

**ALIGNMENT WITH THE *NO CHILD LEFT BEHIND ACT*****(See also Highly Qualified Teachers, Local Funding, and State Funding)**

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 became effective on July 1, 2005, with the exception of some of the elements pertaining to the definition of a “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 the 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, that took 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; arts; history; and geography. [9101(11) 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;
- Either
  - who was not born in the United States or whose native language is a language other than English;
  - who is a Native American, 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

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<sup>1</sup> Topics in this series include: Alignment With the *No Child Left Behind Act*; Changes in Initial Evaluation and Reevaluation; Children Enrolled by Their Parents in Private Schools; Discipline; Disproportionality and Overidentification; Early Intervening Services; Highly Qualified Teachers; Individualized Education Program (IEP) Team Meetings and Changes to the IEP; Individualized Education Program (IEP); Local Funding; National Instructional Materials Accessibility Standard (NIMAS); Part C Amendments in *IDEA 2004*; Part C Option: Age 3 to Kindergarten Age; Procedural Safeguards: Surrogates, Notice and Consent; Procedural Safeguards: Mediation and Resolution Sessions; Procedural Safeguards: Due Process Hearings; Secondary Transition; State Funding; and Statewide and Districtwide Assessments. 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).

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

[9101(25) of ESEA] [602(18) of IDEA]

“Highly qualified.” For a complete definition of the term “highly qualified,” refer to the “Highly Qualified Teachers” topic brief. [9101(23) of ESEA] [602(10) of IDEA]

**2. Allows funds reserved to carry out state-level activities to 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. Allows the use of funds in schoolwide programs.**

... [A] local education agency (LEA) may use funds received under Part B 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) and (ii)(I)-(II) of IDEA]

**4. Allows the use of funds to carry out activities under ESEA.**

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

**5. Requires performance goals and indicators.**

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

- Promote the purposes of IDEA as stated in Section 601(d);
- 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 has established 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)(cc) of ESEA. [612(a)(15)(A) and (B) of IDEA]

**6. Requires reporting.**

[The state] will annually report to the secretary and the public on the progress of the state, and of children with disabilities in the state, 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. Provides for the measurement of the achievement of children with disabilities on alternate assessments against 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 developed and implemented under Section 612(a)(16)(c)(i) of IDEA 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. Requires linking records of migratory children among states.**

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 of electronically exchanging, among the states, health and educational information regarding such children. [613(a)(9) of IDEA]

**9. Establishes a limitation on eligibility determination.**

In making a determination of eligibility under Section 614(b)(4)(A) of IDEA, a child shall not be determined to be a child with a disability if the determinant factor for such determination is lack of appropriate instruction in reading, including in the essential components of reading instruction (as defined in Section 1208(3) of ESEA); lack of instruction in math; or limited English proficiency. [614(b)(5) 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, the *Rehabilitation Act of 1973*, and the *Higher Education Act of 1965*. [653(a)(2)(C) of IDEA]