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General Curriculum

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Access to the General Curriculum for Students with Disabilities: A Discussion of the Interrelationship between IDEA '97 and NCLB

A Policy Paper for Educators and Families

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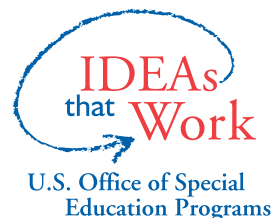


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Access to the General Curriculum for Students with Disabilities: A Discussion of the Interrelationship between IDEA '97 and NCLB

By Joanne Karger

I. Introduction

In 1975, Congress passed the Education for All Handicapped Children Act (EAHCA), according to which children with disabilities were given the right to a “free appropriate public education” (FAPE)¹ in the “least restrictive environment” (LRE).² At the time, Congress estimated that more than half of the nation’s children with disabilities were not receiving appropriate educational services and that one million children with disabilities were being completely excluded from the public school system (20 U.S.C. § 1400(c)(2)(B)-(C)). A primary purpose of the 1975 law was to ensure that all students with disabilities have access to special education and related services designed to meet their unique needs. The 1975 statute was reauthorized several times; in 1990, it was renamed the Individuals with Disabilities Education Act (IDEA).

By the early 1990s, many improvements had been made in the education of children with disabilities. Early intervention and early childhood special education services were introduced in 1986, and requirements for transitional planning in preparation for aging out of special education were initiated in 1990. Moreover, the number of children with significant disabilities living in residential institutions had decreased dramatically (U.S. Department of Education, 1995). In addition, more students with disabilities were graduating from high school and obtaining post-school employment (U.S. Department of Education, 1995; Wagner, Blackorby, Cameto, Hebbeler, and Newman, 1993). In spite of these positive changes, however, students with disabilities still faced many obstacles. For example, efforts to include them in the regular education classroom – commonly referred to as mainstreaming and later inclusion – often focused on special education as a place, without sufficient attention to necessary supports and services (Hocutt, 1996). In addition, research showed that students with disabilities tended to fail classes and drop out of school at higher rates than students without disabilities (U.S. Department of Education, 1995). Congress summed up the situation as follows: “Despite the progress, the promise of the law has not been fulfilled” (H.R. Rep. No. 105-95, at 85 (1997)).

The 1997 reauthorization of IDEA (IDEA '97) attempted to address many of these problems, introducing important changes in the provision of educational services for students with disabilities. One of the most significant changes was the new requirement that students with disabilities have access to the general curriculum – i.e., the same curriculum as that provided to students without disabilities (34 C.F.R. § 300.347(a)(1)(i)). Expanding upon the earlier concepts of FAPE and LRE, the goal was to raise expectations for the educational performance of students with disabilities (20 U.S.C. § 1400(c)(5)(A)) and to improve their educational results (*Id.* §

¹ FAPE is defined as: “special education and related services that - (A) have been provided at public expense, under public supervision and direction, and without charge; (B) meet the standards of the State educational agency; (C) include an appropriate preschool, elementary, or secondary school education in the State involved; and (D) are provided in conformity with the individualized education program required under [the law]” (20 U.S.C. § 1401(8)).

² LRE refers to the education of students with disabilities to the maximum extent appropriate in a setting together with students without disabilities (20 U.S.C. § 1412(a)(5)(A)).

1400(d)(3)). Four years later, Congress passed the No Child Left Behind Act of 2001 (NCLB), the purpose of which was to promote equal opportunity for all children to receive a high-quality education and attain proficiency (at a minimum) on challenging State achievement standards and State assessments (*Id.* § 6301). NCLB includes several requirements that have implications for the participation of students with disabilities in the general curriculum.

This paper analyzes the concept of access to the general curriculum as mandated by IDEA '97 and further impacted by NCLB. Through a discussion of the interrelationship between the two statutes, this paper addresses the following question: What are the legal provisions in IDEA '97 and NCLB associated with access to the general curriculum for students with disabilities, and how do these provisions translate into educational obligations for States and school districts? By clarifying the interrelationship between the two statutes and highlighting the legal and educational obligations incumbent upon States and local school districts, this paper will lead to a more comprehensive understanding of the meaning of access to the general curriculum.

