

**Overview of the Individuals with Disabilities Education Act
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Overview

- Madam Chair, members of the committee, for your record my name is Bob Runkel, Director of Special Education for the Office of Public Instruction.
- This presentation will provide an overview of the purposes of the Individuals with Disabilities Education Act (IDEA) and will provide information about the recent reauthorization of this federal law known as IDEA '04.
- IDEA has been in existence for almost 30 years. Those of us who have been around a while, will remember it as the Education for all Handicapped Children's Act or Public Law 94 142.
- IDEA was first established for the purposes of guaranteeing education rights to students with disabilities.
- Basic principles of the law include the right to a:
 - Free appropriate public education,
 - Appropriate evaluation for eligibility,
 - Individualized education program known as the "IEP,"
 - Placement in the Least restrictive environment,
 - Parent and student participation in decision-making, and
 - Procedural safeguards including the right to hearing.
- The law is very precious to parents of children with disabilities providing them a sense of security that regardless of their child's disability, their child will be able to access public education in a meaningful way.
- For schools, the law provides carefully crafted procedures to follow to ensure that each child receives an education program that is appropriate to the child's need.

Reauthorization

- President George W. Bush signed the law reauthorizing IDEA on December 3, 2004.
- With your permission, I would like to read a brief excerpt from President Bush's comments when signing the law. This excerpt will give you a sense of the President's priorities:

America's schools educate over 6 million children with disabilities. In the past, those students were too often just shuffled through the system with little expectation that they could make significant progress or succeed like their fellow classmates. Children with disabilities deserve high hopes, high expectations, and extra help.

In the bill I sign today, we're raising expectations for the students. We're giving schools and parents the tools they need to meet them. We're applying the reforms of the No Child Left Behind Act to the Individuals with Disabilities Education Improvement Act so schools are accountable for teaching every single child. All our students deserve excellent teachers. So this law ensures that students with disabilities will have special education teachers with the skills and training to teach special education and their subject area.

- The effective date of the new law is July 1, 2005.
- IDEA '04 contains many changes that will impact parents, teachers, and school administrators.
- For the Office of Public Instruction, this will mean revised state regulations, policies, procedures, and the need to provide extensive training and information on implementation of the law.

Impact

- Of the numerous changes to IDEA, perhaps the biggest change is the effort to align IDEA with the No Child Left Behind Act (NCLB). This alignment affects special education in two key areas, teacher qualifications and an emphasis on academic growth of students:

- Special education teachers will need to meet the “highly qualified” definition of NCLB in order to teach in the core content areas.
 - Most Montana teachers teach multiple core academic subjects and some of those teachers, teach all grade levels. It is likely that this provision will present major challenges for Montana especially knowing this provision comes at a time when over three fourths of our open special education teacher positions are already either difficult or very hard to fill. AND
- Individualized education programs will now emphasize academic performance and
 - The law's emphasis on, and accountability for, academic progress is also likely to present a challenge. Pressures to improve academic performance of students with disabilities may alter IEP priorities away from more traditional self help skills, prevocational skills, and transition to adult living.

Beyond this alignment with NCLB, I will now list other selected examples of change in IDEA '04 that will affect Montana schools and their students and parents.

- Schools will welcome the numerous opportunities in IDEA '04 for reduction in paperwork. Examples are found in at least 5 areas:
 - IEPs will no longer require short-term instructional objectives.
 - In many cases an IEP can be amended without a meeting.
 - In most cases, a procedural safeguard notice will only need to be provided to a parent once per year.
 - States have the option to allow parents and schools to develop multiyear IEPs. AND
 - Up to 15 states can be granted waivers from the Department of Education for certain documentation requirements of IDEA.
- Another important area of change is in the way we determine students are eligible for special education in the area learning disabilities. Learning disabilities represent approximately one half of all students identified as eligible for special education. Assessment for this group

of children will become more educationally relevant by using what is being referred to as a "response to intervention model." In other words:

- In place of the current system will be an evaluation procedure based on how well the child responds to education interventions provided in the classroom.
- Additional flexibility is available to schools in the use of IDEA funds. For example:
 - Schools can reduce, from one year to the next, their level of spending of local and state dollars on special education by up to 50% of any increase in federal funds; previously this figure was 20% of the federal increase. AND
 - Up to 15% of the district's federal special education funds can be used to provide educational support for students who have not yet been identified as eligible for special education.
- Administrators were given additional authority for student discipline. For example:
 - School personnel may remove a student who has inflicted serious bodily injury upon another person without a hearing officer ruling. AND
 - The length of time school personnel may remove a student for drug and weapon violations or for causing serious bodily injury has been changed from 45 calendar days to 45 school days.
- Provisions of the law encourage conflict resolution and establish certain limits on due process hearings and litigation. For example:
 - The new law allows complaints to be submitted no more than two years from the date of the issue.
 - Use of mediation is encouraged. Mediation is something the OPI has encouraged for years as part of our Early Assistance Project through our Legal Services Division. AND
 - Under certain circumstances, schools can collect reasonable attorney's fees from an attorney who continues to litigate a case that is frivolous, unreasonable, or without foundation.
- Numerous changes have occurred in the United States Department of Education's procedures for the monitoring of states. These include:
 - Focused monitoring of states.
 - Disproportionate representation of racial and ethnic groups in special education is now a factor in the priorities for federal

monitoring of states. This is a concern for Montana because of a higher than expected placement rate of American Indian children in special education.

- The US Department of Education now has a scheduled set of interventions which may lead to sanctions imposed on states for noncompliance. These begin with:
 - Technical assistance. IF THIS FAILS
 - Corrective action plan.
 - Compliance agreement.
 - Withholding funds. AND ULTIMATELY
 - Referral to the Justice Department for enforcement action.
This last one makes me wonder if they are building IEP jail cells for the 50 state directors of special education.

Summary

- These changes are simply highlights and only represent a fraction of the significant policy changes in IDEA '04.
- In summary:
 - The new law sets high expectations for academic performance of students with disabilities.
 - Montana will face challenges in meeting the definition of highly qualified special education teacher.
 - Teachers will likely see a reduction in paperwork. AND
 - The United States Department of Education has additional enforcement authority.
- Thank you for this opportunity to present this overview. We would be happy to answer your questions and discuss the opportunities and challenges of IDEA '04.