

P.L. 108-446  
Individuals with Disabilities Education  
Improvement Act of 2004  
Compared to IDEA '97

Document 8 (Titles II & III)

DRAFT

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Additions are marked with underlining and italics.  
Deletions are marked with striking through.

[COPAA Note: these are the final sections of the bill. Section 302 establishes July 1, 2005 as the date on which the new bill is effective.]

## **TITLE II--NATIONAL CENTER FOR SPECIAL EDUCATION RESEARCH**

### **SEC. 201. NATIONAL CENTER FOR SPECIAL EDUCATION RESEARCH.**

(a) AMENDMENT.--The Education Sciences Reform Act of 2002 (20 U.S.C. 9501 et seq.) is amended--

- (1) by redesignating part E as part F; and
- (2) by inserting after part D the following:

PART E--NATIONAL CENTER FOR SPECIAL EDUCATION RESEARCH

#### **20 U.S.C. § 9567**

##### **SEC. 175. ESTABLISHMENT.**

(a) ESTABLISHMENT.--There is established in the Institute a National Center for Special Education Research (in this part referred to as the 'Special Education Research Center').

(b) MISSION.--The mission of the Special Education Research Center is--

- (1) to sponsor research to expand knowledge and understanding of the needs of infants, toddlers, and children with disabilities in order to improve the developmental, educational, and transitional results of such individuals;
- (2) to sponsor research to improve services provided under, and support the implementation of, the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.); and
- (3) to evaluate the implementation and effectiveness of the Individuals with Disabilities Education Act in coordination with the National Center for Education Evaluation and Regional Assistance.

(c) Applicability of Education Sciences Reform Act of 2002.--Parts A and F, and the standards for peer review of applications and for the conduct and evaluation of research under sections 133(a) and 134, respectively, shall apply to the Secretary, the Director, and the Commissioner in carrying out this part.

#### **20 U.S.C. § 9567a**

##### **SEC. 176. COMMISSIONER FOR SPECIAL EDUCATION RESEARCH.**

The Special Education Research Center shall be headed by a Commissioner for Special Education Research (in this part referred to as the 'Special Education Research Commissioner') who shall have substantial knowledge of the Special Education Research Center's activities, including a high level of expertise in the fields of research, research management, and the education of children with disabilities.

#### **20 U.S.C. § 9567b**

##### **SEC. 177. DUTIES.**

(a) GENERAL DUTIES.--The Special Education Research Center shall carry out research activities under this part consistent with the mission described in section 175(b), such as activities that--

- (1) improve services provided under the Individuals with Disabilities Education Act in order to improve--
    - (A) academic achievement, functional outcomes, and educational results for children with disabilities; and
    - (B) developmental outcomes for infants or toddlers with disabilities;
  - (2) identify scientifically based educational practices that support learning and improve academic achievement, functional outcomes, and educational results for all students with disabilities;
  - (3) examine the special needs of preschool aged children, infants, and toddlers with disabilities, including factors that may result in developmental delays;
  - (4) identify scientifically based related services and interventions that promote participation and progress in the general education curriculum and general education settings;
  - (5) improve the alignment, compatibility, and development of valid and reliable assessments, including alternate assessments, as required by section 1111(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b));
  - (6) examine State content standards and alternate assessments for students with significant cognitive impairment in terms of academic achievement, individualized instructional need, appropriate education settings, and improved post-school results;
  - (7) examine the educational, developmental, and transitional needs of children with high incidence and low incidence disabilities;
  - (8) examine the extent to which overidentification and underidentification of children with disabilities occurs, and the causes thereof;
  - (9) improve reading and literacy skills of children with disabilities;
  - (10) examine and improve secondary and postsecondary education and transitional outcomes and results for children with disabilities;
  - (11) examine methods of early intervention for children with disabilities, including children with multiple or complex developmental delays;
  - (12) examine and incorporate universal design concepts in the development of standards, assessments, curricula, and instructional methods to improve educational and transitional results for children with disabilities;
  - (13) improve the preparation of personnel, including early intervention personnel, who provide educational and related services to children with disabilities to increase the academic achievement and functional performance of students with disabilities;
  - (14) examine the excess costs of educating a child with a disability and expenses associated with high cost special education and related services;
  - (15) help parents improve educational results for their children, particularly related to transition issues;
  - (16) address the unique needs of children with significant cognitive disabilities; and
  - (17) examine the special needs of limited English proficient children with disabilities.
- (b) STANDARDS.--The Special Education Research Commissioner shall ensure that activities assisted under this section--
- (1) conform to high standards of quality, integrity, accuracy, validity, and reliability;
  - (2) are carried out in accordance with the standards for the conduct and evaluation of all research and development established by the National Center for Education Research; and

(3) are objective, secular, neutral, and nonideological, and are free of partisan political influence, and racial, cultural, gender, regional, or disability bias.

