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In Depth Policy Analysis

Public and Parent Reporting Requirements: NCLB and IDEA Regulations

by
Kim Moherrek Sopko
and
Nancy Reder

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National Association of State Directors of Special Education
(NASDSE)
1800 Diagonal Road - Suite 320
Alexandria, VA 22314

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Table of Contents

THE NO CHILD LEFT BEHIND ACT (NCLB)..... 1

THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA) 4

State Reports 5

Additional Public Information 5

Reporting to Parents..... 6

SIMILARITIES AND DIFFERENCES BETWEEN NCLB AND IDEA 9

CONCLUDING REMARKS 10

REFERENCES..... 10

Public and Parent Reporting Requirements: NCLB and IDEA Regulations

There are two major federal laws that support K-12 education, the Elementary and Secondary Education Act (ESEA), first passed in 1965 and most recently reauthorized in 2001 as the No Child Left Behind Act (NCLB) and the Individuals with Disabilities Education Act (IDEA), first passed in 1975 and most recently reauthorized in 2004. Together, these laws provide more than \$26 billion to states and local school districts¹ for a variety of educational supports and services. The ESEA was originally enacted to provide additional supports to schools with large numbers of low-income and minority students. The IDEA was enacted to ensure that students with disabilities have access to a free appropriate public education (FAPE) in the least restrictive environment (LRE).

NCLB and IDEA both include a commitment to keep the public informed about educational progress that students are making, and both emphasize the importance of involving parents in the education of their children. An underlying assumption of NCLB and IDEA is that in order for parents to be involved in their child's education, they must be informed. Both laws contain key components that ensure parents and public are informed.

This document briefly introduces each law and summarizes the reporting requirements as articulated in the implementing regulations² of each law. Next, similarities and differences between these requirements are summarized with a discussion of how the two laws interface in the areas of reporting to the public and parents. Project Forum at the National Association of State Directors of Special Education (NASDSE) produced this document as part of its cooperative agreement with the U.S. Department of Education's Office of Special Education Programs (OSEP).

THE NO CHILD LEFT BEHIND ACT (NCLB)

When President Bush signed NCLB into law in 2001, there was renewed emphasis on student achievement and school, local education agency (LEA) and state accountability for achievement. To address achievement and accountability, NCLB focuses on assessment, adequate yearly progress (AYP) and highly qualified teachers (HQT). The law requires each state to establish standards of student proficiency with a goal of 100% of students achieving proficiency by 2014. Each state must have in place a system to assess all students against these proficiency standards in grades three through eight in reading and language arts and once in high school. All students, including students with disabilities³ and students with limited English proficiency⁴, must be

¹ Based on Fiscal Year 06 appropriations.

² The NCLB regulations can be found at 34 C.F.R. §200-299 and the IDEA regulations can be found at 34 C.F.R. §300-399. References throughout this document are all to 34 C.F.R. and the appropriate section number.

³ The IEP team determines the assessment the student with a disability will complete.

⁴ While NCLB does not require SEAs to include the academic achievement scores of recently arrived students with limited English proficiency in determining the AYP of an individual school or an LEA, the SEA does report the number of these students who are not assessed on the state's reading/language arts assessment (§ 200.6).

assessed. These assessments are used to determine progress towards student proficiency standards and to determine whether or not AYP is being made in individual schools. The LEA determines whether individual schools make AYP for students in the school overall and for specific subgroups. The State Education Agency (SEA) in turn analyzes the AYP of LEAs based on the scores of schools in each district. AYP and highly qualified teachers are components of the law that support accountability. NCLB requires teachers to be highly qualified in the content area they are teaching (by the end of the 2005-06 school year), and parents are to be informed if someone who is not highly qualified teaches their child. SEAs are responsible for developing a plan to ensure that all public elementary and secondary school teachers in the state who teach core academic subjects are highly qualified.

The U.S. Department of Education (ED) determined that all states had failed to meet the requirements for having highly qualified teachers in place by the end of the 2005-06 school year. States were given the opportunity to submit new plans to ED describing how they will meet the highly qualified teacher provisions in one year. By January 2007, all but eight states had HQT plans approved by ED. Until the goal of highly qualified teachers in every classroom is met, SEAs must provide annual public progress reports on their plan to achieve this goal.

