CHAPTER 8

No Child Left Behind Act of 2001

When Congress reauthorized the Individuals with Disabilities Education Act, they made changes to bring IDEA 2004 into conformity with the No Child Left Behind Act of 2001 (Elementary and Secondary Education Act).

Congress added new definitions[1] to IDEA. Special education teachers who teach core academic subjects must meet the highly qualified teacher requirements of No Child Left Behind. To bring IDEA into conformity with NCLB, IDEA 2004 requires states to establish performance goals for children with disabilities that are consistent with the goals and standards for non-disabled children. States are required to report their progress in educating children with disabilities, and their graduation and dropout rates.

In determining if a child is eligible for special education services under IDEA, a child is not eligible if the child's problems are due to "lack of appropriate instruction in reading, including in the *essential components of reading instruction*[2] as defined in Section 1208(3) of ESEA."[3]

Purpose

When you read the Findings and Purposes of the Individuals with Disabilities Education Act, you learned that the Purpose is the most important statute in a law. Read the Purpose of the No Child Left Behind Act:

> The purpose of this title is to ensure that **all children** have a fair, equal, and significant opportunity to obtain a **high-quality education and reach**, at a minimum, **proficiency** on challenging State academic achievement standards and state academic assessments.[4]

No Child Left Behind requires schools and school districts to meet the educational needs of *all* children, including children with disabilities, English language learners, minority and migratory children, and other neglected groups of children, and to publicly report their progress in educating these children every year.

Key requirements of the law include annual proficiency tests in grades 3-8, a highly qualified teacher in every classroom, research-based instruction, increased parental rights, school choice, and public reporting of progress by schools, school districts and states. These requirements are strategies to accomplish the purpose of the law.

No Child Left Behind is not a new law. When Congress reauthorized the Elementary and Secondary Education Act (ESEA) of 1965, they gave that law a new name — the No Child Left Behind Act of 2001.[5]

Background

When the No Child Left Behind was enacted, millions of children were leaving school without the basic skills they need to make it in the real world.

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1 Core academic subjects, limited English proficient, "highly qualified" teachers, and homeless children.

2 See "Four Great Definitions of Reading" at www.wrightslaw.com/nclb/4defs.reading.htm

3 20 U. S. C. § 1414(b)(5)

4 20 U. S. C. § 6301

5 For the full text of the No Child Left Behind Act, see ***Wrightslaw: No Child Left Behind*** by Peter Wright, Pamela Wright, and Suzanne Heath, published by Harbor House Law Press, Inc.

According to the Nation's Report Card:[6]

- Only 36 percent of 12th graders are proficient in reading
- Only 18 percent of 12th graders are proficient in science
- Only 17 percent of 12th graders are proficient in math
- Only 11 percent of 12th graders are proficientg in U. S. history

Closing the Gap

Nationally, there is a significant gap between the achievement test scores of children from low-income families, racial minorities, children with disabilities, English language learners, and the test scores of other children. Children with disabilities are one of the groups that have often been left behind.

No Child Left Behind seeks to close that achievement gap by holding states, local school districts, and schools accountable for improving the academic achievement of all children. The provisions in No Child Left Behind that affect children and their parents include:

- Annual proficiency testing
- Research based reading programs
- Highly qualified teachers
- Parents' right to know the qualifications of their child's teachers
- Supplemental educational services and public school choice
- Parent involvement and empowerment[7]

Annual Proficiency Testing

By 2005, schools were required to test all children in math and reading every year in grades 3 through 8. By 2007, schools must begin to test children in science.

Annual assessments or proficiency tests provide you with information about the school's progress in teaching your child and other groups of children.[8] This information will help you ensure that your child is not left behind or trapped in a failing school. Annual testing also provides valuable information to your child's teachers. Teachers will know the strengths and weaknesses of their students. This information will help teachers develop lessons and ensure that all students meet or exceed state standards.

Research Based Reading Programs

No Child Left Behind focuses on teaching young children, including children with disabilities, to read. One goal of NCLB is that all children will read at grade level by the end of grade three. According to the Nation's Report Card:

- 32 percent of 4th graders are proficient readers
- 33 percent of 8th graders are proficient readers
- 36 percent of 12th graders are proficient readers

6 http://nces.ed.gov/nationsreportcard/about/national.asp

7 These rights vary slightly from school to school, based on the source of funding. For full details, see ***Wrightslaw: No Child Left Behind***.