(c) PLAN.--The Special Education Research Commissioner shall propose to the Director a research plan, developed in collaboration with the Assistant Secretary for Special Education and Rehabilitative Services, that--

(1) is consistent with the priorities and mission of the Institute and the mission of the Special Education Research Center;

(2) is carried out, updated, and modified, as appropriate;

(3) is consistent with the purposes of the Individuals with Disabilities Education Act;

(4) contains an appropriate balance across all age ranges and types of children with disabilities;

(5) provides for research that is objective and uses measurable indicators to assess its progress and results; and

(6) is coordinated with the comprehensive plan developed under section 681 of the Individuals with Disabilities Education Act.

(d) GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS.--

(1) IN GENERAL.--In carrying out the duties under this section, the Director may award grants to, or enter into contracts or cooperative agreements with, eligible applicants.

(2) ELIGIBLE APPLICANTS.--Activities carried out under this subsection through contracts, grants, or cooperative agreements shall be carried out only by recipients with the ability and capacity to conduct scientifically valid research.

(3) APPLICATIONS.--An eligible applicant that wishes to receive a grant, or enter into a contract or cooperative agreement, under this section shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require.

(e) DISSEMINATION.--The Special Education Research Center shall--

(1) synthesize and disseminate, through the National Center for Education Evaluation and Regional Assistance, the findings and results of special education research conducted or supported by the Special Education Research Center; and

(2) assist the Director in the preparation of a biennial report, as described in section 119.

(f) AUTHORIZATION OF APPROPRIATIONS.--There are authorized to be appropriated to carry out this part such sums as may be necessary for each of fiscal years 2005 through 2010."

(b) CONFORMING AMENDMENTS.--

(1) AMENDMENTS TO THE TABLE OF CONTENTS.--The table of contents in section 1 of the Act entitled "An Act to provide for improvement of Federal education research, statistics, evaluation, information, and dissemination, and for other purposes", approved November 5, 2002 (116 Stat. 1940; Public Law 107-279), is amended--

(A) by redesignating the item relating to part E as the item relating to part F; and

(B) by inserting after the item relating to section 174 the following:

Part E--National Center for Special Education Research

Sec..175..Establishment.

Sec..176..Commissioner for Special Education Research.

Sec..177..Duties."

(2) EDUCATION SCIENCES REFORM ACT OF 2002.--The Education Sciences Reform Act of 2002 (20 U.S.C. 9501 et seq.) is amended--

(A) in section 111(b)(1)(A) (20 U.S.C. 9511(b)(1)(A)), by inserting and special education" after early childhood education";

(B) in section 111(c)(3) (20 U.S.C. 9511(c)(3))--

(i) in subparagraph (B), by striking and" after the semicolon;

(ii) in subparagraph (C), by striking the period and inserting ; and"; and

(iii) by adding at the end the following:

(D) the National Center for Special Education Research (as described in part E).";

(C) in section 115(a) (20 U.S.C. 9515(a)), by striking including those" and all that follows through such as" and inserting including those associated with the goals and requirements of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), and the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), such as"; and

(D) in section 116(c)(4)(A)(ii) (20 U.S.C. 9516(c)(4)(A)(ii)), by inserting special education experts," after early childhood experts,".

(3) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.--Section 1117(a)(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6317(a)(3)) is amended by striking part E" and inserting part D".

#### **SEC. 202. NATIONAL BOARD FOR EDUCATION SCIENCES.**

Section 116(c)(9) of the Education Sciences Reform Act of 2002 (20 U.S.C. 9516(c)(9)) is amended by striking the third sentence and inserting the following: Meetings of the Board are subject to section 552b of title 5, United States Code (commonly referred to as the Government in the Sunshine Act).".

#### **SEC. 203. REGIONAL ADVISORY COMMITTEES.**

Section 206(d)(3) of the Educational Technical Assistance Act of 2002 (20 U.S.C. 9605(d)(3)) is amended by striking Academy" and inserting Institute".

