

IDEA 2004

HOW CHANGES TO THE FEDERAL SPECIAL EDUCATION LAW IMPACT TEACHERS

On December 3, 2004, President Bush signed the Individuals with Disabilities Education Improvement Act of 2004, a reauthorization of the federal special education law referred to as the IDEA.

Although many changes were enacted, its true impact was not completely understood until the U.S. Department of Education released the federal IDEA regulations (including Comments) on August 14, 2006, which became effective October 13, 2006. While there were countless changes, below is a summary of the key provisions affecting most teachers.¹

PPT Meetings (referred to as "IEP team meetings" in the IDEA)

Attendance not necessary/excusal – A mandated planning and placement team (PPT) member is not required to attend a meeting in whole or in part if the parent and district agree that he/she is not needed because his/her area of the curriculum or related services is not being modified or discussed in the meeting. Furthermore, a PPT member (other than the parent) whose area is being discussed can be excused from attending a team meeting in whole or in part, if the parents and district agree in writing to such excusal. However, prior to the meeting, the excused member must submit his/her written input in the development of the IEP. The Comments to the regulations warn that if a district routinely (or unilaterally) excuses a team member, it would not be in compliance with the IDEA.

District determines team participants – The Comments clarify that the right to determine which staff will serve on the IEP team rests with the district; parents do not have the right under IDEA to require certain staff members to attend PPT meetings.

Electronic participation – IEP team members are permitted to "attend" via alternative means of conferencing such as videoconferences and conference calls if parents agree.

Modifying the IEP – After the annual IEP is adopted, it may be amended or modified without a PPT meeting being held, if the parents and district agree in writing. The district must inform all PPT members of any such changes.

Least Restrictive Environment (LRE)

Continuum of placement options – The regulations maintain the requirement that each district must offer a continuum of placement options that includes instruction in regular classes, special classes, special schools, home instruction, instruction in hospitals and institutions. The continuum also should include supplementary services such as a resource room or itinerant instruction in conjunction with regular class placement.

Eligibility for Special Education Services

Specific learning disabilities – States may not require that districts use an IQ discrepancy model but must permit the use of "a process based on the child's response to scientific research-based intervention" in evaluating a student for specific learning disabilities (SLD). That is, states must allow the use of "response to intervention" (RTI) in evaluating students for SLD². However, the Comments do state that RTI "is only one component of the process to identify children in need of special education and related services. Determining why a child has not responded to [RTI] requires a comprehensive evaluation." Nonetheless, if, after a reasonable period of time in which RTI was used,

Continued on page 2

Human and Civil Rights

Spring 2007

Reporter

A Message from the HCR Commission Chair

Dear Colleagues,

The Human and Civil Rights Commission has been very successful this year and we feel great about our accomplishments.

As part of our ongoing effort to advance and monitor the human and civil rights of all our members and students, the commission developed an informal survey to obtain feedback from CEA members about the human and civil rights issues of importance to them in their professional lives. We presented the surveys at the January County Councils. In February, we hosted a very successful and well-attended workshop titled *Safe Schools*. We hope to provide a follow-up workshop in the fall.

Every year we accept nominations for nine human and civil rights awards. The number of nominations this year was up and all of the candidates were excellent. The winners will be announced soon.

Currently the details of our 2nd annual Friday night through Saturday afternoon workshop with the Minority Affairs Commission (MAC) are being worked out. The theme is school climate. The dates are June 8 - 9, 2007. Our awards banquet will be celebrated at the end of the training. Details will follow.

Peace to all,

Jennifer Jasenski



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the child has still not made adequate progress, a referral for a special education evaluation must be made. This provision was included in response to concerns that RTI could potentially significantly delay special education evaluations.

Other health impaired (OHI) – The definition of OHI now includes students with Tourette’s syndrome.

Discipline of Special Education Students

Change of placement – The regulations add another factor that may be used in determining whether a change of placement has occurred for purposes of disciplinary action—whether or not the child’s behavior is substantially similar to the child’s behavior in previous incidents that resulted in a series of removals. Also, school personnel can determine whether a change of placement has occurred; this decision need not be made by the PPT.

Unique circumstances – In deciding whether a change of placement needs to occur when a student violates a code of conduct, the school may consider any “unique circumstance” on a case-by-case basis.