8 According to the implementing regulations for No Child Left Behind, "one percent of all students is approximately 9.0 percent of students with disabilities" have "significant cognitive disabilities." Thus, 91 percent of students with disabilities do not have "significant cognitive disabilities" that prevent them from learning grade level material. See *Federal Register*, Volume 68, page 68699, published December 9, 2003,

The reading skills of most children with disabilities lag behind the skills of their peers, regardless of the child's disability. Many schools use reading programs that are not effective in teaching children to read. NCLB provides funds for states and districts to use "in establishing reading programs for students in kindergarten through grade 3 that are based on scientifically based reading research, *to ensure that every student can read at grade level or above not later than the end of grade 3*."[9] (emphasis added) NCLB includes the legal definitions of reading, the essential components of reading instruction, diagnostic reading assessments, and reading research.

Key Definitions

Reading

No Child Left Behind includes the legal definition of reading:

"Reading is a complex system of deriving meaning from print that requires all of the following:

(A) The skills and knowledge to understand how phonemes, or speech sounds, are connected to print,

(B) The ability to decode unfamiliar words,

(C) The ability to read fluently,

(D) Sufficient background information and vocabulary to foster reading comprehension,

(E) The development of appropriate active strategies to construct meaning from print,

(F) The development and maintenance of a motivation to read."[10]

Essential Components of Reading Instruction

No Child Left Behind defines the five essential components of reading instruction.

"The term 'essential components of reading instruction' means explicit and systematic instruction in-

(A) phonemic awareness,

(B) phonics,

(C) vocabulary development,

(D) reading fluency, including oral reading skills, and

(E) reading comprehension strategies."[11]

Diagnostic Reading Assessments

No Child Left Behind defines diagnostic reading assessments.

"The term 'diagnostic reading assessment' means an assessment that is-

(i) valid, reliable, and based on scientifically based reading research; and

(ii) used for the purpose of-

(I) identifying a child's specific areas of strengths and weaknesses so that the child has learned to read by the end of grade 3;

(II) determining any difficulties that a child may have in learning to read and the potential cause of such difficulties; and

(III) helping to determine possible reading intervention strategies and related special needs."[12]

9 20 U. S. C. § 6361
10 20 U. S. C. § 6368(5)
11 20 U. S. C. § 6368(3)
12 20 U. S. C. § 6368(7)

Scientifically Based Reading Research

No Child Left Behind defines scientifically based reading research.

"The term 'scientifically based reading research' means research that-

(A) applies rigorous, systematic, and objective procedures to obtain valid knowledge relevant to reading development, reading instruction, and reading difficulties; and

(B) includes research that-

(i) employs systematic, empirical methods that draw on observation or experiment;

(ii) involves rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn;

(iii) relies on measurements or observational methods that provide valid data across evaluators and observers and across multiple measurements and observations; and

(iv) has been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective, and scientific review."[13]

Teacher Qualifications

Highly Qualified Requirements

The requirements about qualifications of special education teachers are new and track the highly qualified teacher requirements in No Child Left Behind.[14] A "highly qualified teacher" has full State certification (no waivers), holds a license to teach, and meets State requirements. The requirements are somewhat different for elementary, middle school, and high school teachers, for teachers of multiple subjects, and for teachers who teach to alternate standards.[15]

Special educators who teach core academic subjects must be highly qualified by the end of the 2005-2006 school year. Special educators who do not provide instruction in core academic subjects are not required to meet the highly qualified teacher requirements. IDEA 2004 requires States to take measurable steps "to recruit, train, and retain highly qualified personnel to provide special education and related services."[16]

Parents' Right to Know Qualifications of Their Child's Teachers

At the beginning of each school year, school districts that receive Title I funds must notify parents that they may request specific information about the qualifications of their children's teachers. At a minimum, parents have a right to know–

- if the teacher is certified or licensed to teach the grade levels and subjects she is teaching
- if the teacher's certification or licensure was waived under an emergency or provisional status
- the teacher's college major and any graduate degree or certification
- if the child received services from a paraprofessional, the qualifications of that paraprofessional[17]

See the sample letter to request information about the qualifications of your child's teachers at the end of this chapter.

13 20 U. S. C. § 6368(6)
14 20 U. S. C. § 1412(a)(14)
15 20 U. S. C. § 1401(10)(B)
16 20 U. S. C. § 1412(c)(14)
17 20 U. S. C. § 6311

Choices and Options

Public School Choice

If your child attends a Title I School that fails to meet its Adequate Yearly Progress goal for *two consecutive years*, your child may transfer to a non-failing school within the district. If all schools in your district fail to meet their AYP goals for two consecutive years, your child may attend a better-performing school in another school district. If your child transfers to a better-performing school, the child may remain there until he or she completes the highest grade in that school.

Supplemental Educational Services

If your child attends a Title I school that fails to meet its Adequate Yearly Progress goal for *three consecutive years*, the school must provide supplemental educational services to the students from low-income families who remain in the school. Supplemental educational services include tutoring, after-school programs, and summer programs. Supplemental services must be free to parents.