Through numerous provisions in the law, NCLB demonstrates its commitment to keep the public informed about the state of education. Table 1 displays the public reporting requirements as stated in the regulations for NCLB.

Table 1. Parent and Public Reporting Requirements under NCLB

Component	Section	Regulations
Assessment	200.8	“A State’s academic assessment system must produce individual student interpretive, descriptive, and diagnostic reports that include information regarding achievement on the academic assessments ...; help parents, teachers and principals to understand and address the specific academic needs of students; and are provided to parents, teachers and principals soon as is practicable after the assessment is given; in an understandable and uniform format, including an alternative format upon request, and to the extent practicable, in a language that parents can understand.”
	200.6(a)(2)(iii) (B)	“If a State permits the use of alternate assessments ..., the State must ensure that parents of those students are informed that their child’s achievement will be based on alternate achievement standards and reported separately under 1111(h)(4) of the ESEA, the number and the percentage of students with disabilities taking alternate assessments based on alternate academic achievement standards, alternate assessments based on academic achievement standards, and regular assessments including those administered with appropriate accommodations.”

	200.6(b)(4)(i) (C)	“The State and its LEAs must report on state and district report cards ... the number of recently arrived limited English proficient students who are not assessed on the state's reading/language arts assessment.”
Annual Progress Review	200.30(d)	“The LEA must publicize and disseminate the results of its annual progress review to parents, teachers, principals, schools and the community.”
	200.36	“The State, LEA, or school must provide information to parents directly, through such means as regular mail or e-mail, except that if a State does not have access to individual student addresses, it may provide information to the LEA or school for distribution to parents; and through broader means of dissemination such as the Internet, the media, and public agencies serving the student population and their families. All communications must respect the privacy of students and their families.”
Schoolwide program plan	200.27(c)	“The schoolwide program plan must be available to the LEA, parents and the public. Information in the plan must be in an understandable and uniform format including alternative formats upon request and to the extent practicable provided in a language that the parents can understand.”
Improvement or Corrective Action	200.37(a), 200.37(b)	“If an LEA identifies a school for improvement or subjects the school to corrective action or restructuring, the LEA must ... promptly notify the parents of each child enrolled in the school of this identification. The notice must include the following: an explanation of what the identification means, how the school compares in terms of academic achievement to other elementary and secondary schools ..., the reasons for the identification, explanation of how parents can become involved in addressing the academic issues that led to identification, and explanation of the parents’ option to transfer their child to another public school including the provision of transportation to the new school.” See Sec. 200.37(b)(4) for more information about transfers.
Supplemental Services	200.37(b)	“The notice [of identification for improvement, corrective action, or restructuring] must include, if the school is in its second year of improvement or subject to corrective action or restructuring, a notice explaining how parents can obtain supplemental educational services for their child in accordance with Sec. 200.45.” See Sec. 200.37(b)(5) for more information about supplemental services.
Action Taken	Sec. 200.38	“An LEA must publish and disseminate to the parents of each student enrolled in the school ... and to the public information regarding any action taken by a school and the LEA to address the problems that led to the LEA's

		identification of the school for improvement, corrective action or restructuring.”
Notice of SEA Action	Sec. 200.51	“An SEA must communicate with parents throughout the review of an LEA ...; the SEA must promptly publicize and disseminate to the LEAs, teachers, and other staff, the parents of each student enrolled in a school served by the LEA, students, and the community the results of its review. If the SEA identifies an LEA for improvement or subjects the LEA to corrective action the SEA must promptly provide to the parents of each student enrolled in a school served by the LEA—the reasons for identification; and an explanation of how parents can participate in improving the LEA.”
Highly Qualified Teachers	200.57	“SEAs must evaluate and publicly report progress of the SEA with respect to the specific steps the SEA will take to ensure that Title I schools provide instruction by highly qualified teachers including steps that the SEA will take to ensure that minority children and children from low income families are not taught at higher rates than other children by inexperienced unqualified or out of field teachers.”
	200.61(a)	“At the beginning of each school year an LEA ... must notify the parents of each student attending a Title I school that the parents may request and that LEA will provide the parents on request, information regarding the professional qualifications of the student’s classrooms teachers.” See Sec. 200.61(a) for additional information.
	Sec. 200.61(b)	“A school ... must provide to each parent—information on the level of achievement of the parents’ child in each of the state academic assessments ..., and timely notice that the parents child has been assigned, or has been taught for four or more consecutive weeks by, a teacher of a core academic subjects who is not highly qualified.”
Communication with parents	Sec. 200.36	“Throughout the school improvement process, the State, LEA, or school must communicate with the parents of each child attending the school. The State, LEA, or school must ensure that regardless of the method or media used, it provides the information ... in an understandable and uniform format including alternative formats upon request; and to the extent practicable, in a language that the parent can understand.”

THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA)

IDEA ensures that FAPE is available to all children with disabilities. This special education law involves parents in their child’s education through writing, reviewing and amending

Individualized Education Programs (IEPs) and Individualized Family Service Plans (IFSPs)⁵ for each child who is identified with a disability. In its recent reauthorization in 2004, IDEA was aligned more closely to NCLB to ensure that students with disabilities are included in the NCLB accountability systems. In order to receive federal funds under IDEA, a state submits a plan that provides assurances to the Secretary of Education that the state has policies and procedures in effect to ensure that the state meets the conditions of the law.⁶ These conditions include FAPE in the LRE and procedural safeguards among others.

State Reports

SEAs were required to submit a State Performance Plan (SPP) by December 2005 (and every six years thereafter) that evaluates the state's efforts to implement the requirements and purposes of Part B of the Act and describes how the state will improve such implementation. As part of the SPP, each state must establish measurable and rigorous targets for the indicators established by the Secretary of Education under the following priority areas:⁷ provision of FAPE in the LRE; state exercise of general supervision, including child find, effective monitoring, the use of resolution meetings, mediation and a system of transition services as defined in the law; and disproportionate representation of racial and ethnic groups in special education and related services, to the extent the representation is the result of inappropriate identification.⁸

Beginning in February 2007, states will submit annual reports on the performance of the SEA and each LEA located in the state on the targets in the state's SPP.⁹ OSEP will review each annual performance report to determine if the state meets the requirements of Part B of IDEA, or if the state "needs assistance", "needs intervention" or "needs substantial intervention" in implementing the requirements in Part B of the Act.¹⁰ The Secretary of Education will provide reasonable notice and an opportunity for hearings on determinations for states needing intervention or substantial intervention.¹¹ States will make similar determinations for each LEA based on the targets in the state performance plan.

Additional Public Information

The state annually counts and reports the number of children receiving special education and related services,¹² and the number of children receiving early intervening services.¹³ In addition, IDEA regulations require each state to collect and examine data to determine if there is disproportionate identification of children with disabilities, disproportionate placement in

⁵ IFSPs are written for infants and toddlers, ages birth to three who have a disability as defined under Part C of IDEA.

⁶ Assistance to States for the Education of Children with Disabilities and Preschool Grants for Children with Disabilities, Sec. 300.100

⁷ Sec. 300.601(a)(3)

⁸ Sec. 300.600(d)

⁹ Sec. 300.602

¹⁰ Sec. 300.603

¹¹ Sec. 300.603

¹² For more specific information, refer to Sec. 300.641 & Sec 300.644.

¹³ For more specific information, refer to Sec. 300.641 & Sec 300.226.

particular educational settings or disproportionate incidence, duration and type of disciplinary actions based on race and ethnicity.¹⁴

Reporting to Parents

An essential component of IDEA is parent involvement. According to the law therefore, parents must be fully informed about activities related to their child.¹⁵ First, parents must understand what consent is and provide informed consent for services under IDEA. Second, parents must be notified in advance about any proposed changes to a child’s evaluation, IEP/IFSP, or educational placement¹⁶ to ensure the opportunity to participate in meetings regarding the education of their child. Additionally, parents must be:

- informed about the process used to assess the child’s response to scientific, research-based intervention, appropriate strategies for improved achievement and the right to request an evaluation;¹⁷
- informed about disciplinary processes and disciplinary actions regarding their child;¹⁸
- given a copy of the procedural safeguards, the evaluation report, the documentation of determination of eligibility¹⁹ and a copy of the child’s IEP at no cost to the parent;²⁰
- informed about the state procedures for filing a complaint, and the right to records of hearings, findings of fact and decisions;²¹ and
- allowed to inspect and review all education records related to their child, and request that information be amended.²²

Through numerous provisions in the law, IDEA demonstrates its commitment to keep parents informed about their child’s education and to keep the public informed about the state of education for children with disabilities. Table 2 displays the public and parent reporting requirements as stated in the regulations for IDEA.

