2)(C)(x)] of IDEA.

**3. Use of funds in schoolwide programs** ...a local educational agency (LEA) may use funds received under this part for any fiscal year to carry out a schoolwide program under Section 1114 of ESEA, except that the amount so used in any such program shall not exceed:

- The number of children with disabilities participating in the schoolwide program, multiplied by
- The amount received by the LEA under this part for that fiscal year, divided by
- The number of children with disabilities in the jurisdiction of that agency.

[613(a)(2)(D)(i)(ii)(I)(II)] of IDEA.

**4. Use of funds to carry out activities under ESEA.**

If an LEA exercises the authority under clause (i), the agency shall use an amount of local funds equal to the reduction in expenditures under clause (i) to carry out activities authorized under ESEA. [613(a)(2)(C)(ii)] of IDEA.

**5. Performance goals and indicators.**

The state has established goals for the performance of children with disabilities in the state that:

- Promote the purposes of this title as stated in Section 601(d) of IDEA;
- Are the same as the state's definition of adequate yearly progress (AYP), including the state's objectives for progress by children with disabilities, under Section 1111(b)(2)(C) of ESEA;
- Address graduation rates and dropout rates, as well as such other factors as the state may determine; and
- Are consistent, to the extent appropriate, with any other goals and standards for children established by the state.

In addition, the state must establish performance indicators it will use to assess progress toward achieving the goals described in Section 612(a)(15)(A) of IDEA, including measurable annual objectives for progress by children with disabilities under Section 1111(b)(2)(C)(v)(II)(c) of the ESEA. [612(a)(15)(A) and (B)] of IDEA.

**6. Reporting.**

[The state] will annually report to the secretary and to the public on its progress, and the progress of children with disabilities, toward meeting the goals established under Section 612(a)(15)(A)

of IDEA, that may include elements of the reports required under Section 1111(h) of ESEA. [612(a)(15)(C)] of IDEA.

#### **7. Alternate achievement standards.**

If the state has adopted alternate academic achievement standards permitted under the regulations promulgated to carry out Section 1111(b)(1) of ESEA, the guidelines under Section 612(a)(16)(c)(i) of ESEA shall provide for alternate assessments that ... measure the achievement of children with disabilities against those standards. [612(a)(16)(C)(ii)(II)] of IDEA.

#### **8. Records of migratory children.**

The LEA shall cooperate in the secretary's efforts under Section 1308 of ESEA to ensure the linkage of records pertaining to migratory children with a disability for the purpose or electronically exchanging, among the states, health and educational information regarding such children. [613(a)(9)] of IDEA.

#### **9. Eligibility determination.**

In making a determination of eligibility under Section 614(b)(4)(A) of the IDEA, a child shall not be determined to be a child with a disability if the determinant factor is a lack of appropriate instruction in reading, including in the essential components of reading instruction as defined in Section 1208(3) of ESEA. [614(b)(5)(A)] of IDEA.

#### **10. Alignment of personnel development plans.**

The application [for a state personnel development grant] shall include a plan that identifies and addresses state and local needs for preparation and professional development of personnel, as well as individuals who provide direct supplementary aids and services to children with disabilities, and that ... is integrated and aligned, to the maximum extent possible, with state plans and activities under ESEA. [653(a)(2)(C)] of IDEA.