#### **TITLE III--MISCELLANEOUS PROVISIONS**

#### **SEC. 301. AMENDMENT TO CHILDREN'S HEALTH ACT OF 2000.**

Section 1004 of the Children's Health Act of 2000 (42 U.S.C. 285g note) is amended--

(1) in subsection (b), by striking Agency" and inserting Agency, and the Department of Education"; and

(2) in subsection (c)--

(A) in paragraph (2), by striking and" after the semicolon;

(B) in paragraph (3), by striking the period at the end and inserting ; and"; and

(C) by adding at the end the following:

(4) be conducted in compliance with section 444 of the General Education Provisions Act (20 U.S.C. 1232g), including the requirement of prior parental consent for the disclosure of any education records, except without the use of authority or exceptions granted to authorized representatives of the Secretary of Education for the evaluation of Federally-supported education programs or in connection with the enforcement of the Federal legal requirements that relate to such programs.".

[COPAA Note: Section 1004 authorizes the National Institute of Child Health and Human Development to conduct a national longitudinal study of environmental influences on children's health and development. Section 301 of IDEIA adds the Department of Education to the group involved, and states that the study must be conducted in compliance with FERPA.]

**20 U.S.C. § 1400 note**

**SEC. 302. EFFECTIVE DATES.**

(a) Parts A, B, and C, and subpart 1 of part D.--

(1) IN GENERAL.--Except as provided in paragraph (2), parts A, B, and C, and subpart 1 of part D, of the Individuals with Disabilities Education Act, as amended by title I, shall take effect on July 1, 2005.

(2) HIGHLY QUALIFIED DEFINITION.--Subparagraph (A), and subparagraphs (C) through (F), of section 602(10) of the Individuals with Disabilities Education Act, as amended by title I, shall take effect on the date of enactment of this Act for purposes of the Elementary and Secondary Education Act of 1965.

(b) SUBPARTS 2, 3, AND 4 OF PART D.--Subparts 2, 3, and 4 of part D of the Individuals with Disabilities Education Act, as amended by title I, shall take effect on the date of enactment of this Act.

**20 U.S.C. § 9567b**

(c) Education Sciences Reform Act of 2002.--

(1) NATIONAL CENTER FOR SPECIAL EDUCATION RESEARCH.--Sections 175, 176, and 177 (other than section 177(c)) of the Education Sciences Reform Act of 2002, as enacted by section 201(a)(2) of this Act, shall take effect on the date of enactment of this Act.

(2) PLAN.--Section 177(c) of the Education Sciences Reform Act of 2002, as enacted by section 201(a)(2) of this Act, shall take effect on October 1, 2005.

**20 U.S.C. §1400 note**

**SEC. 303. TRANSITION.**

(a) ORDERLY TRANSITION.--

(1) IN GENERAL.--The Secretary of Education (in this section referred to as the Secretary") shall take such steps as are necessary to provide for the orderly transition from the Individuals with Disabilities Education Act, as such Act was in effect on the day preceding the date of enactment of this Act, to the Individuals with Disabilities Education Act and part E of the Education Sciences Reform Act of 2002, as amended by this Act.

(2) LIMITATION.--The Secretary's authority in paragraph (1) shall terminate 1 year after the date of enactment of this Act.

(b) MULTI-YEAR AWARDS.--Notwithstanding any other provision of law, the Secretary may use funds appropriated under part D of the Individuals with Disabilities Education Act to make continuation awards for projects that were funded under section 618, and part D, of the Individuals with Disabilities Education Act (as such section and part were in effect on September 30, 2004), in accordance with the terms of the original awards.

(c) RESEARCH.--Notwithstanding section 302(b) or any other provision of law, the Secretary may award funds that are appropriated under the Department of Education Appropriations Act,

2005 for special education research under either of the headings "SPECIAL EDUCATION" or "INSTITUTE OF EDUCATION SCIENCES" in accordance with sections 672 and 674 of the Individuals with Disabilities Education Act, as such sections were in effect on October 1, 2004.

**20 U.S.C. §1444**  
**SEC. 304. REPEALER.**

Section 644 of the Individuals with Disabilities Education Act, as such section was in effect on the day before the enactment of this Act, is repealed. [COPAA Note: This section created the Sec. 644. Federal Interagency Coordinating Council.]