Table 2. Public and Parent Reporting Requirements under IDEA

Component	Section	Regulation
State Performance Plan (SPP)	300.602	“The State must report annually to the public on the performance of each LEA located in the state on the targets in the [SPP]; and make the [SPP] available through public means including by posting on the website of the SEA, distribution to the media, and distribution through public agencies.”

¹⁴ Sec. 300.646(a)
¹⁵ Sec. 300.9
¹⁶ Sec. 300.503(a)
¹⁷ Sec. 300.311(a)(7)
¹⁸ Sec. 300.530(h)
¹⁹ Sec. 300.306(a)
²⁰ Sec. 300.322(f)
²¹ Sec. 300.151
²² Sec. 300.501

Public Participation and Public attention	300.165	“Prior to the adoption of any policies and procedures needed to comply with Part B of the Act ..., the State must ensure that there are public hearings, adequate notices of the hearings, and an opportunity for comment available to the general public, including individuals with disabilities and parents of children with disabilities.”
	Sec. 300.606	“Any State that has received notice under Sec. 300.603(b)(1)(ii) through (iv) [that the Secretary determined the state needs assistance ...; needs intervention ...; or needs substantial intervention in implementing the requirements of Part B of the Act], must by means of public notice, take such measures as may be necessary to notify the public within the State of the pendency of an action taken pursuant to Sec. 300.604.”
Child Count	Sec. 300.641	“For purposes of the annual report required by section 618 of the Act ..., the State and the Secretary of the Interior must count and report the number of children with disabilities receiving special education and related services on any date between October 1 and December 1 of each year.” See Sec. 300.641 for additional information.
Early Intervening Services	Sec. 300.226(d)	“Each LEA that develops and maintains coordinated, early intervening services ... must annually report to the SEA on the number of children served ... who received early intervening services; and the number of children served ... who received early intervening services and subsequently receive special education and related services.”
Disproportionality	Sec. 300.646(b)(3)	“In the case of the determination of significant disproportionality with respect to the identification of children as children with disabilities, or the placement in particular educational settings of these children, ... the State or the Secretary of Interior must require the LEA to publicly report on the revision of policies, practices, and procedures described under paragraph (b)(1) of this section.”
Notices to Parents	Sec. 300.501(b)	“Each public agency must provide notice ... to ensure that parents of children with disabilities have the opportunity to participate in meeting.”

	Sec. 300.503(a)	“Written notice ... must be given to the parents of a child with a disability a reasonable time before the public agency proposes or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.” See Section 300.503(b) for content of the notice.
	Sec. 300.503(c)	“The notice ... must be written in language understandable to the general public; and provided in the native language of the parent or other mode of communication used by the parent unless it is clearly not feasible to do so.” See section in 300.503(c) for additional information.
	Sec. 300.612	“The SEA must give notice that is adequate to fully inform parents about the requirements of Sec. 300.123, including a description of the extent that the notice is given in the native languages of the various population groups in the State; a description of the children on whom personally identifiable information is maintained, the types of information sought, the methods the State intends to use in gathering the information ..., and the uses to be made of the information; a summary of the policies and procedures that participating agencies must follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information; and a description of all the rights of parents and children regarding this information, including the rights under FERPA and implementing regulations in 34 CFR part 99.”
Response to Intervention	Sec. 300.311(a)(7)	“If the child has participated in a process that assesses the child’s response to scientific, research-based intervention [there must be] documentation that the child’s parents were notified about the State’s policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided; the strategies for increasing the child’s rate of learning; and the parents’ right to request an evaluation.”
Discipline	Sec. 300.530(h)	“On the date on which the decision is made to make a removal that constitutes a change of placement of a child with a disability because of a violation of a code of student conduct, the LEA must notify the parents of that decision, and provide the parents the procedural safeguards notice described in Sec. 300.504.”
Complaints	Sec. 300.151(a)(ii)(2)	“Each SEA must adopt written procedures for widely disseminating to parents and other interested individuals,

