

IDEA–Reauthorized Statute¹

I. STATE FUNDING

(See also Early Intervening Services, Disproportionality and Overidentification, and Alignment With the No Child Left Behind Act)

The reauthorized *Individuals with Disabilities Education Act* (IDEA) was signed into law on Dec. 3, 2004, by President George W. Bush. The provisions of the act will be effective on July 1, 2005, with the exception of some elements of the definition of “highly qualified teacher” that took effect upon the signing of the act. This is one in a series of documents, prepared by the Office of Special Education and Rehabilitative Services (OSERS) in the U.S. Department of Education, that covers a variety of high-interest topics and brings together the statutory language related to those topics to support constituents in preparing to implement the new requirements. This document addresses only the changes to the provisions of IDEA related to state funding that will take effect on July 1, 2005. It does not address any changes that may be made by the final regulations.

IDEA 2004:

1. Changes the formula grants to states in FY 2005 and 2006.

The maximum amount of the grant that a state may receive under Section 611 for fiscal years 2005 and 2006 is the number of children with disabilities in the state who are receiving special education and related services ages 3 through 21, multiplied by 40 percent of the average per-pupil expenditure in public elementary schools and secondary schools.

For fiscal year (FY) 2007 and subsequent fiscal years, the maximum amount of the grant a state may receive is the number of children with disabilities in the 2004-2005 school year in the state who received special education and related services ages 3 through 21, multiplied by 40 percent of the average per-pupil expenditure in public elementary schools and secondary schools; adjusted by the rate of annual change in the sum of 85 percent of such state's relative population of all students ages three through 21, and 15 percent of such state's population of students ages three through 21 who are living in poverty. [611(a)(2)]

2. Authorization of appropriations: sets forth a seven-year path to “full funding.”

For the purpose of carrying out Part B, other than Section 619, there are authorized to be appropriated (but are subject to decisions made through the appropriations process):

- \$12,358,376,571 for FY 2005;
- \$14,648,647,143 for FY 2006;
- \$16,938,917,714 for FY 2007;
- \$19,229,188,286 for FY 2008;
- \$21,519,458,857 for FY 2009;

¹ Other topics in this series include: Disproportionality and Overidentification; Early Intervening Services; Changes in Initial Evaluations and Reevaluations; Individualized Education Program (IEP); Discipline; Statewide and Districtwide Assessments; Individualized Education Program (IEP) Team Meetings and Changes to the IEP; Part C Option: Age 3 to Kindergarten Age; Procedural Safeguards: Surrogates, Notice, Consent; Procedural Safeguards: Mediation and Resolution Sessions; Procedural Safeguards: Due Process Hearings; Alignment With the *No Child Left Behind Act*; Highly Qualified Teachers; Children Enrolled by Their Parents in Private Schools; State Funding; and Local Funding. Documents are available on the OSERS Web site at: www.ed.gov/about/offices/list/osers/index.html.

- \$23,809,729,429 for FY 2010;
- \$26,100,000,000 for FY 2011; and
- Such sums as may be necessary for FY 2012, and each succeeding fiscal year.

[611(i)]

3. Alters the calculation of, and raises the maximum amount of, the state administration set aside.

...Each state may reserve, for each fiscal year, not more than the maximum amount the state was eligible to reserve for state administration under this section for FY 2004, or \$800,000 (adjusted for inflation in accordance with Section 611(e)(1)(B)), whichever is greater.... [611(e)(1)(A)]

4. Changes the amount states may reserve for other state-level activities.

...Each state may reserve, for FY 2005 and 2006, not more than 10 percent from the amount of the state's allocation under Section 611(d) for FY 2005 and 2006, respectively. For FY 2007 and each subsequent FY, the state may reserve the maximum amount it was eligible to reserve under the preceding sentence for FY 2006, adjusted for inflation.... [611(e)(2)(A)(i)]

