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The Individuals with Disabilities Education Act (IDEA): Overview of Major Provisions

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Summary

The Individuals with Disabilities Education Act (IDEA) provides funds to states for the education of children with disabilities. It contains detailed requirements for the receipt of these funds, including the core requirement of the provision of a free appropriate public education (FAPE). IDEA was comprehensively revised in 1997 by P.L. 105-17, but Congress has continued to grapple with issues relating to the Act. This report provides a brief overview of the Act with particular attention paid to issues of recent congressional concern, such as funding and the provision of FAPE for children with disabilities found to have brought a weapon to school. This report will be updated as warranted by new issues and possible legislative action to reauthorize IDEA.

Statutory Requirements

IDEA, 20 U.S.C. §§1400 *et seq.*, provides federal funds to assist the states in assuring that each child with a disability receives a free appropriate public education (FAPE). The current history of IDEA begins in 1975 with the passage of the Education for All Handicapped Children Act of 1975 (P.L. 94-142).¹ Although the Act has been amended several times to add provisions relating to the education of infants and toddlers (P.L. 99-457), attorneys' fees (P.L. 99-373) and its name was changed to Individuals with Disabilities Education Act in 1990 (P.L. 101-476), the first comprehensive revision of IDEA occurred in 1997 with the passage of the 1997 IDEA Amendments (P.L. 105-17).²

¹ For a discussion of Congressional intent in passing P.L. 94-142, see CRS Report 95-669, *The Individuals with Disabilities Education Act: Congressional Intent*, by Nancy Jones.

² For a more detailed overview of the 1997 Amendments made by P.L. 105-17, see CRS Report (continued...)

IDEA both authorizes federal funding for special education and related services³ and, for states that accept these funds,⁴ sets out principles under which special education and related services are to be provided. The requirements are detailed, especially when the regulatory interpretations are considered. The major principles include requiring that:

- States and school districts make available a **free appropriate public education** (FAPE)⁵ to all children with disabilities, generally between the ages of 3 and 21; States and school districts **identify, locate, and evaluate** all children with disabilities, regardless of the severity of their disability, to determine which children are eligible for special education and related services;
- Each child receiving services has an **individual education program (IEP)** spelling out the specific special education and related services to be provided to meet his or her needs; the parent must be a partner in planning and overseeing the child's special education and related services as a member of the **IEP team**;
- "To the maximum extent appropriate," children with disabilities must be **educated with children who are not disabled**; and states and school districts provide **procedural safeguards** to children with disabilities and their parents, including a right to a due process hearing, the right to appeal to federal district court and, in some cases, the right to receive attorneys' fees.

IDEA helped fund special education and related services for about 6 million children with disabilities in school year 1998-1999 (the most recent year for which data are published). The largest group of children served are those with specific learning disabilities. Other types of disabilities specified in the law are mental retardation, hearing impairments, speech or language impairments, visual impairments, serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, and other health impairments.

² (...continued)

97-535, *Individuals with Disabilities Act Reauthorization Legislation: An Overview*, by Steven R. Aleman and Nancy Lee Jones. For an overview of the final IDEA regulations from U.S. Department of Education, see CRS Report RL30103, *The Individuals with Disabilities Act: Department of Education Final Regulations*, by Nancy Lee Jones and Richard N. Apling.

³ Related services (for example, physical therapy) assist children with disabilities to benefit from special education (20 U.S.C. §1401(22)).

⁴ Currently all states receive IDEA funding.

⁵ It should be emphasized that what is required under IDEA is the provision of a free appropriate public education. The Supreme Court in *Board of Education of the Hendrick Hudson Central School District v. Rowley*, 458 U.S. 177 (1982), held that this requirement is satisfied when the state provides personalized instruction with sufficient support services to permit a child to benefit educationally from that instruction and that this instruction should be reasonably calculated to enable the child to advance from grade to grade. IDEA does not require that a state maximize the potential of children with disabilities.

Funding and the Full Funding Issue

Funding. IDEA authorizes a grants-to-states program (accounting for most IDEA funding), state preschool grants, and state grants for infants and families together with various national programs (e.g., funds for research and improvement). The following table summarizes appropriations for these programs for FY2000, FY2001, and FY2002. Total funding in FY2002 (\$8.7 billion) increased by more than 40% over FY2000 and by more than 16% over FY2001. Virtually all of these increases went for grants to states under Part B of IDEA.

