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The Individuals with Disabilities Education Act: Paperwork in Special Education

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Summary

Congress is currently considering reauthorizing the Individuals with Disabilities Education Act (IDEA). The amount of paperwork special education teachers have to complete has been an issue for many educators and Congress is examining whether changes to the federal statute are necessary to reduce the paperwork burden. This report will discuss some of the requirements of the law that give rise to paperwork, reviews of the paperwork issue by the Department of Education, the available statistics on the time special educators spend on paperwork, and related commentary. This report will not be updated.

Introduction

The Individuals with Disabilities Education Act (IDEA)¹ both authorizes federal funding for special education and related services² and, for states that accept these funds,³ sets out principles under which special education and related services are to be provided.

¹ 20 U.S.C. §§1400 *et seq.* For a more detailed discussion of IDEA see Nancy Lee Jones and Richard N. Apling, "Individuals with Disabilities Education Act: Statutory Provisions and Selected Issues," CRS Report RL31259.

² Related services (for example, physical therapy) assist children with disabilities to benefit from special education (20 U.S.C. §1401(22)).

³ Currently all states receive IDEA funding.

The requirements are detailed, especially when the regulatory interpretations are considered. The major principles include requiring that:

- States and school districts make available a **free appropriate public education** (FAPE)⁴ to all children with disabilities, generally between the ages of 3 and 21; states and school districts **identify, locate, and evaluate** all children with disabilities, regardless of the severity of their disability, to determine which children are eligible for special education and related services;
- Each child receiving services has an **individual education program (IEP)** delineating the specific special education and related services to be provided to meet his or her needs; the parent must be a partner in planning and overseeing the child’s special education and related services as a member of the **IEP team**;
- “To the maximum extent appropriate,” children with disabilities must be **educated with children who are not disabled**; and states and school districts must provide **procedural safeguards** to children with disabilities and their parents, including a right to a due process hearing, the right to appeal to federal district court and, in some cases, the right to receive attorneys’ fees.

Although paperwork is required to implement many of these statutory provisions, the area that has attracted the most discussion regarding paperwork is that relating to the IEP. The IEP is described by the Department of Education (ED) as the “cornerstone of a quality education of each child with a disability.”⁵ It “creates an opportunity for teachers, parents, school administrators, related services personnel, and students (when appropriate) to work together to improve educational results for children with disabilities.”⁶ Once a child is identified as a child with a disability, an IEP meeting is scheduled to discuss the child’s needs and write an IEP. School staff are required to contact the participants, including the parents, and to provide the parents with certain information including the purpose, time and location of the meeting, and who will be attending. The IEP must contain certain information:

⁴ It should be emphasized that what is required under IDEA is the provision of a free appropriate public education. The Supreme Court in *Board of Education of the Hendrick Hudson Central School District v. Rowley*, 458 U.S. 177 (1982), held that this requirement is satisfied when the state provides personalized instruction with sufficient support services to permit a child to benefit educationally from that instruction and that this instruction should be reasonably calculated to enable the child to advance from grade to grade. IDEA does not require that a state maximize the potential of children with disabilities.

⁵ Office of Special Education and Rehabilitative Services, “Guide to the Individualized Education Program,” [http://www.ed.gov/offices/OSERS/OSEP/Products/IEP_Guide/].

⁶ *Id.*

- how the child is currently performing in school (usually gleaned from evaluation of tests);⁷
- annual goals;⁸
- the special education and related services to be provided to the child, and the extent (if any) to which the child will not participate with children without disabilities in the regular classroom;⁹
- any modifications in state or district wide testing;¹⁰
- when services will begin, how often they will be provided and how long they will last;¹¹
- beginning at age 14 the IEP must address the courses the child needs to take to reach his or her post-school goals;¹²
- what transition services are necessary;¹³
- changes in rights at the age of majority;¹⁴ and
- how the child's progress is to be measured and how the parents are to be informed of the progress.¹⁵

The IEP team may also need to consider certain special facts such as behavior management strategies, needs related to limited English proficiency, communication needs, needs for braille materials, and needs for assistive technology devices or services.¹⁶

Although some teachers have noted that the IEP requirements may necessitate a voluminous IEP,¹⁷ the Department of Education's sample IEP form is five pages.¹⁸ The

⁷ 34 C.F.R. §300.347(a)(1); 20 U.S.C. §1414(d)(1)(A)(i).

