



Highlights of New IDEA Improvement Act of 2004

The new IDEA Improvement Act of 2004 was signed into law by President Bush on December 3, 2004. Most parts of the law do not take effect until July 2005. Here are some questions which some parents have asked about the new law.

How will the new IDEA 2004 impact my child's individualized education plan (IEP)?

Short-term Objectives/Benchmarks. The specific provisions for short-term objectives or benchmarks are no longer required for most IEP's. Annual goals must still be measurable and still include both academic and functional goals, as well as procedures for measuring and reporting a child's progress over the year in relationship to the annual goals.

Attendance at IEP Meeting. Some regular education teachers may be excused. Parents can participate for some meetings by conference call, if the parent chooses to do so.

New Use of Federal Funds. Schools can use a small percentage of their federal special education funds to provide "intervention" services to assist students not yet identified eligible for IDEA services.

Fifteen states will be able to apply for a pilot program which would allow schools to have a three year IEP. However, even if a

state is given authority to run this pilot program, parents still would have the right to ask for a one-year IEP. The law would protect these rights. No pilot programs will be awarded for at least a year.

Are there changes to the categories of disability?

The definitions of "child with a disability" and "free appropriate public education" were not changed. The requirements covering evaluations has been improved to say "functional, developmental and academic information, including information provided by the parent".

IDEA 2004 no longer requires a discrepancy between ability and achievement in determining whether a child has a learning disability.

What changes were made to the discipline provisions?

Disciplinary Provisions – The new disciplinary section allows a student, who poses a substantial risk of harm to self or others, to be placed in an alternative setting prior to a hearing officer's decision as to whether the placement is appropriate.

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45 Day Removal – A new category, "serious bodily injury upon another person", has been added to the reasons a student can be suspended for 45 days. This new category of behavior is broad based and relatively undefined in the law.

The proposed regulations, when disseminated later this year or 2006, may give clarity to this section. The law has also been changed to allow transfers to these alternative settings for 45 school days, rather than current law which is 45 calendar days.

More than 10 days – If the school wants to change the student's placement for more than 10 days, they are still required to determine if the behavior was a "manifestation of the child's disability". Services in accordance with the student's IEP must be provided. Schools can still remove a child for 10 school days.

Removal from Placement - All students removed from their current placement because of behavior will receive a functional behavior assessment, behavioral intervention services and modifications which address the behavior violation so it does not happen again.

What are some of the changes to procedural rights which I should know?

Requesting a due process hearing – The new IDEA 2004 will require parents to provide a more detailed explanation to the school when writing their letter to request a hearing. If a family requests a hearing they must first meet with the school to review their complaints before moving forward with a due process hearing.

The new law, IDEA 2004, when in effect, will give the schools the right to recover attorney's fees from the parents if the school prevails at the hearing and is able to show that the parents' claims were frivolous.

You can view the Individuals with Disabilities Education Act of 2004 on the internet at the Congressional site: <http://thomas.loc.gov> under "Legislation" select Public Law 108-448. The House/Senate Conference Report, Number 108-779, can be viewed at: <http://edworkforce.house.gov/issues/108th/education/idea/idea.htm>

Court Agrees to Hear Burden of Proof Cases

The U.S. Supreme Court has agreed to hear a case on burden of proof in IDEA disputes. IDEA does not specify whether parents or school officials bear the burden of proof in disagreements over special education services, which has resulted in inconsistent decisions by lower courts on this important issue.

In July of 2004, the 4th Circuit U.S. Court of Appeals in Richmond, VA ruled that the burden of proof fell on Jocelyn and Martin Schaffer in their dispute over the education of their son in the Montgomery County, Maryland school system. The parents appealed the decision, and the United States Supreme Court has agreed to hear their case in the 2005-2006 term, which begins in October. A full article entitled "Supreme Court to Hear Case on Burden of Proof in IDEA Disputes" is available at <http://www.edweek.com>. Free registration is required.

Law Requires Eye Exams for IEP Students

Equal education for children. Children's rights. "No child left behind." Schools struggle with these issues daily as they strive to give students optimum learning opportunities. But to some students the obstacles to simple reading, writing and arithmetic can be as basic as not being able to read the chalkboard, make out the blurry letters on a paper, or focus on the numbers on the wall clock. Here's a staggering statistic: in Ohio, one in every four children has a vision disorder and many are undetected.

