

# IDEA 2004:

## *The IEP*

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### ABSTRACT

The Individualized Education Program (IEP) is an essential component in providing a free, appropriate public education (FAPE) to individuals with disabilities. The 2004 amendments of the Individuals with Disabilities Education Act (IDEA) have attempted to reduce the paperwork requirements of the IEP, while simultaneously ensuring that the goal of FAPE is met. Furthermore, the legislation attempts to bring the requirements of IDEA and NCLB into better alignment. Legislative changes to the IEP are described, and possible implications are discussed.

multiple changes to the required components of the IEP. An IEP is defined in the legislation as "a written statement for each child with a disability" (20 U.S.C. § 614(d)(1)(A)(i)). The IEP must be developed, reviewed, and revised according to Section 614 of the legislation (Council of Parent Attorneys and Advocates, 2004). The IEP must also include specific components in order for it to be considered an appropriate program in accordance with the legislation. Each of the required components is listed in the following section, with subsequent changes, if any, explained.

THE CORNERSTONE OF THE INDIVIDUALS WITH DISABILITIES EDUCATION IMPROVEMENT ACT (IDEA) of 2004 is the Individualized Education Program document, known as the IEP. Individualization of programming was included in the original IDEA legislation as a means of providing appropriate services for children with disabilities. Parents and educators have both lauded this facet of the legislation and complained about the amount of paperwork that compliance engenders. Each time the reauthorization of the IDEA legislation occurs, concerns raised by parents or professionals have been discussed and often included or changed in the subsequent amendments (e.g., addition of early childhood services, services for students ages 18 to 21, transition services). With the recent 2004 reauthorization, changes have been enacted that bring IDEA into alignment with the No Child Left Behind Act (NCLB) of 2001.

According to the Council for Exceptional Children (2005), this enactment of the IDEA legislation included mul-

### IEP COMPONENTS

#### ***Present Level of Performance***

The present level of performance was the starting point of the IEP. It provided the team that was to develop an individualized program with the basic information concerning the child's specific levels of educational performance at the time that the program was to be developed. The present legislation changes the term "educational performance" to become "academic achievement and functional performance." This change is included to clarify and expand the more narrowly defined focus of the individual student's educational program to include academic achievement and functional performance. The original requirements for the *present level of performance* (sometimes called the PLOP) stated that it must include "how the child's disability affects the child's involvement and progress in the general curriculum" (20 U.S.C. § 614(d)(1)(A)(i)(I)). IDEA 2004 clarifies the general cur-

riculum to become the general “education” curriculum. This amendment underscores the academic focus of curriculum present in NCLB. No changes were made to the requirement to describe how the disability affects the (preschool) child’s participation in appropriate activities. A major change was the addition of a requirement for those children who will participate in alternative assessments because of the severity of their disability. For those children, the PLOP is to include “a description of benchmarks or short-term objectives” (20 U.S.C. § 614(d)(1)(A)(i)(I)).

### **Goals and Short-Term Objectives/Benchmarks**

Previously, all IEPs had a requirement that specific, measurable annual goals and accompanying short-term objectives or benchmarks were to be developed for each area of need described in the PLOP. The major change in this section was the removal of the requirement that all IEPs include short-term objectives or benchmarks for each annual goal. Instead, the term *annual goals* has been clarified to “academic and functional goals” that are designed (previously “related”) to

- (aa) meet the child’s needs that result from the child’s disability to enable the child to be involved in and make progress in the general education curriculum; and
- (bb) meet each of the child’s other educational needs that result from the child’s disability.

(20 U.S.C. § 614(d)(1)(A)(i)(II))

The removal of short-term objectives accomplishes two legislative goals. First, it is part of the paperwork reduction effort requested by teachers; second, it again underscores the academic focus on curriculum that is present in NCLB. In some cases, the use of short-term objectives was seen as a barrier to the inclusion of students in the general education curriculum. However, others feel that without the short-term objectives, the individualization of goals is diminished.

### **Child Progress and Reporting Requirements**

This section, added in an earlier reauthorization, was moved and revised (Council for Exceptional Children, 2005). The first part of this section requires that the PLOP include “a description of how the child’s progress toward meeting the annual goals . . . will be measured.” This statement is no different from that in IDEA 1997, but it is now included in the PLOP instead of as a subsection under the discussion of individual modifications in state assessments. This component also includes the discussion of when this progress will be reported (e.g., through quarterly reports or other periodic reports) and is tied to the child’s meeting of the annual goals. Previously, the IEP was to include a statement of the extent to which the child’s progress is sufficient to achieve the specified goals by the end of the year. The term “sufficient” has

been removed, and the statement is now that the periodic reports must include the “progress the child is making toward meeting the annual goals.” The inclusion of periodic reporting again is an attempt to reduce the conflict between the requirements of NCLB and IDEA. There is a concern that the reporting requirement will influence the selection of goals by emphasizing academic skills to the exclusion of functional skills, as reporting on academic progress is heavily emphasized in NCLB.

