

INTRODUCTION

The Individuals with Disabilities Education Act (IDEA) (P.L. 94-142 [20 U.S.C., §1400 et seq.], authorized by Congress in 1975 and reauthorized in 1997 and 2004, guarantees all children with disabilities the right to a free appropriate public education and guarantees procedural safeguards to assure protection of the rights of these children and their parents. The No Child Left Behind Act (NCLB) (PL-107-110 [20 U.S.C. §6301, et seq.], 2001) requires, among other things, that schools be accountable for education results through annual standardized testing and through additional standards that determine a school's adequate yearly progress (AYP).

The 2004 reauthorization of IDEA brought it into alignment with NCLB. This policy brief discusses the concurrent implementation of these two federal policies, focusing on assessment and accountability for students with disabilities, and also, issues related to school choice and supplemental education services.

ASSESSING STUDENTS WITH DISABILITIES AND ACHIEVING ADEQUATE YEARLY PROGRESS

NCLB requires that students in grades 3-8 be assessed annually to measure proficiency in reading and mathematics, with periodic assessments in science beginning in 2007-2008. The IDEA reauthorization did not include specific standards by which a school's adequate yearly progress (AYP) is determined with respect to its special education students. NCLB specifies that students with disabilities are to be assessed at their current grade level, and are to be offered appropriate accommodations or alternate assessments as needed.

IDEA requires that a student's Individual Education Plan (IEP) team determine how he or she will participate in the required annual assessments. For example, a special education student may be required to participate in the exam at his or her grade level with accommodations and modifications as appropriate, or may be required to complete an alternate assessment. Each student's IEP should specify his or her testing parameters.

An alternative assessment may be a test created by a teacher, a school district, or a state. In some states, such as Wisconsin, the alternative assessment consists of a checklist to be completed by a teacher that focuses on knowledge and skills specified in the state standards. In other states, such as New York and New Jersey, the alternative assessment is a skill-based portfolio focused on daily living skills or other alternative performance standards.

REPORTING TEST SCORES OF STUDENTS WITH DISABILITIES

Students with disabilities are among the subgroups whose test scores are disaggregated for purposes of measuring adequate yearly progress (AYP). As with all subgroups, test results for at least 95% of special education students must be reported for accountability purposes. Disability advocates note that many students with disabilities are capable of completing the standardized tests administered to all students, provided that appropriate accommodations are provided. Accommodations might include altering the time frame, location, presentation and/or response mode of the exams to facilitate full participation by students with disabilities. Of particular concern to some administrators is the issue of reporting the test scores of cognitively impaired students, since they are to be tested at their current grade level, rather than at the level of their cognitive functioning (which may be much lower than their grade level).

NCLB allows each district to count as proficient students with cognitive impairments who have completed alternative assessments equivalent to 1% of all students at that grade level who take the exam. Also, a district or school may request an exception to this 1% cap if it can provide documentary evidence that the number of students with significant cognitive impairment exceeds 1%. Thus, in districts where a large number of students with cognitive impairments attend school (near a specialized medical or research center, for example), an exception to the 1% standard may be granted (see Table 1 on the following page for details).

Table 1: Requirements for NCLB Annual Assessments Related to Students with Disabilities

Requirements for assessing students with disabilities in grades 3-8:

- All students must participate in annual assessments of reading/language arts and mathematics proficiency.
- Students are to be tested at the grade level in which they are enrolled.
- Students with disabilities must be provided with appropriate accommodations to facilitate their participation in testing.
- Students with disabilities may be provided with alternative assessments if this is specified as a need in their respective Individual Education Plans (IEPs).

Requirements for reporting scores of students with disabilities in grades 3-8:

- 100% of students with disabilities must participate in annual assessments of reading/language arts and mathematics.
- 95% of students with disabilities must have their test scores reported for AYP purposes.
- 1% of the overall student population at a given grade level may participate in alternative assessments and have their test scores counted among those who achieved proficiency (presumably, those students with significant cognitive impairment). This 1% exception is apportioned by each district, not by individual schools.

SCHOOL CHOICE

Under the terms of NCLB, a school that has failed to make AYP for two consecutive years is labeled as a school “in need of improvement.” Parents of students in such as school are notified and offered the opportunity to transfer their child to a school that has demonstrated AYP. In the case of special education students, each student’s IEP team is responsible for placing him or her in the least restrictive (most inclusive) learning environment possible, and this may include transfer from a school in need of improvement to one that demonstrates AYP at the parents’ request. If a transfer is granted, the receiving school must be one that is capable of meeting the student’s educational needs. The IEP team at the receiving school may adopt the student’s existing IEP or may develop a new one. If a new IEP is developed, the “change of placement” provisions of IDEA apply, including parental notification and approval. States and districts are required to create additional capacity or develop cooperative agreements with other districts to assure choice when district options are limited. Additionally, the sending school must pay for student transportation to the receiving school out of Title I funds for as long as the sending school is in need of improvement.

SUPPLEMENTAL EDUCATIONAL SERVICES

In addition to offering school choice to parents, a school that has not made AYP for three consecutive years must make supplemental educational services, or extra academic assistance, available to eligible children.

Specifically, such schools are to offer parents a list of state-approved private or community organizations that assist children with math, reading, or other academic skills. A school must pay for these services on behalf of its students from its Title I funds and they are to be offered outside of the regular school day. Special education students, like all students, may receive supplemental services if they meet eligibility criteria. Such services must be consistent with a student’s IEP and are to be paid for utilizing Title I funds. In cases where private organizations are providing supplemental services, appropriate accommodations may or may not be available to students with disabilities.

CONCLUSION AND RESOURCES

States and districts across the nation are only now beginning to wrestle with the questions raised by NCLB accountability standards for students with disabilities. Listed below are some current resources with discussions of these issues:

- A National Education Association publication addressing the intersection of NCLB with IDEA: www.nea.org/specialed/images/ideanclbintersection.pdf ;
- A National Association for Protection and Advocacy discussion of IDEA & NCLB: www.napas.org/publicpolicy/MR_Final_04-04.htm;
- The U.S. Office for Special Education Programs site: <http://www.ed.gov/offices/OSERS/OSEP>.

Additional policy briefs and other education policy information may be found on the website of Office for Education Policy at the University of Arkansas at <http://www.uark.edu/ua/oep> or may be ordered by contacting the Office at (479) 575-3773.