⁸ 34 C.F.R. §347(a)(3); 20 U.S.C. §1414(d)(1)(A)(ii) and (viii).

⁹ 34 C.F.R. §347(a)(3); 20 U.S.C. §1414(d)(1)(A)(iii).

¹⁰ 34 C.F.R. §347(a)(5); 20 U.S.C. §1414(d)(1)(A)(v).

¹¹ 34 C.F.R. §347(a)(6); 20 U.S.C. §1414(d)(1)(A)(vi).

¹² 34 C.F.R. §300.347(b)(1); 20 U.S.C. §1414(d)(1)(A)(vii).

¹³ 34 C.F.R. §347(b)(2); 20 U.S.C. §1414(d)(1)(A)(vii).

¹⁴ 34 C.F.R. §347(c); 20 U.S.C. §1415(m).

¹⁵ 34 C.F.R. §347(a)(7); 20 U.S.C. §1414(d)(1)(A)(viii).

¹⁶ 34 C.F.R. §346(a)(2); 20 U.S.C. §1414(d)(3).

¹⁷ CEC, "Paperwork is Number 1 Obstacle for Special Education Teachers," [<http://www.cec.sped.org/bk/cectoday/tcsurv.html>].

¹⁸ Office of Special Education and Rehabilitative Services, "Guide to the Individualized (continued...)"

Department has also responded to an inquiry regarding the paperwork requirements of IDEA noting that it is “constantly reviewing its regulations to ensure that paperwork burdens on States and local school districts are minimized.”¹⁹ State educational agencies are also required to review their state requirements to minimize paperwork. ED also noted that the IDEA Amendments of 1997 reduced paperwork in several ways by, for example, permitting initial evaluations and reevaluations to be based on existing evaluation data and reports.²⁰

Time Spent on Paperwork

The most recent national data on paperwork come from a study sponsored by the U.S. Department of Education (ED), the Study of Personnel Needs in Special Education (SPENSE). The study, conducted for ED by Westat (an independent contractor), surveyed more than 8,000 special education and general education teachers, administrators, and other staff. Current available data were collected during the 1999-2000 school year.

Among the many questions asked to assess teacher preparation, experiences, and attitudes, the study asked special education and general education teachers how much time they typically spend on various tasks. Among those tasks was time spent on paperwork, and the study reports evidence of a significantly greater paperwork burden for special education teachers compared with their general education colleagues. According to special education teachers surveyed, the median number of hours per week spent on paperwork is 4.7 hours. That is, 50% of those responding said they spend more than 4.7 hours per week on paperwork; 50% said they spent less. The median for general education teachers was 1.6 hours per week.²¹

With the exception of teachers of children with visual or hearing impairments (median of 3.9 hours per week), there was little variation among teachers who taught various categories of children with disabilities. However there was some regional variation. The median hours per week varied from 3.3 hours week reported by teachers in northeastern states to 5 hours per week reported by teachers in western states. This variation could be due to differences among states in paperwork required in addition to requirements resulting from IDEA.

Another study, sponsored by the Council for Exceptional Children (CEC), also provides evidence on special education paperwork. Special education teachers surveyed²² reported that their concerns about paperwork ranked third, after their concerns about their caseload and about time required for planning. About one-third of special education

¹⁸ (...continued)

Education Program,” [http://www.ed.gov/offices/OSERS/OSEP/Products/IEP_Guide/].

¹⁹ 34 IDELR 236 (Dec. 12, 2000).

²⁰ *Id.*

²¹ Data are from SPENSE data tables available at [<http://www.spense.org/>].