**SEC. 305. IDEA TECHNICAL AMENDMENTS TO OTHER LAWS.**

- (a) Title 10.--Section 2164(f) of title 10, United States Code is amended--
- (1) in paragraph (1)(B)--
    - (A) by striking "infants and toddlers" each place the term appears and inserting "infants or toddlers";
    - (B) by striking "part H" and inserting "part C"; and
    - (C) by striking "1471" and inserting "1431"; and
  - (2) in paragraph (3)--
    - (A) in subparagraph (A)--
      - (i) by striking "602(a)(1)" and inserting "602"; and
      - (ii) by striking "1401(a)(1)" and inserting "1401";
    - (B) by striking subparagraph (B);
    - (C) by redesignating subparagraph (C) as subparagraph (B); and
    - (D) in subparagraph (B) (as so redesignated)--
      - (i) by striking "and toddlers" and inserting "or toddlers";
      - (ii) by striking "672(1)" and inserting "632"; and
      - (iii) by striking "1472(1)" and inserting "1432".
- (b) Defense Dependents Education Act of 1978.--Section 1409(c)(2) of the Defense Dependents Education Act of 1978 (20 U.S.C. 927(c)(2)) is amended--
- (1) by striking "677" and inserting "636"; and
  - (2) by striking "part H" and inserting "part C".
- (c) Higher Education Act of 1965.--The Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) is amended--
- (1) in section 465(a)(2)(C) (20 U.S.C. 1087ee(a)(2)(C)), by striking "Individuals With" and inserting "Individuals with" and;
  - (2) in section 469(c) (20 U.S.C. 1087ii(c)), by striking "602(a)(1) and 672(1)" and inserting "602 and 632".
- (d) EDUCATION OF THE DEAF ACT.--The matter preceding subparagraph (A) of section 104(b)(2) of the Education of the Deaf Act (20 U.S.C. 4304(b)(2)) is amended by striking "618(a)(1)(A)" and inserting "618(a)(1)".
- (e) Goals 2000: Educate America Act.--Section 3(a)(9) of the Goals 2000: Educate America Act (20 U.S.C. 5802(a)(9)) is amended by striking "602(a)(17)" and inserting "602".
- (f) School-to-Work Opportunities Act of 1994.--Section 4(15) of the School-to-Work Opportunities Act of 1994 (20 U.S.C. 6103(15)) is amended--

- (1) by striking 602(a)(17)" and inserting 602"; and
- (2) by striking 1401(17)" and inserting 1401".
- (g) Elementary and Secondary Education Act of 1965.--The Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is amended--
- (1) in section 1111(b)(2)(I)(ii) (20 U.S.C. 6311(b)(2)(I)(ii)), by striking 612(a)(17)(A)" and inserting 612(a)(16)(A)";
- (2) in section 5208 (20 U.S.C. 7221g), by striking 602(11)" and inserting 602"; and
- (3) in section 5563(b)(8)(C) (20 U.S.C. 7273b(b)(8)(C)), by striking 682" and inserting 671".
- (h) Rehabilitation Act of 1973.--The Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.) is amended--
- (1) in section 101(a)(11)(D)(ii) (29 U.S.C. 721(a)(11)(D)(ii)), by striking (as added by section 101 of Public Law 105-17)";
- (2) in section 105(b)(1)(A)(ii) (29 U.S.C. 725(b)(1)(A)(ii)), by striking 682(a) of the Individuals with Disabilities Education Act (as added by section 101 of the Individuals with Disabilities Education Act Amendments of 1997; Public Law 105-17)" and inserting 671 of the Individuals with Disabilities Education Act";
- (3) in section 105(c)(6) (29 U.S.C. 725(c)(6))--
- (A) by striking 612(a)(21)" and inserting 612(a)(20)";
- (B) by striking Individual with" and inserting Individuals with"; and
- (C) by striking (as amended by section 101 of the Individuals with Disabilities Education Act Amendments of 1997; Public Law 105-17)";
- (4) in section 302(f)(1)(D)(ii) (29 U.S.C. 772 (f)(1)(D)(ii)), by striking (as amended by section 101 of the Individuals with Disabilities Education Act Amendments of 1997 (Public Law 105-17))";
- (5) in section 303(c)(6) (29 U.S.C. 773(c)(6))--
- (A) by striking 682(a)" and inserting 671"; and
- (B) by striking (as added by section 101 of the Individuals with Disabilities Education Act Amendments of 1997; Public Law 105-17)"; and
- (6) in section 303(c)(4)(A)(ii) (29 U.S.C. 773(c)(4)(A)(ii)), by striking 682(a) of the Individuals with Disabilities Education Act (as added by section 101 of the Individuals with Disabilities Education Act Amendments of 1997; Public Law 105-17)" and inserting 671 of the Individuals with Disabilities Education Act".
- (i) PUBLIC HEALTH SERVICE ACT.--The Public Health Service Act (42 U.S.C. 201 et seq.) is amended--
- (1) in section 399A(f) (42 U.S.C. 280d(f), by striking part H" and inserting part C";
- (2) in section 399(n)(3) (42 U.S.C. 280c-6(n)(3)), by striking part H" and inserting part C";
- (3) in section 399A(b)(8) (42 U.S.C. 280d(b)(8)), by striking part H" and inserting part C";
- (4) in section 562(d)(3)(B) (42 U.S.C. 290ff-1(d)(3)(B)), by striking and H" and inserting and C"; and
- (5) in section 563(d)(2) (42 U.S.C. 290ff-2(d)(2)), by striking 602(a)(19)" and inserting 602".
- (j) SOCIAL SECURITY ACT.--The Social Security Act (42 U.S.C. 301 et seq.) is amended--
- (1) in section 1903(c) (42 U.S.C. 1396b(c)), by striking part H" and inserting part C"; and
- (2) in section 1915(c)(5)(C)(i) (42 U.S.C. 1396n(c)(5)(C)(i)), by striking (as defined in section 602(16) and (17) of the Education of the Handicapped Act (20 U.S.C. 1401(16), (17))" and

