

IDEA

Intention

- “to ensure that all eligible students with disabilities receive a *free appropriate public education* specifically designed to meet their unique needs” (p. 91)
- Sounds simple enough ...
 - Is this doable?
- Did not specify outcomes that would indicate FAPE, but provided procedural safeguards

Timeline, Names, & Numbers

- Signed by Pres. Ford in 1975 as the Education for All Handicapped Children Act (EAHCA)
 - PL 94-142
 - Final regs not released until 1977 (law took effect August 23, 1977)
- Amended in 1986, in 1990 as IDEA, in 1997, and in 2004 as IDEIA
- Up for reauthorization again soon

PL 94-142 as Funding Mandate

- IDEA is not required of states
 - States that agree to accord with its mandates received funding
- Originally, New Mexico did not apply for funding
 - But NM got sued under Section 504 for discriminating against individuals with disabilities
 - Might as well get funds from feds if you have to accord by most of the law anyway

Conditions Prior To PL 94-142

- Many children, especially with low incidence (i.e., severe) disabilities, not attending school
- High prevalence of separate, special schools and classes
- Identification procedures erratic and often invalid

Who?

- Children must have one of 13 disabilities
- Disability must adversely affect their education
- Age 6-17 is mandatory, 3-5 and 18-21 if state provides services for nondisabled students
 - Hawaii only goes to 20
 - Age 0-2 under Part C of IDEA
 - Can be eligible as developmentally delayed

Funding

- Intent was 40% of special education funding
- Initially funded about 12%
- In 80s and 90s as low as 7 to 8%
- IDEIA raised funding to 19%

Disability Categories

- Autism (added in 1990)
- Deaf-blindness
- Deafness
- Hearing impairment
- Intellectual disability (MR before 2010)
- Multiple disabilities
- Orthopedic impairment
- Other health impairment
- Emotional disturbance (SED before 1997)
- Specific learning disability
- Speech or language impairment
- Traumatic brain injury (added in 1990)
- Visual impairment
- Developmental delay (only used for ages 3-9)

Disability Categories

- States can use different names for disabilities
- States can merge or expand categories
- States must identify and serve those who meet federal criteria regardless of what they call it

Structure

- Title I
 - Part A: Justification
 - Part B: Educational requirements for ages 3-21
 - Part C: Educational requirements for ages 0-2 (infants and toddlers)
 - Part D: Support and discretionary programs to support IDEA

Structure

- Title II
 - National Center on Special Education Research (part of IES): Funds research to expand knowledge, improve services, and evaluate impact of special education/ IDEA
- Title III
 - “Miscellaneous provisions”
 - Dates, copyrights

Key Principles (Part B)

- Zero Reject
 - Subject of intense debate in 70s and 80s
 - School must actively engage in child finding
- Identification and evaluation
 - History of bias assessments
 - Assumption that biased assessments contribute to over-identification of minority students in special education
 - Protection in evaluation procedures (PEP)

Key Principles (Part B)

- Free Appropriate Public Education
 - The F and P are pretty straightforward, we'll examine the A later
- Least Restrictive Environment
 - More restrictive placements justified only when appropriate education not possible in inclusive placement with supplemental aids and services
 - Continuum of alternative placements must be available

Key Principles (Part B)

- Procedural safeguards
 - General: notice and consent requirements
 - Independent educational evaluation
 - Appointment of surrogate parents
 - Dispute resolution
 - 1997 reauthorization made mediation available before due process hearing

Key Principles (Part B)

- Technology-related assistance
 - Must be included in IEP if necessary to achieve FAPE
 - With exception of surgically implanted devices (e.g., cochlear implants)
- Personnel development
 - Preservice and professional development
- Parent participation
 - Due process safeguards
 - IDEA 97 requires providing parents with progress reports at least as often as for nondisabled students

Subparts of Part D

- Grant programs
 - State Personnel Development Grants
 - Personnel Preparation, Technical Assistance, Model Demonstration, and Dissemination
 - typically granted to universities
 - Supports to Improve Results
 - e.g., Parent training and information centers

IDEA 97 Changes

- IEP
 - Must include short term goals or benchmarks to determine progress toward annual goals
 - Determine if modifications or adaptations required for statewide proficiency test

IDEA 97 Changes

- Discipline
 - Behavioral Intervention Plans required for students with behavioral problems
 - Placement in interim alternative educational setting for up to 45 days for bringing weapons or illegal drugs/ controlled substances to school
- Manifest Determination
 - If behavior was not related to disability, discipline could be delivered in same way as for nondisabled students

IDEA 97 Changes

- Dispute Resolution
 - States have to offer voluntary mediation before due process hearing

IDEIA of 2004

- Aligned with NCLB
- Emphasis on
 - high expectations for academic achievement
 - use of scientifically-based practices
 - highly qualified teachers
 - paperwork reduction
 - reduced litigation

IDEIA Changes

- IEP
 - Specifies participants (parents, sped teacher, gen ed teacher, LEA rep, evaluation expert, others)
 - Participant(s) can be excused if LEA and parents agree
 - Benchmarks and short-term goals not required
 - 3-year IEPs piloted

IDEIA Changes

- Discipline
 - Manifest determination language added: caused by, or direct and substantial relationship
 - Behaviors that lead to 45-day removal expanded to include serious bodily injury
 - Stay put (placement during litigation) changed to alternative rather than previous placement

IDEIA Changes

- **Dispute Resolution**
 - Time limits for requesting due process hearing (2 years) and filing appeal (90 days)
- **Eligibility**
 - Timeline from consent for evaluation to determination reduced to 60 days
 - Student is not eligible if disability due to lack of scientifically based practices, inappropriate teaching, or ELL status
 - RTI allowed to identify SLD

IDEIA Changes

- Early intervening services
 - States can spend up to 15% of Part B monies on non-identified but at-risk students
- Highly qualified teachers
 - New sp ed teachers must have bachelor's degree, be certified by state, demonstrate competency in subject matter

Monitoring and Enforcement

- Office of Special Education Programs (OSEP, which falls under the Office of Special Education and Rehabilitation Services [OSERS]) conducts formal monitoring and enforcement efforts
 - Effectiveness of law and enforcement broadly questioned
 - If found in violation, states might into a consent decree or have funding taken away
 - Hawaii under Felix Consent Decree from 1994 to 2005