

IDEA REAUTHORIZATION 2019

THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT

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IDEA was last reauthorized by Congress in 2004 with implementing regulations published in 2006. Reauthorization was legislated so as to update and improve IDEA every 5 years based upon yearly information contained in the mandated Annual Report to Congress on the status of IDEA. This annual report contains comprehensive data, as well as national and state by state data and analysis. 15 years have passed since the last reauthorization, or sufficient time for three reauthorizations. Instead, however, special education was de facto updated through passage of regular education statutes containing subdivisions about special education. No Child Left Behind was enacted in 2001. Its successor was the Every Student Succeeds Act of 2015, the main federal law for K-12 public education. We have only heard about access to general education and not about an emphasis on special education- or the very purpose of IDEA. So for 40 years, with particular emphasis during the last 15, special education is only seen through the lens of regular education. As a result the focus on individualized programming for each child has been lost as both concept and reality.

Since the 1975 P.L. 94-142, the Education for All Children's Act, the key issue was and remains funding. The federal government was originally to provide 40% of the funding to states for IDEA implementation. The most provided over the 40 year span to the present was 17%-18%. As a result of profound disparities between federal funding and state and local need, individual school districts had the burden of funding special education and its stringent procedural requirements. Lack of funding was also responsible for ineffective parent training and information centers, as well as lack of protection and advocacy services in each state. The rise of the philosophy of inclusion, failure to develop genuinely individualized IEPs, and starkly inadequate graduate programs for special education teachers converged to create a national schism. The inclusionists decided that regular education was the correct placement for all disabled children, backing in individualized programming that could be done there. Those following the law knew that the IEP had to be developed first and placement determined second, based upon the ability to implement all of the IEP. Conflict between inclusionists and those seeking to utilize a continuum of placement options continues to the present time. Add to that the profound problem of staff

burnout and complete lack of support for either teachers, child study teams, or parents. No state or federal agency monitors special education beyond mere paper compliance which is essentially worthless. Special education due process hearings are the last refuge for impartial resolution of disputes. But those judges and hearing officers are poorly trained and/or understaffed so that thoroughness and true impartiality is questionable, particularly when so many parents are unrepresented at trial and facing the attorney for the board of education. The vast majority of school districts win these hearings.

So we get to 2019. Special education is completely broken. The skeleton is there but the flesh is gone. Every facet of it is decayed, fraught with corruption that masks the simple truth. Without funding and without understanding how the special education system was intended to work, it is now near death. To make the matter worse, the Department of Education is led by someone who has never been in a public school and has neither knowledge nor experience with IDEA. An April 2019 Federal Register publication addressed proposed data collection, relying on the authority of the Paperwork Reduction Act of 1995. What is not included in the Federal Register posting is that the Paperwork Reduction Act of 1995 was incorporated into the IDEA reauthorization in 2004. That addition to IDEA provided extensive data collection on every issue pertaining to IDEA implementation, provided to Congress annually in the Annual Report to Congress. Therefore, since the data is current, implementing a survey to determine data collection issues and outcomes is duplicative and needlessly expensive. A detailed analysis follows.

THE PAPERWORK REDUCTION ACT OF 1995 AND IDEA

The Paperwork Reduction Act was enacted to minimize the paperwork burden for individuals, including educational and nonprofit institutions. In 2004 this Act was incorporated into the reauthorized IDEA at Sec. 609. A pilot program was initiated with the purpose of providing States with a way to reduce paperwork burdens and “other administrative duties ...directly associated with the requirements of (IDEA), in order to increase the time and resources available for instruction and other activities aimed at improving educational and functional results for children with disabilities.” Waivers were granted to 15 states based upon their proposals to reduce paperwork. Beginning in 2006, information was to be given to Congress on the success of the waivers in reducing:

1. Paperwork burden on teachers, principals, administrators, and related services providers;
2. Non-instructional time spent by teachers in complying with IDEA;
3. Enhancing longer-term educational planning;
4. Improving positive outcomes for children with disabilities;
5. Promoting collaboration between IEP Team members;
6. Ensuring satisfaction of family members.

As a result of this data collection since 2006 and to the present time, it is evident that the April 2019 proposal by the Department of Education is redundant and must be withdrawn. The data already exists in the publication of the yearly annual Report to Congress.

NATIONAL SCHOOL BOARDS ASSOCIATION AND THE NATIONAL EDUCATION ASSOCIATION

Both the National School Boards Association and the National Education Association have been particularly vigorous throughout 2019 in advocating for major changes in IDEA so as to have it reflect current changes in public education. Only after their lobbying and various publications did the Department of Education publish the current Paperwork proposal. While various groups insist that this proposal has nothing to do with IDEA reauthorization, the antecedent activities of these key education groups reveal the contrary. IDEA reauthorization has begun, various subgroups within NSBA and the NEA working to propose legislative changes. However, there is no organized parent group(s) who is similarly preparing to lobby for parents and for the wants and needs of disabled children and their families. So, much like a due process hearing, schools are represented in this impending discussion while parents remain uninformed, unorganized, and without funding to publicize their experiences and outcomes in special education discussions that are imminent. Rather, parents are divided by philosophies of Inclusion, as well as by organizations for specific handicaps. At this moment, each of these groups must combine their missions into a common cause or parental voices will be drowned out by discord and conflicting agendas. That is the “divide and conquer” mantra which is the calculus of every reauthorization.

IMPORTANCE OF MEDICINE AND NEUROSCIENCE IN SPECIAL EDUCATION

Any current discussion and analysis of special education needs and programming must utilize the current agreed upon medical science regarding the various disabilities, as well as the neuroscience of child development and learning. For example, the continuing battle among professionals in reading and literacy should have been settled 20 years ago. We know how to teach reading and what the effective programs are for dyslexic students. In spite of that, schools continue to deny the science of dyslexia and what those brains need to learn in order to decode and obtain meaning from text. There are thousands of examples of school refusal to utilize accepted scientific findings, but the reading example is perhaps the one most observed and experienced by staff, children and parents.

FULL FUNDING WILL START THE PROCESS BUT NOT END IT

At the present time, special education is not realized in any state in the nation. Parents are not equal partners in the process because they do not know what that process is. Often the IEP Team and child study team do not understand the process either. Building principals are often an impediment to the process in that he/she must administer the entire school and make it run and be efficient. Special education often gets in the way of that because of all the meetings, the disagreements, and the numbers of children who need services that are not referred. This is an immense issue. With thousands of students given 504 plans, schools tell parents these are the same as IEPs and a quicker way to get services than to go through special education. This is not true and violates the central message of IDEA- Child Find. Find the child early who has a disability so that help can be provided and the difficulty ameliorated. Full funding will at least begin to let teachers refer children for testing who are not able to do so at the present time as a result of local and state directives to keep the numbers of classified children down. American public education has invented a special education system having little to do with the original intent of Congress. It cannot handle the stressors of urban education or rural education, as well as the many languages and cultures present within the system. Full funding will provide a way for educators, general education, special education, parents and children to begin to work together rather than functioning as adversaries. We have a crisis of major proportions which must be addressed. We cannot work out solutions together if there is no money to implement them. We cannot tell the truth to one another if that truth makes the entire special education façade fall down around us.