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Public Law 108-446  
108th Congress

An Act

To reauthorize the Individuals with Disabilities Education Act, and for other purposes. <<NOTE: Dec. 3, 2004 - [H.R. 1350]>>

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, <<NOTE: Individuals with Disabilities Education Improvement Act of 2004. 20 USC 1400 note.>>

SECTION 1. SHORT TITLE.

This Act may be cited as the ``Individuals with Disabilities Education Improvement Act of 2004''.

SEC. 2. ORGANIZATION OF THE ACT.

This Act is organized into the following titles:

Title I--Amendments to the Individuals With Disabilities Education Act.

Title II--National Center for Special Education Research.

Title III--Miscellaneous Provisions.

TITLE I--AMENDMENTS TO THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT

SEC. 101. AMENDMENTS TO THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

Parts A through D of the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) are amended to read as follows:

``PART A--GENERAL PROVISIONS

``SEC. 601. <<NOTE: 20 USC 1400.>> SHORT TITLE; TABLE OF CONTENTS; FINDINGS; PURPOSES.

``(a) Short Title.--This title may be cited as the `Individuals with Disabilities Education Act'.

``(b) Table of Contents.--The table of contents for this title is as follows:

``Part A--General Provisions

``Sec. 601. Short title; table of contents; findings; purposes.

``Sec. 602. Definitions.

``Sec. 603. Office of Special Education Programs.

``Sec. 604. Abrogation of State sovereign immunity.

``Sec. 605. Acquisition of equipment; construction or alteration

- of facilities.
- ``Sec. 606. Employment of individuals with disabilities.
- ``Sec. 607. Requirements for prescribing regulations.
- ``Sec. 608. State administration.
- ``Sec. 609. Paperwork reduction.
- ``Sec. 610. Freely associated states.

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``Part B--Assistance for Education of All Children With Disabilities

- ``Sec. 611. Authorization; allotment; use of funds; authorization of appropriations.
- ``Sec. 612. State eligibility.
- ``Sec. 613. Local educational agency eligibility.
- ``Sec. 614. Evaluations, eligibility determinations, individualized education programs, and educational placements.
- ``Sec. 615. Procedural safeguards.
- ``Sec. 616. Monitoring, technical assistance, and enforcement.
- ``Sec. 617. Administration.
- ``Sec. 618. Program information.
- ``Sec. 619. Preschool grants.

``Part C--Infants and Toddlers With Disabilities

- ``Sec. 631. Findings and policy.
- ``Sec. 632. Definitions.
- ``Sec. 633. General authority.
- ``Sec. 634. Eligibility.
- ``Sec. 635. Requirements for statewide system.
- ``Sec. 636. Individualized family service plan.
- ``Sec. 637. State application and assurances.
- ``Sec. 638. Uses of funds.
- ``Sec. 639. Procedural safeguards.
- ``Sec. 640. Payor of last resort.
- ``Sec. 641. State interagency coordinating council.
- ``Sec. 642. Federal administration.
- ``Sec. 643. Allocation of funds.
- ``Sec. 644. Authorization of appropriations.

``Part D--National Activities To Improve Education of Children With Disabilities

- ``Sec. 650. Findings.
  - ``subpart 1--state personnel development grants
- ``Sec. 651. Purpose; definition of personnel; program authority.
- ``Sec. 652. Eligibility and collaborative process.
- ``Sec. 653. Applications.
- ``Sec. 654. Use of funds.
- ``Sec. 655. Authorization of appropriations.
- ``subpart 2--personnel preparation, technical assistance, model demonstration projects, and dissemination of information
- ``Sec. 661. Purpose; definition of eligible entity.
- ``Sec. 662. Personnel development to improve services and

- results for children with disabilities.
- ``Sec. 663. Technical assistance, demonstration projects, dissemination of information, and implementation of scientifically based research.
  - ``Sec. 664. Studies and evaluations.
  - ``Sec. 665. Interim alternative educational settings, behavioral supports, and systemic school interventions.
  - ``Sec. 667. Authorization of appropriations.
  - ``subpart 3--supports to improve results for children with disabilities
    - ``Sec. 670. Purposes.
    - ``Sec. 671. Parent training and information centers.
    - ``Sec. 672. Community parent resource centers.
    - ``Sec. 673. Technical assistance for parent training and information centers.
    - ``Sec. 674. Technology development, demonstration, and utilization; and media services.
    - ``Sec. 675. Authorization of appropriations.
    - ``subpart 4--general provisions
  - ``Sec. 681. Comprehensive plan for subparts 2 and 3.
  - ``Sec. 682. Administrative provisions.