In Ohio, legislation went into effect July 1, 2004, which requires all students referred for special education services to receive a comprehensive eye exam before beginning their individualized educational program (IEP). Amended Substitute House Bill 95, passed in 2003, requires that within three months after receiving services under an IEP, the student must have a comprehensive eye examination by an optometrist or an ophthalmologist (unless the student has had an eye exam in the previous nine months). In addition, the legislation ensured that cost would not be an issue.

The vision screenings provided by the school nurse are not the same as a comprehensive eye exam by an eye doctor. While the vision screening focuses on the ability to see clearly far and near, the eye doctor checks the child's general eye health, focusing capability, eye movement, ability to see clearly far and near, how the two eyes work and move together, and if there is a need for glasses or other treatment to improve vision. After the exam the doctor completes a standardized form and returns it to the school.

According to the Ohio Optometric Association (OOA) improving observational skills can improve learning and reduce academic problems. Consider these facts:

- * 80% of learning is gained through vision.
- * As many as 25% of school-age children have vision problems significant enough to impair academic performance; the rate may be as high as 60% for some children with learning problems.
- * Nearly 20% of all children under the age of five and 15% of school age children have refractive errors such as nearsightedness (myopia), in which distant objects are blurry and near objects are clear, and farsightedness (hyperopia) in which near objects are blurry and distant objects are clear.
- * Three out of 100 children have lazy eye. Half of those go undetected, resulting in permanent, preventable vision loss.
- * Only one out of seven children has a comprehensive eye examination by the time they start school.
- * Only one out of two teenagers has had an eye exam before high school graduation.
- * Undetected vision disorders are the number one health handicap in America.

Ohio Senator Randy Gardner of Bowling Green sponsored the eye exam legislation. "I know how important good vision is to the learning process. I believe that correcting vision problems early on can help improve a child's performance in school," Senator Gardner said.

No students will be kept out of school if they do not have the eye exam, but it is certainly better for a child to have the exam as soon as possible so problems can be corrected right away, Senator Gardner added.

Reading Levels Rise Thanks to

by Amy Freeman, Reading Mentoring Coordinator, Putnam County Education Service Center

An effective and affordable structured reading mentoring program is being implemented in northwest Ohio that, according to an evaluation conducted during the 2002-03 school year, is increasing the reading levels of students with disabilities on both informal and standardized reading assessments. Over the past three years, evaluation results have shown that students with specific learning disabilities (SLD) have made one-month reading gains for each month of structured reading intervention. Data from 2003-04 are currently being analyzed.

The Northwest Ohio Special Education Reading Mentoring Consortium Project is a collaborative effort among four Educational Service Centers (ESC) – Northwest Ohio, Erie-Huron-Ottawa, Wood, and Putnam – their superintendents and the Ohio Coalition for the Education of Children with Disabilities (OCECD). The project has two goals:

1. Demonstrate that students with disabilities can increase their reading skills using a structured reading mentoring program, in addition to their individualized education program (IEP) services; and,
2. Ensure that greater numbers of students with disabilities pass the reading section of the Fourth Grade Ohio Proficiency Test.

"I have never seen one program that positively impacts students with disabilities as much as this reading mentoring program," said Jan Osborn, superintendent of schools, Putnam County ESC.

During the 2002-03 school year, more than 765 students with disabilities, considered at-risk, or receiving Title 1 services,

were served in the project's reading mentoring programs; 376 of these students had IEPs. More than 1,500 volunteer reading mentors were recruited and trained to deliver the structured reading intervention.

Currently, more than 45 schools participate in the project. Disabilities categories of students who are mentored include:

- Learning disabilities
- Cognitive disabilities
- Emotional disturbance
- Multiple disabilities
- Speech or language impairments.

Origins of the Project

The project began in 1998 as an offshoot of OhioReads, when legislators realized that students with disabilities typically would not have access to reading mentoring services through OhioReads. Legislators sponsored a budget amendment written by Margaret Burley, executive director of OCECD, to determine the effectiveness of research-based structured reading mentoring programs for students with disabilities.