Manifestation determination – The standard for determining whether a student’s conduct was a manifestation of his/her disability is now whether the behavior “was caused by, or had a direct and substantial relationship to, the child’s disability.” If it is determined that the conduct was a manifestation of the disability, the PPT must conduct a functional behavior assessment and implement a behavior intervention plan for the child. The student will be returned to the placement from which he/she was removed unless the parents and district agree otherwise. However, under the 45-day rule, “school personnel” may now remove the student to an interim alternative educational setting (IAES) for up to 45 school days without regard to the manifestation issue if, in addition to the other factors previously permitted under the IDEA, the student has “inflicted serious bodily injury upon another person while at school, on school premises, or at a school function.” Absent serious bodily injury, a hearing officer retains the right to order a change of placement to a 45-day IAES if he/she determines that returning the child to the original placement is “substantially likely to result in injury to the child or to others.”

Suspected disabilities – Parents of nonspecial education students can assert certain IDEA protections if they can show that the district had knowledge of a suspected disability and thus the student should have been found eligible and thus covered by IDEA’s discipline provisions. The regulations now provide that the district is deemed to have had knowledge if (1) the parent expressed concern, in writing, that the child may be in need of special education services to supervisory or administrative personnel or to one of the child’s teachers; (2) a parent requested an evaluation of the child; or (3) one of the child’s teachers or other school personnel “expressed specific concerns about a pattern of behavior demonstrated by the child directly to the director of special education... or other supervisory personnel.” Thus, the new law requires that there were previous specific inquiries to appropriate school personnel of the possible need for special education rather than mere casual references. If it is determined that the district did not have knowledge of a suspected disability, the student can be subjected to the same disciplinary procedures applied to other children without disabilities.

¹ A complete listing of all changes to the IDEA can be found at www.cea.org.

² In its September 12, 2006, memorandum to directors of special education in Connecticut, the State Department of Education noted that RTI “is based on principles that the CSDE has embraced for several years, including: universal screening, high quality instruction, early intervention, regular and frequent monitoring of student progress, and utilization of data to make instructional decisions. In an RTI model, support to students is provided based on student need and are not premised on a particular label, program or place. The Guidelines for Identifying Children with Learning Disabilities, developed by the CSDE in 1999, have laid the groundwork for RTI.” An advisory panel has been appointed and is charged with developing a working definition of RTI in Connecticut and to provide guidance on identification using an RTI model, as well as best practices. RTI resources can be found at www.ctserc.org/rTI/

Film field trip offered to Connecticut school groups

Real Art Ways, a nationally known multidisciplinary arts center located in Hartford’s Parkville neighborhood, is bussing middle and high school students at no cost to Real Art Ways to view the film, “Mighty Times: The Legacy of Rosa Parks.” This film delivers a powerful message in a format that is accessible to young people.

Sessions will last about 2 hours in total—about 40 minutes for the film, and the remainder for discussion. Students will be led in dialogues linked to Rosa Parks’ legacy of promoting change within the community. Students are invited to participate in open conversations that bring to light issues surrounding race and tolerance in today’s society.

The film field trips program will run through May 2007. It is a free program with free transportation provided through a grant. The center can hold up to 130 students at a time. A minimum of 40 students are taken per session. Schools have opted to visit with a different school to get the full effect of the diversity dialogues. Schools are encouraged to send a date and time as soon as possible to reserve. Contact Syeita Rhey, Real Art Ways film field trip coordinator, at srhey@realartways.org, or 860-232-1006 ext. 129, Fax: 869-233-6691. www.realartways.org/publicart.htm#education

The Connecticut YOUTH Forum

The Connecticut YOUTH Forum provides a chance for young people to meet, talk, and learn about each other at monthly meetings held from 3:30-5:30 p.m. at different schools throughout the state. After an informal get-together with refreshments, moderators welcome participants from the various public, private, urban, and suburban schools, and student hosts explain the culture of their school and community. Then the floor is open for discussion of various topics such as “Back to School: Where Do You Belong?,” “What Parents Just Don’t Understand,” and “Love, Sex, Dating, Relationships!”

According to Katelyn, a student at Avon High School, the gatherings “open your mind to new ideas and concepts you never have thought about before. They promote respect between students and bridge the gap between schools, creating an environment where people can grow, learn, and listen.” Another student adds, “There is a lot of diversity and there is a great opportunity to see what people of other backgrounds think. It’s a good environment to express feelings and your perspectives on things.” Katelyn points out that “a shy student can go to the meetings and just listen, while a more outgoing person has a chance to voice his or her opinion in a nonjudgmental atmosphere.”