Table 1. IDEA Appropriations for FY2000, FY2001, and FY2002
(in \$1,000s)

| | FY2000 | FY2001 | FY2002 |
|--|--------------------------|--------------------------|--------------------------|
| Grants to states (Part B) | \$4,989,685 ^a | \$6,339,685 ^b | \$7,528,533 ^c |
| Preschool grants (Part B) | 390,000 | 390,000 | 390,000 |
| Grants for infants and families (Part C) | 375,000 | 383,567 | 417,000 |
| Subtotal: state grants | 5,754,685 | 7,113,252 | 8,335,533 |
| National programs (Part D) | 281,511 | 326,696 | 337,271 |
| Total: Special Education | \$6,036,196 | \$7,439,948 | \$8,672,804 |

^a \$1.248 billion of this amount became available on July 1, 2000. The remaining \$3.742 billion became available on October 1, 2000.

^b \$1.268 billion of this amount became available on July 1, 2001. The remaining \$5.072 billion became available on October 1, 2001.

^c \$2.457 billion of this amount will become available on July 1, 2002. The remaining \$5.072 billion will become available on October 1, 2002.

Full Funding Controversy. An ongoing controversy surrounding IDEA funding concerns whether the federal government is living up to its “promise to fully fund” IDEA. The state funding formula, which provides a foundation amount based on states’ FY1999 grants and allocates remaining amounts based on states’ shares of school-age children and of school-age poor children,⁶ authorizes a maximum allotment per disabled child served of 40% of national average per pupil expenditure (APPE). Annual appropriations have never been sufficient to provide states the current maximum allotment; in FY2002, states will receive an estimated 16.5% of national APPE per disabled child served. Some have called upon the Congress to fully fund the formula. An estimated \$18.2 billion would be required to provide states the maximum allotment allowed per disabled child served, about 2.4 times more than the appropriation of \$7.5 billion for FY2002. Others argue that the 40% figure is an upper limit of funding and as such is a target or goal for federal funding meant to assist states and local school districts to meet their obligation to serve children with disabilities, not an obligation or an unfulfilled promise.⁷

⁶ This is the “permanent” formula, which became effective in FY2000 when appropriations for Part B grants to states exceeded a trigger amount of \$4.9 billion.

⁷ For further information, see CRS Report 97-433, *Individuals with Disabilities Education Act: Full Funding of State Formula*, by Richard N. Apling.

During consideration of the reauthorization of the Elementary and Secondary Education Act (ESEA), the Senate adopted an amendment (sponsored by Senators Harkin and Hagel) to authorize *and* appropriate increased funds (in \$2.5 billion annual increments) for IDEA, until an estimated full funding amount was reached in FY2007. Estimated full funding amounts then would have been appropriated for FY2008-FY2011. No specific amounts would have been appropriated for subsequent fiscal years. Some Members argued that providing “mandatory” funding for IDEA would remove any impetus to reform the program. Others pointed out that Congress is committed to full funding, as evidenced by the 224% increase in Part B state grants since FY1995. Ultimately the Conference Committee on H.R. 1 rejected the Senate proposal.

Discipline

IDEA was originally enacted in 1975 because children with disabilities often failed to receive an education or received an inappropriate education. This lack of education led to numerous judicial decisions, including *PARC v. State of Pennsylvania*⁸ and *Mills v. Board of Education of the District of Columbia*⁹ which found constitutional infirmities with the lack of education for children with disabilities when the states were providing education for children without disabilities. As a result, the states were under considerable pressure to provide such services and they lobbied Congress to assist them.¹⁰ Congress responded with the state grant program still contained in IDEA but also delineated specific requirements that the states must follow in order to receive these federal funds. The statute provided that if there was a dispute between the school and the parents of the child with a disability, the child must “stay put” in his or her current educational placement until the dispute is resolved. A revised stay put provision remains in IDEA.

Issues relating to children with disabilities who exhibit violent or inappropriate behavior have been raised for years and in 1988 the question of whether there was an implied exception to the stay put provision was presented to the Supreme Court in *Honig v. Doe*.¹¹ Although the Supreme Court did not find such an implied exception, it did find that a 10-day suspension was allowable and that schools could seek judicial relief when the parents of a truly dangerous child refuse to permit a change in placement. In 1994, Congress amended IDEA’s stay put provision to give schools unilateral authority to remove a child with a disability to an interim alternative educational setting if the child was determined to have brought a firearm to school.

In 1997, Congress made significant changes to IDEA and attempted to strike “a careful balance between the LEA’s [local educational agency] duty to ensure that school environments are safe and conducive to learning for all children, including children with disabilities, and the LEA’s continuing obligation to ensure that children with disabilities

⁸ 343 F. Supp. 279 (E.D.Pa. 1972).

⁹ 348 F. Supp. 866 (D.D.C. 1972).

¹⁰ For a detailed discussion of the intent behind the enactment of P.L. 94-142, see CRS Report 95-669, *The Individuals with Disabilities Education Act: Congressional Intent*, by Nancy Jones.