inserting (as such terms are defined in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401))".

(k) Domestic Volunteer Service Act of 1973.--Section 211(a) of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5011(a)) is amended--

(1) by striking part H" and inserting part C"; and

(2) by striking 1471" and inserting 1431".

(l) HEAD START ACT.--The Head Start Act (42 U.S.C. 9831 et seq.) is amended--

(1) in section 640(a)(5)(C)(iv) (42 U.S.C. 9835(a)(5)(C)(iv)), by striking 1445" and inserting 1444";

(2) in section 640(d) (42 U.S.C. 9835(d))--

(A) by striking U.S.C" and inserting U.S.C."; and

(B) by striking 1445" and inserting 1444";

(3) in section 641(d)(3) (42 U.S.C. 9836(d)(3)), by striking U.S.C 1431-1445" and inserting U.S.C. 1431-1444"; and

(4) in section 642(c) (42 U.S.C. 9837(c)), by striking 1445" and inserting 1444".

(m) National and Community Service Act of 1990.--Section 101(21)(B) of the National and Community Service Act of 1990 (42 U.S.C. 12511(21)(B)) is amended--

(1) by striking 602(a)(1)" and inserting 602"; and

(2) by striking 1401(a)(1)" and inserting 1401".

(n) Developmental Disabilities Assistance and Bill of Rights Act of 2000.--The Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15001 et seq.) is amended--

(1) in section 125(c)(5)(G)(i) (42 U.S.C. 15025(c)(5)(G)(i)), by striking subtitle C" and inserting part C"; and

(2) in section 154(a)(3)(E)(ii)(VI) (42 U.S.C. 15064(a)(3)(E)(ii)(VI))--

(A) by striking 682 or 683" and inserting 671 or 672"; and

(B) by striking (20 U.S.C. 1482, 1483)".

(o) District of Columbia School Reform Act of 1995.--The District of Columbia School Reform Act of 1995 (Public Law 104-134) is amended--

(1) in section 2002(32)--

(A) by striking 602(a)(1)" and inserting 602"; and

(B) by striking 1401(a)(1)" and inserting 1401";

(2) in section 2202(19), by striking Individuals With" and inserting Individuals with"; and

(3) in section 2210--

(A) in the heading for subsection (c), by striking WITH DISABILITIES" and inserting WITH DISABILITIES"; and

(B) in subsection (c), by striking Individuals With" and inserting Individuals with".

### **SEC. 306. COPYRIGHT.**

Section 121 of title 17, United States Code, is amended--

(1) by redesignating subsection (c) as subsection (d);

(2) by inserting after subsection (b) the following:

(c) Notwithstanding the provisions of section 106, it is not an infringement of copyright for a publisher of print instructional materials for use in elementary or secondary schools to create and distribute to the National Instructional Materials Access Center copies of the electronic files

described in sections 612(a)(23)(C), 613(a)(6), and section 674(e) of the Individuals with Disabilities Education Act that contain the contents of print instructional materials using the National Instructional Material Accessibility Standard (as defined in section 674(e)(3) of that Act), if--

(1) the inclusion of the contents of such print instructional materials is required by any State educational agency or local educational agency;

(2) the publisher had the right to publish such print instructional materials in print formats; and

(3) such copies are used solely for reproduction or distribution of the contents of such print instructional materials in specialized formats."; and

(3) in subsection (d), as redesignated by this section--

(A) in paragraph (2), by striking and" after the semicolon; and

(B) by striking paragraph (3) and inserting the following:

(3) `print instructional materials' has the meaning given under section 674(e)(3)(C) of the Individuals with Disabilities Education Act; and

(4) `specialized formats' means--

(A) braille, audio, or digital text which is exclusively for use by blind or other persons with disabilities; and

(B) with respect to print instructional materials, includes large print formats when such materials are distributed exclusively for use by blind or other persons with disabilities.".