The planning and development of this project addressed the major components of OhioReads that include:

- a high level of volunteerism;
- a program approved by the Education Commission of the States; and,
- demonstrated success in helping to improve the level of reading for students.

"Our support for this project is an example of our belief that without fundamental reading skills, it is nearly impossible for students with disabilities to improve in subjects across the curriculum. By definition, 80% of students receiving special education services have reading problems," said Burley.

Ohio Reading Mentoring Program

Components of the Project

The project selected a reading mentoring program from HOSTS (Helping One Student to Succeed) Learning called HOSTLink that uses an instructional strategy that works within the framework of Ohio's model curricula. The lessons that are taught through the structured reading mentoring programs have been aligned to the English language arts (ELA) Academic Content Standards and to grade-level indicators.

Once a student has been referred for reading mentoring services, the teacher/coordinator performs an assessment to identify the student's reading level. Based on the assessment, the student receives a diagnostic test to determine what skill areas to address. Lesson plans are then formulated on a weekly basis to support the work required in the classroom. Students receive ongoing assessments throughout the year to monitor their progress.

Trained mentors typically cover oral reading, vocabulary and individualized specific skill areas that are reinforced using games and activities. Students are generally mentored four days a week for 30 minutes, which provides two additional hours of one-to-one literacy help weekly. Mentors report student performance on a daily basis to the teacher/coordinator. Based on these comments, lesson plans may be altered.

Mentors are recruited from local high schools, businesses and the community. Partnerships also have been formed with several universities that require service learning contact hours for their students in the project's reading mentoring programs. University-level reading assessment curricula have integrated reading mentoring

in the project's schools as part of their class requirement.

While the project is targeted for students with disabilities, mentoring services are not written into the IEP. Reading mentoring services are offered in addition to regular and special education services, not in lieu of them.

Schools involved in the project have used five different types of service delivery models to implement their reading mentoring programs, including:

1. Instructors and aides implement the program, serving both students with disabilities and students at-risk for reading.
2. In addition to their regular teaching duties, intervention specialists implement the program for students with disabilities.
3. Aides implement the program for students with disabilities in conjunction with intervention specialists.
4. Coordinator (locally hired) implements the program serving students at-risk, students eligible for Title 1 services, and students with disabilities.
5. Title 1 coordinator implements the program for students with disabilities and students identified as eligible for Title 1 services.

"This project is a good example of schools, families, and communities working together toward success for all students," said Kelly Davids, director of the Ohio Department of Education's Office of Reading Improvement.

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"I applaud the leaders of this program for recognizing the value of volunteer tutors, for training their volunteers to support classroom reading instruction, for adapting the OhioReads model to fit their local literacy needs and for involving the community in public education."

Evaluation of the Project

For the past five years, Bowling Green State University has conducted an independent evaluation of the project's reading mentoring programs. Statistically significant gains were reported across the board for both informal reading measures, as well as standardized measures. The evaluation meets scientifically-based reading research strategies. To date, the documentation in this project is the only longitudinal study in reading mentoring research in the nation that examines academic outcomes for students with disabilities.

The reading gains of students with disabilities and students receiving Title 1 services who participated in the project were compared to students from similar schools that did not receive reading mentoring. There was an overall trend that students in either regular or special education who received reading mentoring gained more on standardized and informal reading assessment measures than the students who received Title 1 services and special education services without mentoring. The statistically significant reading gains were especially noteworthy for second- and third-grade students receiving Title 1 services and fourth-grade students with SLD. "These reading gains are particularly impressive for a population of students with serious reading problems," said Rich Wilson, co-director of the Center for Evaluation Services at Bowling Green State University.

What's New for the Project

For the 2004-05 school year, approximately half of the schools involved in the project will continue to use the HOSTS program. However, more than 20 of the schools involved in the project will be implementing their first full year of reading mentoring for students with disabilities using Reading-tutors. Reading-tutors is a structured reading mentoring program that fits well within the existing framework of many of the project's schools.

The teacher can select from multiple lessons and guided reading books at each child's reading level. The teacher also can give copies of the books to the students to use at home.