		including parent training and information centers, protection and advocacy agencies, independent living centers and other appropriate entities, the State procedures [for filing a complaint] under Sections 300.151 through 300.153.” See Sec. 300.507, 300.512, and 300.620 for additional information about information for parents and parents’ rights regarding complaints and hearings.
Educational Records	Sec. 300.306(a); Sec. 300.504(a); Sec. 300.322(f)	“The public agency provides a copy of the evaluation report and the documentation of determination of eligibility; ... the procedural safeguards; ... and the child’s Individualized Education Program (IEP) at no cost to the parent.”
	Sec. 300.501(a)	“The parents of a child with a disability must be afforded ... an opportunity to inspect and review all education records” See Sections 300.501, 300.613 and 300.618 for additional information.
Progress Reports	Sec. 300.320(a)(3)	“The IEP ... must include a description of how the child’s progress toward meeting the annual goals ... will be measured; and when periodic reports on the progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided.”
Privacy	Sec. 300.602	“The State must not report to the public or Secretary any information on performance that would result in disclosure of personally identifiable information about individual children, or where the available data are insufficient to yield statistically reliable information.”
	Sec. 300.642	“The data described in section 618(a) of the Act ... must be publicly reported by each State in a manner that does not result in disclosure of data identifiable to individual children.”

The U.S. Department of Education is working on proposed amended regulations to those published in August 2006. Those proposed regulations will include language that addresses public reporting on participation and performance of students with disabilities in various types of assessments and will be contained in Section 300.160.

SIMILARITIES AND DIFFERENCES BETWEEN NCLB AND IDEA

Both NCLB and IDEA have a commitment to keep the public informed about the state of education at the state and local levels as reflected in the numerous provisions in both laws that require either public reporting and/or individual notice to parents. Both laws require state plans and annual progress reports to be available to the public. Both NCLB and IDEA are committed

to presenting information to parents in a comprehensible manner, although the specific requirements in the regulations are worded differently. Both laws respect the privacy of student and family information. Both laws also emphasize the importance of highly qualified teachers in every public classroom, and NCLB informs parents of their right to know the professional qualifications of their child's teachers.

NCLB reporting emphasizes the proficiency of students and whether schools and LEAs are making AYP based on measures of student proficiency. IDEA reporting focuses on the number of students receiving special education and related services and the performance of states in meeting established targets to assure children with disabilities receive FAPE in the LRE. IDEA requires more reporting of information directly to the parents about their child's educational program, performance and participation in the educational system than NCLB requires.

States publicly report information about AYP under NCLB and state performance under IDEA. Congress intentionally made changes in IDEA 2004 to align it more closely with NCLB. For example, quantifiable targets that are aligned with AYP in NCLB are used to measure state performance under IDEA. States report valuable information to the public about education through these means. While the information provided is different between the two laws, the intent to demonstrate progress and achievement is the same. The upcoming reauthorization of ESEA will provide an additional opportunity to align that law with special education both in terms of policies and procedures and the public reporting and data collection elements.

CONCLUDING REMARKS

NCLB and IDEA are the major K-12 federal education laws. Both recognize the importance of informing the public and parents about the educational system at the state and local levels. The underlying assumption of NCLB is that the individual achievement of a student represents the quality of education received. The underlying assumption of IDEA is that individuals with disabilities have a right to fully participate in public education. The public reports provided by both laws, while different, reflect the performance of our educational system as a whole. Taken together, the publicly reported data will help individual communities have a better understanding of how well students are performing academically. The data produced by the reporting requirements in turn will help states and LEAs determine where to target their resources to ensure that all students make academic progress and achieve to a high level consistent with state standards.

REFERENCES

Assistance to States for the Education of Children with Disabilities and Preschool Grants for Children with Disabilities, 71 Fed. Reg. 156, (Aug. 14, 2006) (to be codified at 34 C.F.R. part 300 and 301).

No Child Left Behind: Title I-Improving the Academic Achievement of the Disadvantaged, 34 C.F.R. § 200 (2006).