Parents may choose a tutor or other supplemental service provider from a list of approved providers maintained by the state. The state must ensure that all providers on the list have a history of success. The district may give preference to the lowest-achieving children from low-income families who request supplemental services.

Supplemental services providers must provide parents and the school with information about student progress. Providers must ensure that instruction meets state and local standards, including state student academic achievement standards. Providers must also comply with health, safety, and civil rights laws.

Your Child's IEP

As you develop your child's IEP, you need to be familiar with the essential components of reading instruction. The definitions of reading and research based reading programs apply to all programs, all schools, all children, all the time. These terms define and describe the minimum requirements for your child's reading program at school.

Don't forget that the timeline for teaching a child to read fluently is by the end of *grade three*.[18]

Participation in Assessments

In IDEA 2004, the language about who will participate in assessments was changed to "*All* children with disabilities are included in *all* general State and districtwide assessment programs . . . with *appropriate accommodations, where necessary* and as indicated in their respective individualized education programs."[19] (emphasis added) Some parents are afraid that including their children with disabilities in these assessments will cause the child to be retained or denied a diploma. The purpose of these tests is to determine how well schools are performing their job of educating children, not to punish children when schools don't do their job.

Adaptations and Accommodations

For children with disabilities who receive services under IDEA and have Individualized Education Programs (IEPs), NCLB mandates that the child will receive "the reasonable adaptations and accommodations for students with disabilities . . . necessary to measure the academic achievement of such students relative to State academic content and State student academic achievement standards."

IDEA 2004 requires the child's IEP to 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 . .

18 20 U. S. C. § 6361
19 20 U. S. C. § 1412(c)(16)(A)

> . [and] if the IEP Team determines that the child shall take an alternate assessment on a particular State or districtwide assessment of student achievement, a statement of why…the child cannot participate in the regular assessment; and . . . [why] the particular alternate assessment selected is appropriate for the child . . . .[20]

In Summation

In this chapter, you learned about key provisions of the No Child Left Behind Act and how these provisions were incorporated into the Individuals with Disabilities Education Act of 2004. You learned the legal definitions of reading, the essential components of reading programs, reading assessments, and scientifically based research. You learned that No Child Left Behind and IDEA 2004 require schools to provide children with disabilities with appropriate accommodations on all state and district tests.

To learn how NCLB will affect your child's education, parents should read Chapter 5 in *Wrightslaw: No Child Left Behind*. Educators will be interested in Chapter 6, "No Child Left Behind for Teachers, Principals and Paraprofessionals." Attorneys and advocates who represent the interests of children with disabilities will be interested in the questions in Chapter 7, "No Child Left Behind for Attorneys and Advocates."

On the next page is a sample letter to request information about the qualifications of your child's teachers that you can adapt to your circumstances. In the next chapter, you will learn about the Family Educational Rights and Privacy Act.

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20 20 U. S. C. § 1414(d)(1)(A)(i)(VI)

Sample Letter to Request Information about Teachers' Qualifications

Debra Pratt
17456 General Puller Highway
Deltaville, Virginia 23043
804-758-8400

May 1, 2007

Dr. Deborah Harrison, Principal
Deltaville Middle School
1000 Main Street
Deltaville, Virginia 23043

Re: Kelsey Pratt (DOB: 01/01/93)
School: Deltaville Middle School

Dear Dr. Harrison:

My daughter Kelsey is a seventh grade student at Deltaville Middle School. She has four teachers: Ms. Adams, Mr. Brown, Ms. Canady, and Ms. Davis, a substitute math teacher. Kelsey also receives tutoring from Ms. Evans, a paraprofessional.

When I read an article about No Child Left Behind on the U. S. Department of Education website, I learned that I am entitled to information about my child's teachers, including:

(1) Whether the teacher has met State qualification and licensing criteria for the grade levels and subject areas in which the teacher provides instruction;

(2) Whether the teacher is teaching under emergency or other provisional status through which State qualification or licensing criteria have been waived.

(3) The baccalaureate degree major of the teacher and any other graduate certification or degree held by the teacher, and the field of discipline of the certification or degree.

(4) Whether the child is provided services by paraprofessionals and, if so, their qualifications.

I am requesting this information about the qualifications of Kelsey's teachers and paraprofessional. I believe the information will help me work more effectively with her teachers.

If you have questions about my request, please call me at work (899-555-9876) or at home (899-555-1234) after 6 p.m., or you may email me at debrapratt@deltavilleva.com. Thanks in advance for your help.

Sincerely,

Debra Pratt
Debra Pratt