

**IDEA REAUTHORIZATION H.R. 1350 SIGNED INTO LAW:  
LEGISLATIVE AND ADMINISTRATIVE NOTES**

The Individuals with Disabilities Education Act (IDEA) is the main federal law dealing with special education. Certain sections of IDEA must be reauthorized by Congress every five years.

- Approximate timeline for current IDEA reauthorization:
  - In April 2003, the House of Representatives passed a bill to reauthorize IDEA (H.R. 1350, vote was 251 - 171)
  - In May 2004, the Senate passed a bill to reauthorize IDEA (H.R. 1350 substituting S. 1248, vote was 95 - 3)
  - By October 2004, a Conference Committee was appointed to iron out the differences between the two bills before the end of the 108<sup>th</sup> Congressional Session. Remarkably, both the House and Senate promptly appointed conferees who were able to negotiate a revised bill which was sent to both the House and Senate for a vote.
  - In November 2004, the full House and Senate passed legislation to reauthorize the new Individuals with Disabilities Education Improvement Act after three weeks of Conference Committee deliberations.
  - In December 2004, the new IDEA legislation H.R. 1350 was signed into law by the President. The Department of Education will now begin writing the regulations to implement the new IDEA bill.
- Important Elements of the reauthorized IDEA of 2004 (H.R. 1350) for “Part B”:
  - Revises the definition of “Highly Qualified” and requires Special Education teachers to fulfill the No Child Left Behind (NCLB) highly qualified teacher requirements by the end of the 05-06 school year, which means-
    - Special education teachers must have full State certification as a special education teacher, or pass the State special education teacher licensing examination and hold a license to teach in the State as a special education teacher;
    - Special education certification or licensure requirements have *not* been waived on an emergency, temporary, or provisional basis; and
    - Special education teacher holds a bachelor’s degree.

- If special education teachers also teach core academic subjects, they must demonstrate subject matter competence as well. This may include a single, high objective uniform state standard of evaluation (HOUSSE) covering multiple subjects.
  - *New* special education teachers teaching multiple subjects must meet NCLB highly qualified standard in at least one core subject area and will have *two* years from date of hire to take the HOUSSE for other core subject areas.
  - Special education teachers teaching students with the most significant cognitive disabilities, who are assessed through alternate standards (APA), must also have an elementary certification. For teachers teaching above the elementary grade level, they must demonstrate the ability to teach at the appropriate instructional level.
- Does *not* require full federal funding (which would be 40% of special education costs, as originally set out by IDEA); instead, provides annual authorized funding levels for IDEA with the goal of full federal funding by 2011 (these funding increases are not mandatory). Currently the federal government is only providing 19% of the cost of educating students with disabilities.
  - Allows up to 15% of IDEA funds to be used for pre-referral educational support services to help children not yet identified with disabilities but who require additional academic and behavioral supports.
  - Clarifies requirements of Local Educational Agencies (LEAs) in regard to funding for parentally-placed private school children with disabilities. Requires LEAs to: (1) provide direct services to such children to the extent practicable; (2) provide data on the number of students evaluated, found to have a disability, and served under part B; (3) conduct the child-find process for such children in a time period comparable to that for students attending public schools; (4) not consider the cost of such child-find and individual evaluations in meeting their proportional obligations; and (5) consult with private school officials on the child find process, determination of proportional share of Federal funds, provision of services, alternative delivery mechanisms, and third party providers. Allows private schools to appeal if such consultation does not take place. Makes an LEA responsible for ensuring equitable services for such children at private schools within the LEA's jurisdiction.
  - Eliminates the requirement for short-term objectives towards the long-term goals in an Individualized Education Program (IEP) (effective at the beginning of the 05-06 school year), except for children who take alternate assessments.
  - Eliminates mandated annual IEP reviews; instead requires schools to give parents quarterly reports on the progress of the child toward meeting annual goals.
  - Authorizes a 15-state pilot program to allow LEAs to develop optional comprehensive multi-year IEPs (not to exceed 3 years). The IEPs must include measurable goals coinciding with natural transition points for the child and a process for review and revision of the multi-year IEP.
  - Authorizes a four-year, 15-state pilot program in which waivers of IDEA paperwork requirements, statutory or regulatory, would be granted in order to reduce paperwork burden.