Reading-tutors teachers receive one-day group training and participate in onsite program implementation activities. A trained ESC staff member provides ongoing technical support to schools for successful implementation of the program.

Conclusion

"Tutoring is the key strategy of Ohio's reading improvement efforts," said Davids. "In addition to anecdotal evidence pointing to the success of tutors, educational research is showing that volunteer reading tutors make a real impact on student achievement. Statewide, Ohioans are seeing this impact: more than 50,000 people serve as OhioReads volunteer reading tutors in more than 1,834 public elementary schools and the pass rate on the Fourth-Grade Reading Proficiency Test has improved from 48% to 70% in the past five years."

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Q & A on Youth with Disabilities in the Juvenile Justice System

Are youth with disabilities entitled to special education services when they are in the juvenile justice system?

Youth with disabilities who are eligible for services under the Individuals with Disabilities Education Act (IDEA '97 & reauthorized IDEA '04) have the right to a free, appropriate public education (FAPE), including special education and related services, wherever they live or attend school. This includes juvenile correctional placements and, with certain exceptions, adult correctional facilities. Youth with disabilities may also be entitled to services under the Americans with Disabilities Act (ADA) or Section 504 of the Rehabilitation Act of 1973.

Can parents of youth with disabilities be involved in making decisions regarding their youth's education while the youth is in the juvenile justice system?

Parents/guardians of youth who are in the juvenile justice system should be involved in the development of their child's Individualized Education Program (IEP). If parents/guardians are not able to attend IEP meetings at a juvenile justice facility, they can participate through telephone conferencing.

If parents/guardians are not available to participate in the IEP process, surrogate parents can be appointed by the agency funding the youth's education. A surrogate parent assumes the rights with respect to special education that parents normally have. The surrogate parent cannot be an employee of any agency that might have a conflict of interest with the provision of special education services.

Whenever possible, it is advisable that the IEP meeting include representation from the youth's IEP team in his/her home school

district. If a representative of the home school cannot attend the IEP meeting in person, the representative can provide input by phone, mail, or fax.

What are a parent's rights regarding getting special education services for their youth in the juvenile justice facilities?

When a youth is transferred to a juvenile justice facility, an IEP or 504 plan must be developed that specifies the services the youth needs while in the juvenile justice facility. If the youth's home school district has not sent the youth's educational records to the juvenile justice facility, parents may obtain a copy of the records from the home school district and send it to the juvenile justice facility.

If a parent feels that their youth in a juvenile justice facility is not receiving appropriate special education and related services, the parent has the same rights under the IDEA to mediation and due process that are afforded to parents whose children attend school in the community.

If a youth has not been identified as having a disability before being sent to the juvenile justice system, do the parents have a right to request that their youth be evaluated regarding a need for special education services while the youth is in the juvenile justice system?

If a parent has a reason to believe that the youth may have a disability and be in need of special education, the parent can submit a written request for an evaluation. The juvenile justice facility is obligated to consider the written request and to determine if the youth has special needs.

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What transition services should be provided for youth in the juvenile justice system?

If a youth is over age 14 and eligible for special education services, a Transition Plan must be included as part of the IEP. Transition plans include the skills and services the needed once the youth leaves public school and include instruction in life skills, social skills, assistance in returning to high school, job seeking skills, pre-vocational and vocational training and supports in the community either from the educational agency or from adult service agencies. When a youth leaves a juvenile justice facility, he/she will need an aftercare plan. Ideally, planning for release should begin when a youth enters the juvenile justice facility. An aftercare plan includes what the youth must do to stay out of trouble, including academic goals and school attendance, ongoing mental health services, substance abuse classes, and meetings with a probation officer.

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"One aspect about the project that I find very exciting is the reality that students with disabilities are actually making almost one-year reading gains for each year in school. This project is becoming affordable and sustainable for school districts. This reading mentoring program can be implemented anywhere that people want to do it for minimal dollars and with minimal additional effort by school personnel," said Osborn.

For More Information

For more information about the Northwest Ohio Special Education Reading Mentoring Consortium Project, contact Amy Freeman with the Putnam County ESC at 419-523-5951, or afreeman@pm.noacsc.org.

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