Student members of the Connecticut YOUTH Forum Leadership Network plan and organize the monthly meetings as well as other activities such as retreats, cultural and recreational events, and college and workplace visits. They also are responsible for an annual Student Exchange Event where more than 300 high school students share experiences and ideas through workshops, discussion, and social interaction. Issues and themes range from racism and violence to using one’s voice and finding one’s greatness.

In addition, through The Connecticut Forum’s Ticket Outreach program, students are invited to hear some of the “world’s greatest thinkers” at The Bushnell. These have included Henry Kissinger, Bill Cosby, Howard Dean, Elie Wiesel, and, most recently, Rory Kennedy and Tim Robbins.

For information on upcoming monthly meetings and events, contact Ebone Lockett, Patrick Rossiter, or Trish Moylan Torruella at The Connecticut YOUTH Forum at The Connecticut Forum, 750 Main St., 2nd Floor, Hartford, CT 06103, 860-509-0909, Fax 860-509-0919, www.ctyouthforum.org

Submitted by Marilyn Cohen, HCR Commission vice-chair and Avon High School teacher

Recommended Resources

Changes to Connecticut's bullying law recognize broader scope of problem

New legislation passed by the Connecticut General Assembly in its 2006 session makes several changes to Connecticut's existing bullying policies law. First, districts must notify students annually of the process by which they may make anonymous reports of bullying to teachers and school administrators. Second, district policies must direct the development of case-by-case interventions such as counseling or discipline to address repeated acts of bullying. Third, the definition of bullying now includes any overt act intended to **harass** another student and also provides that bullying occurring on a **school bus** is covered by the definition. Finally, the legislation states that bullying policies "may include provisions addressing bullying outside of the school setting **if it has a direct and negative impact on a student's academic performance or safety in school**" (emphasis added).

This last issue, bullying occurring off school grounds, is a growing problem for school districts across the country. In particular, electronic harassment, or cyber-bullying (i.e., utilizing e-mail lists or Web sites such as MySpace to perpetrate threats or rumors), presents a relatively new dilemma for school officials who are torn between wanting to intervene when bullying occurs and questioning whether their authority and control should extend that far. The emerging compromise is that laws are being drafted that, like Connecticut's, allow school officials to intervene if the off-campus bullying impacts the school environment in some direct way. In addition, Internet sites themselves are accepting some responsibility for this problem and are urging school districts to notify them of false or harassing information contained on their sites. MySpace, for instance, released an advisory guide for school administrators and created a hotline and e-mail address designed for their exclusive use.

Save the Date!

CEA's 2007 Minority Leadership and Human and Civil Rights Training Program

Friday and Saturday, June 8-9, 2007

CEA's Human and Civil Rights Awards will be presented at the 2007 CEA Awards Dinner Banquet (Saturday, June 9, 2007)

Connecticut Grand Hotel, Waterbury

Call for quality diversity training for teachers

Have you participated in a local diversity training program for teachers and/or students that you found exceptionally worth while? If so, the CEA Human and Civil Rights Commission would like to know more about it. Please contact Robyn Kaplan-Cho (robynk@cea.org) with any suggested referrals.

Know the Facts: Take the Bullying Quiz

Questions:

1. True or False: Bullying is more prevalent in urban schools.
2. Nationally, what percentage of students (ages 13-18) have experienced verbal or physical harassment in school?
3. On what basis are the greatest percentage (39%) of students bullied?
4. In elementary school, where is the most likely place for a student to be bullied?
5. In middle school, where is the most likely place for a student to be bullied?
6. In high school, where is the most likely place for a student to be bullied?
7. How does Connecticut law define bullying?

Answers:

1. False. There is not a significant difference in the incidences of bullying in urban, suburban, or rural school settings. (Source: 2006 EDU-SAFE, L.L.C.)
2. 65% of students in this age group have experienced verbal or physical harassment in school.
3. Physical appearance. Approximately 39% of students believe that they were harassed based on the way that they look.
4. At the elementary level, the playground is the most common place for bullying to occur.
5. At the middle school level, bullying most commonly occurs in the lunchroom and in classrooms.
6. In high school, common areas such as hallways are the most likely place for bullying to occur.
7. According to Connecticut General Statutes Section 10-222d, bullying means "any overt acts by a student or group of students directed against another student with the intent to ridicule, humiliate, or intimidate the other student while on school grounds or at a school-sponsored activity which acts are repeated against the same student over time."