#### Relevant Section of the Act:

#### Part D, Sec. 662(h)

SEC. 662. <<NOTE: 20 USC 1462.>> PERSONNEL DEVELOPMENT TO IMPROVE SERVICES AND RESULTS FOR CHILDREN WITH DISABILITIES.

``(a) In General.--The Secretary, on a competitive basis, shall award grants to, or enter into contracts or cooperative agreements with, eligible entities to carry out 1 or more of the following objectives:

``(1) To help address the needs identified in the State plan described in section 653(a)(2) for highly qualified personnel, as defined in section 651(b), to work with infants or toddlers

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with disabilities, or children with disabilities, consistent with the qualifications described in section 612(a)(14).

``(2) To ensure that those personnel have the necessary skills and knowledge, derived from practices that have been determined, through scientifically based research, to be successful in serving those children.

``(3) To encourage increased focus on academics and core content areas in special education personnel preparation programs.

``(4) To ensure that regular education teachers have the necessary skills and knowledge to provide instruction to students with disabilities in the regular education classroom.

``(5) To ensure that all special education teachers are highly qualified.

- ``(6) To ensure that preservice and in-service personnel preparation programs include training in--
  - ``(A) the use of new technologies;
  - ``(B) the area of early intervention, educational, and transition services;
  - ``(C) effectively involving parents; and
  - ``(D) positive behavioral supports.
- ``(7) To provide high-quality professional development for principals, superintendents, and other administrators, including training in--
  - ``(A) instructional leadership;
  - ``(B) behavioral supports in the school and classroom;
  - ``(C) paperwork reduction;
  - ``(D) promoting improved collaboration between special education and general education teachers;
  - ``(E) assessment and accountability;
  - ``(F) ensuring effective learning environments; and
  - ``(G) fostering positive relationships with parents.

``(b) Personnel Development; Enhanced Support for Beginning Special Educators.--

- ``(1) In general.--In carrying out this section, the Secretary shall support activities--
  - ``(A) for personnel development, including activities for the preparation of personnel who will serve children with high incidence and low incidence disabilities, to prepare special education and general education teachers, principals, administrators, and related services personnel (and school board members, when appropriate) to meet the diverse and individualized instructional needs of children with disabilities and improve early intervention, educational, and transitional services and results for children with disabilities, consistent with the objectives described in subsection (a); and
  - ``(B) for enhanced support for beginning special educators, consistent with the objectives described in subsection (a).
- ``(2) Personnel development.--In carrying out paragraph (1)(A), the Secretary shall support not less than 1 of the following activities:
  - ``(A) Assisting effective existing, improving existing, or developing new, collaborative personnel preparation activities undertaken by institutions of higher education, local educational agencies, and other local entities that

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incorporate best practices and scientifically based research, where applicable, in providing special education and general education teachers, principals, administrators, and related services personnel with the knowledge and skills to effectively support students with disabilities, including--

- ``(i) working collaboratively in regular

classroom settings;

``(ii) using appropriate supports, accommodations, and curriculum modifications;

``(iii) implementing effective teaching strategies, classroom-based techniques, and interventions to ensure appropriate identification of students who may be eligible for special education services, and to prevent the misidentification, inappropriate overidentification, or underidentification of children as having a disability, especially minority and limited English proficient children;

``(iv) effectively working with and involving parents in the education of their children;

``(v) utilizing strategies, including positive behavioral interventions, for addressing the conduct of children with disabilities that impedes their learning and that of others in the classroom;

``(vi) effectively constructing IEPs, participating in IEP meetings, and implementing IEPs;

``(vii) preparing children with disabilities to participate in statewide assessments (with or without accommodations) and alternate assessments, as appropriate, and to ensure that all children with disabilities are a part of all accountability systems under the Elementary and Secondary Education Act of 1965; and

``(viii) working in high need elementary schools and secondary schools, including urban schools, rural schools, and schools operated by an entity described in section 7113(d)(1)(A)(ii) of the Elementary and Secondary Education Act of 1965, and schools that serve high numbers or percentages of limited English proficient children.

``(B) Developing, evaluating, and disseminating innovative models for the recruitment, induction, retention, and assessment of new, highly qualified teachers to reduce teacher shortages, especially from groups that are underrepresented in the teaching profession, including individuals with disabilities.

