

INDIVIDUALS WITH DISABILITIES EDUCATION ACT AND NO CHILD LEFT BEHIND

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Under the equal protection clause of the 14th Amendment to the United States Constitution, the right of every child with a disability to be educated was established. It was just a seed that would take a lot of time to grow, develop and flourish. On this foundation of an idea, court cases have been won and laws enforced that grant children with disabilities their right to be educated. Some of the foundational stones were: *Pennsylvania Association for Retarded Citizens v. Commonwealth* (1971) and *Mills v. Board of Education of the District of Columbia* (1972.) In 1975, Congress enacted the *Education for All Handicapped Children Act* (Public Law 94-142.) This act was the embryo form of the *Individuals with Disabilities Education Act* (IDEA.) IDEA is a law ensuring services to children with disabilities throughout the nation. IDEA governs how states and public agencies provide early intervention, special education and related services to more than 6.5 million eligible infants, toddlers, children and youth with disabilities. There are two parts to the IDEA law. Part C provides infants and toddlers with disabilities (birth-2) and their families' early educational help. Children and youth (ages 3-21) receive special education and related services under IDEA Part B.

The four purposes of the Public Law 94-142 are

- "to assure that all children with disabilities have available to them...a free appropriate public education which emphasizes special education and related services designed to meet their unique needs."
- "to assure that the rights of children with disabilities and their parents...are protected."
- "to assist States and localities to provide for the education of all children with disabilities."
- "to assess and assure the effectiveness of efforts to educate all children with disabilities."

Under IDEA, a child having difficulties in school is not automatically referred to Special Education. When a teacher notices a problem, she must first try different methods of presenting the information. If, after some time the student is still having difficulties, a pre-referral team is called together. This group consists of the student's general education teachers, the school's special education teachers, other specialists, members of the administration, and the parents. The group meets to brainstorm other methods that the general education teacher can try. They must talk to specialists, previous teachers, and others that know the student well, and have direct and frequent communication with the parents. The teacher should try different methods of delivering the information, accommodations, modifications, and interventions. All should be carefully documented.

If these interventions are successful, the problem is solved. If not, the prereferral team might recommend support through Title I, LAP (Learning Assistance Program), an English Language Learners or migrant program, a 504 plan, or a gifted and talented program. Title I serves students who are having difficulties in certain areas, but not enough to fit into one of the 13 categories. It is nationally funded. A 504 plan is for students who have disabilities but are not deemed in need of specially designed instruction. It determines what services are appropriate, but it has no money attached, so districts are reluctant to award it. The final possible placement that a prereferral team can assign is special education.

Once referred to Special Education, a multi-disciplinary team takes over. This group may consist of the pre-referral team, plus the special education director, the

school psychologist, counselor, nurse, and student, if appropriate. The group then determines eligibility for special education. The student must be evaluated and assessed. In order to qualify, a student must fall into one of the thirteen qualifying categories and be in need of specially designed instruction. Once determined eligible, the legal and appropriate progression is to evaluate assess the student, then to develop and Individual Education Program (IEP), and finally to place and determine service for the student. Many districts prefer to place before they write an IEP, but what is available or not cannot legally restrict what the multi-disciplinary team recommends. If the team determines that the student should be placed in an environment that the district cannot provide, they must pay for the student to be served in a neighboring district that can provide those services.

Overall there has been much progress made in the last thirty some years. In 1970, only one in five children with disabilities was being educated. Many states had laws that excluded children who were deaf, blind, emotionally disturbed, or mentally retarded. Today, almost 200,000 eligible infants and toddlers receive services while nearly 6 million children and youth are provided with special education. Most of the children with disabilities are now being educated in regular classrooms with non-disabled children. High school graduation rates have increased by 14 percent from 1984 to 1997. Also, twice as many youth served under IDEA are employed, and the percentage of college freshmen reporting disabilities has more than tripled since 1978. A lot has happened in the early childhood area also. Research has been focused on building models of appropriate programs and services for young children with disabilities (birth – five years) and their families. These programs include the before

mentioned IEP and also the Individualized Family Service Plans (IFSPs.) IFSPs differs from the IEP in that it looks at the needs of the family as well as the infant or toddler with a disability. In the big picture there have been many changes that ensure better disability education.