- Disciplinary procedure revisions under the new IDEA eliminate protections for students with disabilities. New elements of these revisions include:
  - School personnel are authorized to remove a student with disabilities who violates a code of student conduct to an alternate educational setting, another setting, or suspension for up to ten school days without first determining if the behavior was a manifestation of a student's disability
  - Authorizes school personnel, upon determining that the violation was not a manifestation of the child's disability, to extend beyond the ten day limit the same disciplinary procedures as for a child without a disability, provided that FAPE requirements are met, with the option of providing FAPE in an alternate educational setting
  - Adds *serious bodily injury* to another person to the list of offenses (which includes cases involving weapons or drugs) that are worthy of long-term suspension (of up to 45 school days), without regard to manifest determination. Requires student to receive continued educational services, functional behavioral assessments, and behavioral intervention services and modifications.
  - Requires that within ten school days of disciplinary decision to change placement, a review of all relevant information by the LEA, parent, and the IEP Team to determine if the child's behavior was a manifestation of disability, or was the direct result of the LEA's failure to implement the IEP. If the behavior was a manifestation of disability, the IEP Team is required to (1) conduct a functional behavior assessment and implement a behavior intervention plan; or (2) review and modify behavioral intervention plan if already in place prior to disciplinary action; and (3) return the student to the placement from which the student was removed (unless special circumstances apply as stated above)
- Allows a new *optional* State program for parents of children with disabilities who are eligible for Part B preschool services (and previously received Part C early intervention services) to choose to continue early intervention services under Part C until their children enter kindergarten. This allows the extension of early intervention services through age six.
- Creates a *two-year* statute of limitations on violations of IDEA.
- Allows both parents and school districts, as the prevailing party, to collect attorneys' fees if a court finds that the claim is frivolous, groundless, or brought with improper purpose.
- Procedural safeguard revisions under IDEA: (1) Allows due process hearings to be requested by either parents or LEAs; (2) Requires the party filing a due process complaint to send the complaint to the other party as well as to the State agency; (3) Requires States to develop a model form to assist parents in filing due process complaint notices; (4) Allows parents to request mediation before filing a complaint, and provides that a written mediation agreement is enforceable in court; and (5) Allows a new "resolution session" to give parents and LEAs a chance to resolve a complaint before a due process hearing. The session must be held within 15 days of the request and the complaint must be resolved within 30 days of the request.

- Revises the requirements for transition services in an IEP to be in effect not later than the first IEP to be in effect when the child is **16 years old** and be updated annually thereafter, and must also contain: (1) appropriate measurable postsecondary goals based on age appropriate assessments related to training, education, employment, and where appropriate, independent living skills and (2) the transition services the child needs to reach those goals. *\*The impact of this change will not be clear until federal regulations are issued.*
  - Revises personnel standards to direct states to adopt policies that require LEAs to take measurable steps to recruit, hire, and retain highly qualified personnel. Eliminates requirement of states to develop a Comprehensive System of Personnel Development and instead requires state standards for special education teachers, service personnel, and paraprofessionals to be consistent with state-approved certification or licensing. *\*Attempts to align IDEA language with NCLB language.*
- Other Issues:
    - The bill can be viewed in it's entirety by going to <http://thomas.loc.gov> and searching under the bill number, H.R. 1350.

\*\* This fact sheet was created with information from Wrightslaw IDEA Reauthorization Website (<http://www.wrightslaw.com/statute.htm>), Council for Exceptional Children's Public Policy and Legislative Information page (<http://www.cec.sped.org/pp/>), and the Bill Summary for H.R. 1350.