5. Allows a “small state adjustment” to the amount described in Section 611(e)(2)(A)(i) (state-level activities).

...In the case of a state for which the maximum amount reserved for state administration is not greater than \$850,000, it may reserve...for FY 2005 and 2006, not more than 10.5 percent from the amount of its allocation under Section 611(d), for FY 2005 and 2006, respectively. For FY 2007 and each subsequent fiscal year, it may reserve the maximum amount it was eligible to reserve under the preceding sentence for FY 2006.... [611(e)(2)(A)(ii)]

6. Provides an “exception” to the amount described in Section 611(e)(2)(A) (state-level activities).

...If the state does not reserve funds under Section 611(e)(3) [local educational agency (LEA) risk pool] the amounts that may be reserved under Section 611(e)(2)(A)(i) is 9 percent and the amount that may be reserved under Section 611(e)(2)(A)(ii) is 9.5 percent.... [611(e)(2)(A)(iii)]

7. Describes the required uses of funds reserved for state-level activities.

...Shall be used to carry out the following activities: for monitoring, enforcement and complaint investigation, and to establish and implement the mediation process required by Section 615(e), including providing for the cost of mediators and support personnel.... [611(e)(2)(B)]

8. Expands the list of allowable state-level activities.

Funds reserved under Section 611(e)(2)(A) may be used to carry out a variety of listed activities, including:

- Support of the development and provision of appropriate accommodations for children with disabilities, or the development and provision of alternate assessments that are valid and reliable for assessing the performance of children with disabilities, in accordance with Sections 1111(b) and 6111 of the *Elementary and Secondary Education Act* (ESEA) of 1965; and
- Providing technical assistance to schools and LEAs, and direct services, including supplemental educational services as defined in 1116(e) of ESEA to children with

disabilities in schools or LEAs identified for improvement on the sole basis of the assessment results ... including providing professional development to special and regular education teachers, who teach children with disabilities, based on scientifically based research to improve educational instruction, in order to improve academic achievement to meet or exceed the objectives established by the state under Section 1111(b)(2)(G) of ESEA.²

[611(e)(2)(C)(x) and (xi)]

9. Adds authority for a local educational agency (LEA) risk pool.

...Each state shall have the option to reserve for each fiscal year 10 percent of the amount of funds it reserves for state-level activities under Section 611(e)(2)(A) to establish and make disbursements from the high cost fund to LEAs and to support innovative and effective ways of cost sharing by the state, by an LEA or among a consortium of LEAs, as determined by the state in coordination with representatives from LEAs. [611(e)(3)(A)]

10. Flexibility to use funds for Part C.

Any state eligible to receive a grant under Section 619 may use funds made available under Sections 611(e)(1)(A) [611 funds for state administration], 611(f)(3) [LEA funds available for reallocation], or 619(f)(5) [619 funds for state-level activities] to develop and implement a state policy jointly with the lead agency under Part C and the state educational agency (SEA) to provide early intervention services (which shall include an educational component that promotes school readiness and incorporates preliteracy, language and numeracy skills) in accordance with Part C to children with disabilities who are eligible for services under Section 619 and who previously received services under Part C until such children enter, or are eligible under state law to enter, kindergarten, or elementary school, as appropriate. [611(e)(7)]

11. Limitation on use of federal funds to meet state-law mandated funding obligations.

A state may not use funds paid to it under Part B to satisfy state-law mandated funding obligations to LEAs, including funding based on student attendance or enrollment, or inflation, in complying with supplementation of state, local and other federal funds provisions and relating to maintenance of state financial support provisions. [612(a)(20)]

12. Adds an exception to state maintenance of effort (MOE) requirements.

For any fiscal year for which the federal allocation received by a state exceeds the amount received for the previous fiscal year and if the state pays or reimburses all LEAs within the state from state revenue 100 percent of the nonfederal share of the costs of special education and related services, the SEA may reduce its level of expenditure from state sources by not more than 50 percent of the amount of such excess. [613(j)(1)]

² Refers to requirements of the state's accountability plan under Section 1111(b)(2) of the *Elementary and Secondary Education Act* (ESEA) of 1965, where each state must establish statewide annual measurable objectives applicable to all students, pursuant to Section 1111(b)(2)(C)(v).