Thirteen Categories of Eligibility

- Autism
- Deaf-Blindness
- Emotional Disturbance
- Hearing Impairment
- Mental Retardation
- Multiple Disabilities
- Orthopedic Impairment
- Other Health Impairment
- Specific Learning Disability
- Speech Language Impairment
- Traumatic Brain Injury
- Visual Impairment
- Developmental Delay

Possible Placements:

- Regular classroom
- Regular classroom with consultation from special education teacher
- Regular classroom with itinerant teacher services
- Resource room
- Self-contained classroom
- Special education with special day schools
- Homebound or hospital instruction
- Residential facilities

No Child Left Behind

The foundation for No Child Left Behind was set with the *Brown vs. Board of Education* case. It was then that “separate but equal” was determined to be unconstitutional. Of course, the *Civil Rights Act of 1964* is a building block as well as

the *Elementary and Secondary Education Act of 1965, the Education Consolidation and Improvement Act of 1981, and the Improving American School's Act of 1994*. On Jan. 8, 2002, President Bush reauthorized the ESDA as the *No Child Left Behind Act of 2001*. By passing the *No Child Left Behind* law the federal government was trying to build an education system that is more inclusive, responsive, and fair. Title 1 schools are regulated by the federal government. Title 1 of *No Child Left Behind* provides free lunches and reduced priced lunches. This program serves 15 million people. Also under Title 1, children who haven't made progress in a Title 1 school in two years are moved to a charter school within the district. Charter schools have the same accountability as public schools but not all the regulations. In 2005, the budgeted funding for Title 1 was \$13.3 billion. Title 3 provided grants for supplemental educational systems. Title 4 built educational labs to research teaching methods. Title 5 focused on helping the state educational resources. Title 7 introduced a bilingual educational program.

There have been several issues with No Child Left Behind, testing has been emphasized among students with disabilities. This is causing schools to pay more attention to their special education department, creating higher expectations and pushing students to do well on the tests. Indeed, test scores and graduation rates have improved for this population. However, dropout rates have also increased in some places, and teachers are complaining that they are forced to teach what will be on the test instead of teaching the adaptive skills that are more important to the student. In addition, the district is held accountable for the education of every student, so if the special education students are not able to pass the standardized tests, the entire school fails.

Educators complain that “a huge increase in federally mandated testing will not provide the services and strategies our schools and students need to improve.” (Karp, 2003) NCLB does not address the fact that many students live in poverty, and that these statistics are very much related to race. Students living in poverty generally attend schools that have fewer resources, yet NCLB is not providing extra funding for these schools. The plan allows children in failing schools to attend other schools, rather than working to improve the poor schools they already go to. In essence, we’re leaving schools behind. It does not provide for building schools in failing districts, and it does not mandate richer schools to take children from failing districts.

NCLB sets unrealistic expectations, and then punishes teachers for doubting them, and for not making them. It doesn’t trust teachers to teach in their own style- it creates one assessment at the end of the year that is the goal for all students. Students are learning standardized curricula with the goal of filling in answers on tests. They are not getting education in science, art, or music, or how to think for themselves. No Child Left Behind has been described as providing a foolproof curriculum for the mediocre teacher, a curriculum that good teachers too must follow.

There are certain standards that hold up the NCLB definition of a highly qualified teacher. For K-6 students a teacher must have a bachelor’s degree, a full state teaching certification or license, and the ability to prove that they know the subject they teach. For high school and middle school students a teacher must have additional qualifications. They must have a major in the subject that they teach...or the credit equivalent. They must pass the state developed test as well as past the HOUSSSE state

standards. HOUSSE is an additional state test that proves teachers' ability and skills. HOUSSE includes teaching experience and professional skills. Lastly, they need an advanced certification from the state or a graduate degree. At first special education teachers didn't have to fit the highly qualified teacher model, because they don't teach core classes. But on October 5th, 2006, an award was granted of \$11.6 million to help develop highly qualified special education teachers. As Secretary Spellings said, "We want to increase the number and quality of teachers who are fully credentialed to serve children with disabilities. When we say we won't leave any child behind, we mean it, and that includes students with disabilities."

In reauthorizing No Child Left Behind, the president will make some revisions to the legislation. The new version would standardize methods of calculating dropout and graduation rates, and provide better and clearer information for parents about schools' achievement statistics, their various public school options, and available tutoring services. In addition, President Bush would like to put pressure and money into high schools.

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