### **Services to Be Offered**

In order for the goals developed for the child to be met, special education services must be provided. These services are to include “related” services—that is, those services required to support the provision of services and the appropriateness of the program provided for the child. A clarification statement was included in the new legislation, according to which those special education and related services and supplementary aids and services must be “based on peer-reviewed research to the extent practicable.” This move to select peer-reviewed research is in alignment with the NCLB’s requirement that “evidence-based practices” be used in the education of all children. No changes, except minor wording additions (see italicized words in the next extract), were made to the requirements for the modifications and supports to be provided for the child in order for that same child:

- (aa) to advance appropriately toward attaining the annual goals;
- (bb) to be involved *in* and *make* progress in the general *education* curriculum . . . and to participate in extracurricular and other nonacademic activities; and
- (cc) to be educated and participate with other children with disabilities and children without disabilities in the regular class

(20 U.S.C. § 614(d)(1)(A)(i)(IV))

### **General Education Involvement**

The focus of IDEA has been, and continues to be, the inclusion of students with their nondisabled peers whenever and wherever possible. Thus, this reauthorization resumes without change the requirement that the IEP include an explanatory statement of the extent to which the child will not participate with his or her peers in the general education classroom and in other activities, as described in the goals and objectives and the special education and related services to be provided.

### **Accommodations on State and Districtwide Assessments**

With the continued focus on achievement of the general education curriculum, and the requisite state and districtwide

assessments included in the NCLB, it was imperative that provisions to support the assessment of children with disabilities be included in the legislation. Without individualized accommodations for assessing children with disabilities, it would be difficult (if not impossible) to assess children with disabilities. Without accommodations, children would be more likely assessed on their disability instead of on their knowledge of the requisite educational content. Thus, IDEA 2004 states that the IEP must include “a statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on State and districtwide assessments” (20 U.S.C. § 614(d)(1)(A)(i)(VI)).

There are also children who are unable to participate in the state and districtwide assessments, even with the provision of individual accommodations. For these children, who are to be identified by the IEP team, a statement must be included that explains the reason for this determination and the alternate assessment that will be used. IDEA continues to reinforce the need for individualization in both instruction and evaluation of children and youth with disabilities.

### **Dates and Times of Services**

No changes were made to the requirement that the IEP include the projected date for the beginning of the specified services, both special and related, as well as any requisite modifications to these services. Moreover, the IEP must include a description of the anticipated frequency, location, and duration of the services and modifications (20 U.S.C. § 614(d)(1)(A)(i)(VII)).

### **Transition**

IDEA 1997 added the requirement that at age 14, the transition services needs of children were to be addressed as part of the IEP, and that beginning at age 16, a statement of needed transition services must be included, along with a statement of interagency responsibilities or linkages (Mandlawitz, 2006). With the IDEA reauthorization of 2004, this section was significantly changed. The age 14 requirement was removed, so that transition planning was to begin “not later than the first IEP to be in effect when the child is 16” (20 U.S.C. § 614(d)(1)(A)(i)(VIII)). Added to this section was a requirement concerning the type of postsecondary goals to be included in the statement of needed transition services. These goals were to be

appropriate measurable postsecondary goals based upon age appropriate transition assessment related to training, education, employment, and, where appropriate, independent skills. (20 U.S.C. § 614(d)(1)(A)(i)(VIII))

Furthermore, the statement of needed transition services was to include a description of the courses of study that were

“needed to assist the child in reaching those goals” (20 U.S.C. § 614(d)(1)(A)(i)(VIII)).

### **Age of Majority**

Only a minor wording change was included in the section on the transfer of rights to the child at the age of majority. In IDEA 1997, a statement that the child had been informed of his or her rights was to begin at least 1 year prior to the date of attaining majority. In IDEA 2004, this statement was changed to “beginning not later than 1 year” before this date.

### **IEP Team**

The description and requisite membership of the IEP team includes only minor editing changes. Wherever the words “at least one” were found, they have been changed to “not less than one.” The IEP team must still include the following individuals:

- (i) the parents of a child with a disability;
- (ii) not less than 1 regular education teacher of such child (if the child is, or may be, participating in the regular education environment);
- (iii) not less than 1 special education teacher, or where appropriate, not less than 1 special education provider of such child;
- (iv) a representative of the local educational agency . . . ;
- (v) an individual who can interpret the instructional implications of evaluation results . . . ;
- (vi) at the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and
- (vii) whenever appropriate, the child with a disability. (20 U.S.C. § 614(d)(1)(B))

### **Team Attendance**

This section, concerning whether attendance is required or not, was added with the new reauthorization. Previously, all individuals on the IEP team were required to attend the IEP meeting. Now, if both parties (the parents and the local educational agency; LEA) agree, the attendance of a team member whose input (i.e., information) is not considered essential will not be required. Nonessential information may be information that is unrelated to the absent member’s area of the curriculum or related services. Furthermore, an individual member may be excused from attending the IEP meeting,

even if his or her area of the curriculum is being considered, if (a) the parents and the LEA agree and (b) the team member provides a written report to the parents and the IEP team prior to the meeting. The parent's agreement and consent must be in writing (20 U.S.C. § 614(d)(1)(C)).