``(C) Providing continuous personnel preparation, training, and professional development designed to provide support and ensure retention of special education and general education teachers and personnel who teach and provide related services to children with disabilities.

``(D) Developing and improving programs for paraprofessionals to become special education teachers, related services personnel, and early intervention personnel, including interdisciplinary training to enable the paraprofessionals to improve early intervention, educational, and transitional results for children with disabilities.

``(E) In the case of principals and superintendents,

providing activities to promote instructional leadership and

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improved collaboration between general educators, special education teachers, and related services personnel.

``(F) Supporting institutions of higher education with minority enrollments of not less than 25 percent for the purpose of preparing personnel to work with children with disabilities.

``(G) Developing and improving programs to train special education teachers to develop an expertise in autism spectrum disorders.

``(H) Providing continuous personnel preparation, training, and professional development designed to provide support and improve the qualifications of personnel who provide related services to children with disabilities, including to enable such personnel to obtain advanced degrees.

``(3) Enhanced support for beginning special educators.--In carrying out paragraph (1)(B), the Secretary shall support not less than 1 of the following activities:

``(A) Enhancing and restructuring existing programs or developing preservice teacher education programs to prepare special education teachers, at colleges or departments of education within institutions of higher education, by incorporating an extended (such as an additional 5th year) clinical learning opportunity, field experience, or supervised practicum into such programs.

``(B) Creating or supporting teacher-faculty partnerships (such as professional development schools) that--

``(i) consist of not less than--

``(I) 1 or more institutions of higher education with special education personnel preparation programs;

``(II) 1 or more local educational agencies that serve high numbers or percentages of low-income students; or

``(III) 1 or more elementary schools or secondary schools, particularly schools that have failed to make adequate yearly progress on the basis, in whole and in part, of the assessment results of the disaggregated subgroup of students with disabilities;

``(ii) may include other entities eligible for assistance under this part; and

``(iii) provide--

``(I) high-quality mentoring and induction opportunities with ongoing support for beginning special education teachers; or

``(II) inservice professional

development to beginning and veteran special education teachers through the ongoing exchange of information and instructional strategies with faculty.

``(c) Low Incidence Disabilities; Authorized Activities.--

``(1) In general.--In carrying out this section, the Secretary shall support activities, consistent with the objectives described in subsection (a), that benefit children with low incidence disabilities.

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``(2) Authorized activities.--Activities that may be carried out under this subsection include activities such as the following:

``(A) Preparing persons who--

``(i) have prior training in educational and other related service fields; and

``(ii) are studying to obtain degrees, certificates, or licensure that will enable the persons to assist children with low incidence disabilities to achieve the objectives set out in their individualized education programs described in section 614(d), or to assist infants and toddlers with low incidence disabilities to achieve the outcomes described in their individualized family service plans described in section 636.

``(B) Providing personnel from various disciplines with interdisciplinary training that will contribute to improvement in early intervention, educational, and transitional results for children with low incidence disabilities.

``(C) Preparing personnel in the innovative uses and application of technology, including universally designed technologies, assistive technology devices, and assistive technology services--

``(i) to enhance learning by children with low incidence disabilities through early intervention, educational, and transitional services; and

``(ii) to improve communication with parents.

``(D) Preparing personnel who provide services to visually impaired or blind children to teach and use Braille in the provision of services to such children.

``(E) Preparing personnel to be qualified educational interpreters, to assist children with low incidence disabilities, particularly deaf and hard of hearing children in school and school related activities, and deaf and hard of hearing infants and toddlers and preschool children in early intervention and preschool programs.

``(F) Preparing personnel who provide services to children with significant cognitive disabilities and children with multiple disabilities.

``(G) Preparing personnel who provide services to children with low incidence disabilities and limited

English proficient children.

((3) Definition.--In this section, the term 'low incidence disability' means--

((A) a visual or hearing impairment, or simultaneous visual and hearing impairments;

((B) a significant cognitive impairment; or

((C) any impairment for which a small number of personnel with highly specialized skills and knowledge are needed in order for children with that impairment to receive early intervention services or a free appropriate public education.

((4) Selection of recipients.--In selecting eligible entities for assistance under this subsection, the Secretary may give preference to eligible entities submitting applications that include 1 or more of the following:

((A) A proposal to prepare personnel in more than 1 low incidence disability, such as deafness and blindness.