¹¹ 484 U.S. 305 (1988).

receive a free appropriate public education.”¹² This current law does not immunize a child with a disability from disciplinary procedures but these procedures may not be identical to those for children without disabilities. In brief, if a child with a disability commits an action that would be subject to discipline, school personnel have the following options:

- suspending the child for up to 10 days with no educational services provided;
- conducting a manifestation determination review to determine whether there is a link between the child’s disability and the misbehavior. If the child’s behavior is not a manifestation of a disability, long term disciplinary action such as expulsion may occur, except that educational services may not cease. If the child’s behavior is a manifestation of the child’s disability, the school may review the child’s placement and, if appropriate, initiate a change in placement; placing the child in an interim alternative education setting for up to 45 days (which can be renewed) for situations involving weapons or drugs; and
- asking a hearing officer to order a child be placed in an interim alternative educational setting for up to 45 days (which can be renewed) if it is demonstrated that the child is substantially likely to injure himself or others in his current placement.

School officials may also seek a *Honig* injunction as discussed previously if they are unable to reach agreement with a student’s parents and they feel that the new statutory provisions are not sufficient.¹³

Recent Proposed Amendments to IDEA Discipline Provisions

Although Congress described its 1997 changes to discipline provisions as a “careful balance,” it was not long before amendments to change the provisions surfaced. The most recent amendments were offered to H.R. 1, 107th Congress, and its companion bill, S. 1.¹⁴ Both these amendments passed their respective Houses but the conference committee did not include them as part of the final legislation that became P.L. 107-110.

Representative Norwood described his amendment to H.R. 1 as allowing “special needs students to be disciplined under the same policy as nonspecial needs students in the exact same situation.”¹⁵ Essentially the amendment would have eliminated the mandated provision of educational services to children with disabilities who have been suspended or expelled for actions involving drugs, weapons, or aggravated assault or battery in a state that does not require educational services in that situation for children without disabilities.

¹² S.Rept. 105-17, 105th Cong., 1st Sess. 28 (1997); H.Rept. 105-95, 105th Cong., 1st Sess. 108 (1997).

¹³ For a more detailed discussion of these provisions, see CRS Report 98-42, *Individuals with Disabilities Education Act: Discipline Provisions in P.L. 105-17*, by Nancy Lee Jones.

¹⁴ For a more detailed discussion of these amendments, see CRS Report RS20947, *Amendments Relating to the Discipline of Children with Disabilities in H.R. 1 and S. 1, 107th Congress*, by Nancy Lee Jones.

¹⁵ 147 *Congressional Record*, daily edition, May 23, 2001. p. H2583.

The amendment offered by Senator Sessions to S. 1, like the House amendment, would have implemented uniform disciplinary policies regarding the discipline of children with disabilities in certain circumstances. The Senate amendment was not limited to specific disciplinary situations like those involving weapons but would have amended IDEA by adding a new subsection relating to uniform policies on discipline when the behavior at issue is not a manifestation of the child's disabilities, providing for certain procedural protections, and providing for alternative placements of children with disabilities in certain situations.

Related Services

The Supreme Court in *Cedar Rapids Community School District v. Garret F.*, 526 U.S. 66 (1999), held that the related services provision in IDEA required the provision of certain supportive services for a ventilator dependent child despite arguments from the school district concerning the costs of the services. Relying on a previous Supreme Court decision, *Irving Independent School District v. Tatro*, 468 U.S. 883 (1984), the Court in a 7 to 2 decision continued to support the “bright line” rule stating that only medical services which must be provided by a physician are not required to be supplied by the school districts. This decision was hailed by disability advocates as a substantial victory for families of children with disabilities while the Court's dissent noted that the decision “blindsides unwary states with fiscal obligations they could not have anticipated.” The Court's decision has increased interest in IDEA funding, especially as it might relate to school districts that are responsible for substantial costs related to one child.

Misidentification

From the inception of IDEA, Congress has been concerned about both the over-identification (that is, identifying children as disabled who are not) and the under-identification of children with disabilities (that is, failing to identify and serve children with disabilities). Concern about under-identification can be seen, for example, in the extensive “child find” requirements of the Act. Concern about over-identification is exemplified in the Act by recent changes in the state and substate formulas to remove possible financial incentives to over-identify and by extensive requirements for judging who is eligible for special education and related services.

Substantial concern about misidentification has centered on the perceived over-identification of African American students (especially African American males). While African Americans account for about 15% of the population ages 6-21 (generally the age group that Part B grants to states serve), they account for about 20% of students identified with disabilities. Although some portion of this higher rate might be explained by factors related to the occurrence of disabilities — for example, greater poverty among African Americans — such factors may not be the full explanation of the rates at which African American students are identified as mentally retarded (nearly 35% of all such students) and emotionally disturbed (more than 25% of these students). Other factors, such as teachers' subjective judgments, are likely to be involved.¹⁶

¹⁶For further information, see CRS Report RL31189, *Individuals with Disabilities Education Act: Identification and Misidentification of Children with Disabilities*, by Richard N. Apling.