## IEP DEVELOPMENT

### General Considerations

The 1997 IDEA included three different requisite considerations to be included when the IEP team was developing the individualized program. These were (a) the strengths of the child, (b) the concerns of the parents regarding enhancing the education of their child, and (c) the result of the initial evaluation or most recent evaluation of the child. A fourth consideration was added with the IDEA reauthorization in 2004. Now, the "academic, developmental, and functional needs of the child" must also be considered (20 U.S.C. § 614(d)(3)(A)).

### Special Factors

IDEA 1997 added five special factors that were to be also considered when developing the child's IEP. These were (a) the question of whether the child's behavior impedes his or her learning, (b) the consideration of the language needs of a child with limited English proficiency, (c) the need for Braille for a child who is blind or has a visual impairment, (d) the communication needs of a child who is deaf or has a hearing impairment, and (e) the needs of the child for assistive technology devices and services (20 U.S.C. § 614(d)(3)(B)). Only minor wording changes were included in this section in the latest reauthorization.

### General Education Teacher Requirement

When IDEA was reauthorized in 1997, it included the requirement that a general education teacher be a member of the IEP team (20 U.S.C. § 614(d)(3)(C)). This requirement was included to enhance the successful inclusion of the child with a disability into the general education curriculum. No significant changes were made to this section.

### Expediting Changes to the IEP

An added section on the development of the IEP is the statement that changes in the IEP after the annual review meeting may occur without calling an additional meeting of the IEP team. Prior to the inclusion of this statement, any requests for changes to the IEP required that the IEP team meet and consider the requested changes in the child's program. Now, if parents and the LEA agree, the changes may be made in writing to amend or modify the current IEP without a full IEP team meeting (20 U.S.C. § 614(d)(3)(D)). Again, this component of the legislation is seen as a part of the reduction-in-

paperwork effort. Close attention should be given to this modification to ensure that major changes to the IEP do not occur without the participation of all team members.

### Review and Revision of the IEP

Since the inception of IDEA in 1975, a yearly review and possible revision has been included. This periodic review could occur more often than annually, but it was to occur no less frequently than once each year. At the time of the review, the IEP team was to consider whether the child's annual goals were being achieved and revise the IEP to address,

any lack of expected progress toward the annual goals and in the general education curriculum, where appropriate; the results of any reevaluation . . . ; information about the child provided to, or by, the parents . . . ; the child's anticipated needs, or; other matters. (20 U.S.C. § 614(d)(4)(A))

As with the development of the IEP, a general education teacher must be a member of the IEP team and "participate in the review and revision of the IEP of the child" (20 U.S.C. § 614(d)(4)(B)).

### Multiyear IEP Demonstration Project

As a result of the concerns about excessive paperwork, IDEA 2004 added a pilot program that provides the opportunity for 15 states to offer parents and LEAs the option to develop a 3-year IEP instead of a 1-year IEP. The review of this 3-year IEP should coincide with the natural transition points in the school life of the child. The development of the 3-year IEP does not abrogate the annual review of the IEP. In years other than the transition times, the annual review is to include a determination of

the child's current levels of progress and whether the annual goals for the child are being achieved, and a requirement to amend the IEP, as appropriate to enable the child to continue to meet the measurable goals set out in the IEP (20 U.S.C. § 614(d)(5)(A)(iii))

If the child is not making progress, then a more in-depth evaluation must occur.

## SUMMARY

In summary, there have been both significant and minor changes in IDEA 2004's requirements for the development,

review, and revision of the IEP. These changes were included as a result of the concerns raised by parents and educators about the increasing paperwork load and the need to align the IEP with the requirements in NCLB. The efforts to reduce the paperwork requirements for teachers are to be praised. The most notable change in this area is the elimination of short-term objectives and benchmarks. However, the new requirements that allow amending the program without an additional IEP meeting may be a good idea. On the other hand, they may inadvertently increase instead of decrease the amount of paperwork. The inclusion of a method by which team members may be excused from the IEP meeting seems reasonable, but, again, by adding a written documentation requirement, this may actually increase the time and the paperwork required to accomplish this effort. So, although the intent of the legislation to reduce paperwork while bringing the IEP in alignment with NCLB appears to have been accomplished, the actual implementation may result in an increase in paperwork. Until the final regulations are issued, the "true" impact of these changes will remain unclear. ■

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