Source of Answers 2-7: From Teasing to Torment: School Climate in America (GLSEN/Harris Poll, 2005)

HCR Workshops

What is the Human and Civil Rights Commission?

The Human and Civil Rights (HCR) Commission is a standing committee of CEA that provides content and technical information to CEA members on human and civil rights issues such as affirmative action, cultural competence, student achievement, ESEA, IDEA, gender equity, diversity training, English-language learners, safe schools, and NCLB.

HCR takes an active leadership role in CEA by

- Disseminating information through the *HCR Reporter*
- Planning the HCR banquet
- Maintaining the Web site and Listserv of pertinent HCR issues
- Recognizing and awarding members who work on behalf of civil rights

Human and Civil Rights Reporter is published biannually by the Connecticut Education Association (CEA) Human and Civil Rights Commission and CEA's Policy and Professional Practice Department. This newsletter is intended to provide CEA members with legal perspectives on various human and civil rights issues. Reader input is encouraged and appreciated as a vital means of addressing members' professional and educational needs in this arena. It is written and edited by Robyn Kaplan-Cho, Connecticut Education Association, Capitol Place, Suite 500, 21 Oak Street, Hartford, CT 06106-8001. Tel. 860-525-5641 or 1-800-842-4316. E-mail: robynk@cea.org.

2006-2007 HCR Commission

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Robyn Kaplan-Cho	Jasdeep Singh

SECTION 504: AN EMERGING ISSUE FOR TEACHERS

Section 504 of the Rehabilitation Act of 1973 is receiving increased attention in schools. This workshop will provide an overview of the civil rights law, its procedural requirements (with an emphasis on the eligibility process) and relationship to IDEA, and its applicability to such timely issues as AD(H)D, field trips, allergies, and AIDS. A case-study method is utilized.

Length: 2+ hours (CEUs offered)
Presenter: Robyn Kaplan-Cho, CEA

MYTH BUSTERS: UNDERSTANDING YOUR LEGAL RIGHTS AND RESPONSIBILITIES IN THE SPECIAL EDUCATION PROCESS

This workshop focuses on the laws of special education with a particular emphasis on regular and special education teachers' rights and responsibilities when participating in the special education process. Participants will learn what the law requires of them as well as what they can and cannot do in such areas as PPT meetings, drafting IEPs, and accommodating students in the regular education environment. The impact of special education laws on teachers' working conditions as well as changes to the Individuals with Disabilities Education Act (IDEA) will be integrated into the workshop.

Length: 2+ hours (CEUs offered)
Presenter: Robyn Kaplan-Cho, CEA

WALKING THE TALK: CLASSROOM RESOURCES FOR ADDRESSING BIAS

This advanced workshop for K-12 classroom instructors examines approaches to designing and integrating activities into the classroom that raise awareness of bias and empower students to advocate for change, especially around gay, lesbian, bisexual, or transgendered (GLBT) bias.

Length: 90-120 minutes
Presenter: National Education Association (NEA)-Certified Trainers

BARGAINING SPECIAL EDUCATION LANGUAGE: WHERE STUDENTS' RIGHTS AND TEACHERS' RIGHTS INTERSECT

Your contract can serve as an important vehicle for protecting your rights and advancing your concerns as a teacher working with special education students. In this workshop, teachers will learn how to integrate special education issues into the collective bargaining process. Participants will study the pros and cons of negotiating contract provisions related to performing health procedures, teacher notification and scheduling of PPT meetings, professional development opportunities, class-size limitations, local dispute resolution procedures for special-education-related problems, placement decisions, and many more related topics. Model contract language will be provided. This workshop is ideal for negotiating committees and teachers with a particular interest in this area of the law.

Length: 2+ hours (CEUs offered)
Presenter: Robyn Kaplan-Cho, CEA

TAKING A STAND: CREATING SAFE SCHOOLS FOR ALL STUDENTS

This workshop is designed for all school personnel who are interested in addressing bias regarding sexual orientation and gender issues. It uses video clips and hands-on activities to examine the obvious and subtle ways that bias plays out in schools. It also offers resources for creating schools that are safe for all students, regardless of sexual orientation and gender identity.

Length: 90-120 minutes
Presenter: National Education Association (NEA)-Certified Trainers

Human and Civil Rights workshops are offered to CEA members free of charge. If you are interested in having your local Association host one of these workshops, contact your local Association president or CEA UniServ representative for more information. CEUs will be offered.



