

Individuals with Disabilities Education Act (IDEA): Reauthorization 2004 at a Glance

In December of 2004, President Bush signed into law a new version of the Individuals with Disabilities Education Act (IDEA) [Pub. L. No. 108-446]. The legislation will go into effect next school year (2005-2006). Congress made several changes to the law that will have an impact on children and youth experiencing homelessness. These changes include the following:

Definitions

IDEA now contains a definition of homeless children that includes any children or youth considered homeless under the McKinney-Vento Homeless Assistance Act. Section 602(11).

Evaluations

- ❖ IDEA now includes a timeframe of 60 days to conduct initial evaluations for special education. This rule has limited exceptions, including an extension for schools receiving transfer students who were in the middle of the evaluations process prior to changing schools. However, to qualify for such an extension, the new school must make sufficient progress toward completing the evaluations **and** the parents must agree to the new timeframe. Section 614(a)(1)(C).
- ❖ When assisting students who transfer between school districts in an academic year, new districts must coordinate their evaluation efforts with previous school districts in order to ensure prompt completion of the process. Section 614(a)(1)(C). Thus, new school districts should consider using evaluations developed in previous school districts, provided that those evaluations are appropriate and reliable.

Transfers and Provision of Services

- ❖ School districts must promptly provide special education services when children with IEPs change school districts during the course of a school year. Districts must provide services comparable to those included in the previous IEP, in consultation with parents, until the previous IEP is adopted or a new IEP is developed. Section 614(d)(2)(C)(i).
- ❖ School districts are required to immediately request records (including evaluations and IEPs) from previous schools. Previous schools must immediately send those records. Section 614(d)(2)(C)(ii).

Unaccompanied Youth

- ❖ Unaccompanied youth with special needs must have surrogate parents appointed to them within 30 days. Section 615(b)(2). Staff members of emergency shelters, transitional shelters, independent living programs, and street outreach programs are eligible to serve as temporary surrogates for unaccompanied youth, if appropriate.

- ❖ Children and youth awaiting foster care no longer need the consent of a parent or a surrogate to receive initial evaluations. This rule applies only if the parent cannot be found or parental rights have been terminated. Section 614(a)(1)(C)(iii). Either a surrogate (appointed by a judge or school district) or a foster parent must consent to actual services. Sections 615(b)(2); 602(23).

Early Intervention Services

- ❖ School districts have the option of reserving 15% of their IDEA funding to develop and implement early intervention services for K-12 students (with a particular emphasis on K-3) who need additional academic and behavioral support but have not been found eligible for special education. Section 613(f).

Infants and Toddlers

- ❖ States are required to meaningfully involve homeless families and wards of the state in their special education programs for infants and toddlers. Section 637(b)(7).

Coordination/Compliance with the McKinney-Vento Homeless Assistance Act

- ❖ IDEA now requires states receiving IDEA funding to ensure that the requirements of the McKinney-Vento Act are met for all children with disabilities in homeless situations in the state. Section 612(a)(11)(A)(iii).
- ❖ IDEA requires the inclusion of homeless education personnel on state special education advisory panels and Interagency Coordinating Councils. Sections 612(a)(1); 641(b)(1).

Reaffirming Previous Federal Requirements

In passing the latest version of IDEA, Congress reaffirmed certain federal requirements that apply to the education of homeless students. Such provisions include the following:

- ❖ States and districts must still adhere to the child find requirement, i.e. they must identify ***all*** students for appropriate special education and related services. The new IDEA specifically states that homeless children are included within the term “all.” Section 612(a)(3)(A).
- ❖ IDEA still requires states that are receiving IDEA funding to make early intervention services available to ***all*** infants and toddlers (to the extent practicable). The new IDEA specifically states that homeless children are to be included within the term “all.” Section 635(a)(2).

Other

The recently reauthorized IDEA includes several other changes pertaining to areas such as student discipline, reporting requirements, dispute resolution, and teacher quality. More information about these changes (including the text of the legislation and a comprehensive summary) can be found on the website of the Council for Exceptional Children (http://www.cec.sped.org/law_res/doc/).