²² The CEC study sampled, for the most part, CEC members. Thus it may not be as representative of the nation’s special education and general education teachers as the SPENSE sample was. The study, known as the *Bright Futures for Exceptional Learners*, can be found at [<http://www.cec.sped.org/>].

teachers who responded to the survey said they spent between 10% and 20% of their time on paperwork related to identifying students for special education and on IEPs.²³ Another 30% of special education teachers said they spent up to 30% of their time on such paperwork. In addition, teachers reported spending substantial additional time on meetings related to IEPs: nearly 60% said they spend 10% to 20% of their time on such meetings, and another 25% said they spend up to 30% of their time on these meetings. Results for special education administrators were similar.

Commentary Relating to Paperwork

In addition to the comments made by the Department of Education regarding paperwork which were discussed previously, numerous disability groups, schools and teachers have advanced various positions regarding IDEA and paperwork. Many commentators have observed that paperwork relating to special education can be overwhelming. However, commentators differ regarding whether the reason for this is the federal requirements or those additional requirements imposed by states and localities.²⁴ Even if the specific details of the paperwork are not federally imposed, some have argued that the fear of legal action has led to documenting every action.²⁵ The following examples of the various arguments are illustrative, not exhaustive.

The Council for Exceptional Children (CEC) testified at a forum sponsored by the Office of Special Education Programs at the Department of Education that “unnecessary paperwork and bureaucratic requirements that obstruct the provision of effective instruction” should be eliminated and that the paperwork burden on special education teachers should be reduced by providing technological resources and universal documentation processes.²⁶ Similarly, the National Association of Secondary School Principals (NASSP) identified paperwork reduction as one of six priority themes at the same forum. NASSP stated that “principals and their staff members have an inordinate amount of paperwork requirements related to the implementation of IDEA. NASSP appreciates the inclusion of paperwork reduction provisions in the 1997 law but believes additional action needs to be taken in order to streamline the process related to the ... IEP.”²⁷

²³ If one assumes an 8 hour day and a 40 hour workweek, these percentages translate into 4 to 8 hours per week or ½ to 1 day per week.

²⁴ Vermont is one state that has examined its state requirements for special education and concluded that IDEA “is the main reason for the paperwork and procedural burden faced by special education personnel in Vermont. The Task Force concludes with confidence that Vermont regulations do not in any substantial way increase this burden.” Executive Summary. Vermont Task Force on Special Education Paperwork Reduction. February 1, 2001.

²⁵ Michelle Y. Green, “Taming the Paper Tiger,” NEAToday Online (November 2000) [<http://www.nea.org/neatoday/0011/cover.html>]

²⁶ CEC, “CEC President Testifies on IDEA Reauthorization,” [http://www.cec.sped.org/spotlight/alex_testimony_12-19-01.html].

²⁷ National Association of Secondary School Principals, “Initial Comments Related to the Reauthorization of the Individuals with Disabilities Education Act,” December 10, 2001 [http://www.nassp.org/services/fr/121201fr_osep_idea.html].

One commentator has found that actions taken at the local level can reduce paperwork. One classroom teachers association bargained for standardized IEP's and release time and compensation for additional work. Some state organizations have helped enact state legislation that will develop an IEP form that is standardized for statewide use.²⁸ It was also noted that computerized forms and internet based systems that help teachers write IEPs have saved time.²⁹

Another commentator has argued that the complaints about paperwork regarding the IEP involve an attitude that the IEPs are not a part of teaching. "The IDEA paperwork, accused of being only red tape and cumbersome by educators and administrators is there for a purpose...to serve students with disabilities by establishing measures of accountability."³⁰ The use of electronic applications and internet-based performance management systems as well as increased funding for compensation and training were seen as helpful ways to relieve burdens without endangering the education of children with disabilities.³¹

²⁸ Michelle Y. Green, "Taming the Paper Tiger," NEAToday Online (November 2000) www.nea.org/neatoday/0011/cover.html

²⁹ *Id.*

³⁰ "There's 'Paperwork', Then There's Paperwork," <http://specialed.about.com/library/weekly/aa020302a.htm>

³¹ *Id.*