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((B) A demonstration of an effective collaboration between an eligible entity and a local educational agency that promotes recruitment and subsequent retention of highly qualified personnel to serve children with low incidence disabilities.

((5) Preparation in use of braille.--The Secretary shall ensure that all recipients of awards under this subsection who will use that assistance to prepare personnel to provide services to visually impaired or blind children that can appropriately be provided in Braille, will prepare those individuals to provide those services in Braille.

((d) Leadership Preparation; Authorized Activities.--

((1) In general.--In carrying out this section, the Secretary shall support leadership preparation activities that are consistent with the objectives described in subsection (a).

((2) Authorized activities.--Activities that may be carried out under this subsection include activities such as the following:

((A) Preparing personnel at the graduate, doctoral, and postdoctoral levels of training to administer, enhance, or provide services to improve results for children with disabilities.

((B) Providing interdisciplinary training for various types of leadership personnel, including teacher preparation faculty, related services faculty, administrators, researchers, supervisors, principals, and other persons whose work affects early intervention, educational, and transitional services for children with disabilities, including children with disabilities who are limited English proficient children.

((e) Applications.--

((1) In general.--An eligible entity that wishes to receive a grant, or enter into a contract or cooperative agreement, under this section shall submit an application to the Secretary

at such time, in such manner, and containing such information as the Secretary may require.

``(2) Identified state needs.--

``(A) Requirement to address identified needs.--An application for assistance under subsection (b), (c), or (d) shall include information demonstrating to the satisfaction of the Secretary that the activities described in the application will address needs identified by the State or States the eligible entity proposes to serve.

``(B) Cooperation with state educational agencies.--An eligible entity that is not a local educational agency or a State educational agency shall include in the eligible entity's application information demonstrating to the satisfaction of the Secretary that the eligible entity and 1 or more State educational agencies or local educational agencies will cooperate in carrying out and monitoring the proposed project.

``(3) Acceptance by states of personnel preparation requirements.--The Secretary may require eligible entities to provide in the eligible entities' applications assurances from 1 or more States that such States intend to accept successful completion of the proposed personnel preparation program as meeting State personnel standards or other requirements in

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State law or regulation for serving children with disabilities or serving infants and toddlers with disabilities.

``(f) Selection of Recipients.--

``(1) Impact of project.--In selecting eligible entities for assistance under this section, the Secretary shall consider the impact of the proposed project described in the application in meeting the need for personnel identified by the States.

``(2) Requirement for eligible entities to meet state and professional qualifications.--  
The <<NOTE: Grants. Contracts.>> Secretary shall make grants and enter into contracts and cooperative agreements under this section only to eligible entities that meet State and professionally recognized qualifications for the preparation of special education and related services personnel, if the purpose of the project is to assist personnel in obtaining degrees.

``(3) Preferences.--In selecting eligible entities for assistance under this section, the Secretary may give preference to eligible entities that are institutions of higher education that are--

``(A) educating regular education personnel to meet the needs of children with disabilities in integrated settings;

``(B) educating special education personnel to work in collaboration with regular educators in integrated settings; and

``(C) successfully recruiting and preparing individuals with disabilities and individuals from groups that are underrepresented in the profession for which the institution of higher education is preparing

individuals.

((g) Scholarships.--The Secretary may include funds for scholarships, with necessary stipends and allowances, in awards under subsections (b), (c), and (d).

((h) Service Obligation.--

((1) In general.--Each application for assistance under subsections (b), (c), and (d) shall include an assurance that the eligible entity will ensure that individuals who receive a scholarship under the proposed project agree to subsequently provide special education and related services to children with disabilities, or in the case of leadership personnel to subsequently work in the appropriate field, for a period of 2 years for every year for which the scholarship was received or repay all or part of the amount of the scholarship, in accordance with regulations issued by the Secretary.

((2) Special rule.--Notwithstanding paragraph (1), the Secretary may reduce or waive the service obligation requirement under paragraph (1) if the Secretary determines that the service obligation is acting as a deterrent to the recruitment of students into special education or a related field.

((3) Secretary's responsibility.--The Secretary--

((A) shall ensure that individuals described in paragraph (1) comply with the requirements of that paragraph; and

((B) may use not more than 0.5 percent of the funds appropriated under subsection (i) for each fiscal year, to carry out subparagraph (A), in addition to any other funds that are available for that purpose.

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((i) Authorization of Appropriations.--There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 2005 through 2010.