II. Individuals with Disabilities Education Act '97

Access to the General Curriculum

Congress first introduced the concept of access to the general curriculum in IDEA '97 by stating, “Over 20 years of research and experience has demonstrated that the education of students with disabilities can be made more effective by having high expectations for such children and *ensuring their access in the general curriculum* to the maximum extent possible” (20 U.S.C. § 1400(c)(5)(A) (emphasis added)). Similarly, the implementing regulations of the Department of Education (DOE) define special education as “specially designed instruction” whose purpose is

To address the unique needs of the child that result from the child’s disability; and *to ensure access of the child to the general curriculum*, so that he or she can meet the educational standards within the jurisdiction of the public agency that apply to all children (34 C.F.R. § 300.26(b)(3) (emphasis added)).

The nonspecific term “general curriculum” is not defined anywhere in the statute or regulations but is later described in the regulations as “the same curriculum as for nondisabled children” (*Id.* § 300.347(a)(1)(i)).

In other places in the law, IDEA '97 further requires that students with disabilities be involved in and progress in the general curriculum. Thus, the overall right to have access to the general curriculum can, in fact, be viewed as consisting of three interrelated stages: access, involvement and progress (Hitchcock et al., 2002). The first stage, “access,” refers to whether the curriculum is accessible to the student. Involvement, the second stage, can be thought of as the on-going process of meaningful participation and, as such, is an interim phase that links access to progress. Progress, the third stage, refers not only to a final outcome, but also to an evaluative measure that can feed back into the earlier stages of access and involvement. The three stages of access, involvement and progress can therefore be thought of as forming an ongoing cycle (see Figure 1). These stages are not entirely discrete because in certain instances, a provision can arguably fall under more than one rubric. This framework, however, which is utilized throughout this paper, is useful in elucidating the various components of access to the general curriculum and in analyzing the educational issues involved.

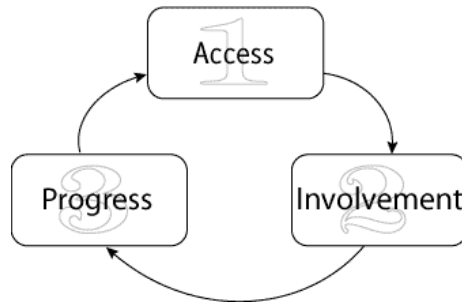


Figure 1. Cycle of Ensuring Access to the General Curriculum

The concept of access to the general curriculum embodied in the 1997 Amendments, encompassing access, involvement and progress, represents a significant advance in the education of students with disabilities, far exceeding the earlier notion of physical access to the school building and access to special education and related services intended by the EAHCA in 1975. Moreover, by incorporating both involvement and progress, the requirement in IDEA '97 that students have access to the general curriculum extends well beyond the concepts of mainstreaming and inclusion that developed following 1975 and focused mainly on placement in the regular classroom.

Involvement in the General Curriculum

There are three requirements in IDEA '97 pertaining to the individualized education program (IEP) that specifically mention involvement in the general curriculum:

- The IEP must include a statement of the child's present levels of educational performance, including how the child's disability affects the child's involvement and progress in the general curriculum.
- The IEP must include a statement of measurable annual goals, including benchmarks or short-term objectives, related to meeting the child's needs that result from the child's disability to enable the child to be involved in and progress in the general curriculum.
- The IEP must include a statement of the special education and related services and supplementary aids and services to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child to be involved and progress in the general curriculum.

(20 U.S.C. §§1414(d)(1)(A)(i)-(iii))

These three requirements translate into important educational obligations for school districts by laying out specific steps that must be taken by the IEP team in order to enable the student to participate in the general curriculum in a meaningful way. In the past, the IEP team had to state the student's current levels of educational performance; IDEA '97 adds the inclusion of a statement describing the specific effect of the student's disability on his/her involvement and progress³ in the general curriculum. Such consideration is a critical first step in the design of an appropriate educational program.

³ Although the language used by IDEA in these requirements refers to both involvement and progress, the requirements are included here under the rubric of involvement.

The second provision requires IEP goals to enable the child to be involved in and progress in the general curriculum, as appropriate to the needs of the child. IEP goals lay the foundation for a student's educational program and provide a roadmap for the teacher. While in the past, IEP goals had to be based on the specific needs of the individual student, the goals did not necessarily relate to the general curriculum (U.S. Department of Education, 1995).

The third provision specifies that the IEP team must consider the supplementary aids and services, program modifications and supports provided to the student and for school personnel that will enable the student to be involved in and progress in the general curriculum. This provision, underscoring the fact that mere physical access to the regular classroom without appropriate support is no longer sufficient under the law, has the potential to lead teachers to consider ways to adapt their instructional practices to enable the student to participate in the general curriculum. The legislative history leading up to the reauthorization explained: The new emphasis on participation in the general education curriculum . . . is intended to produce attention to the accommodations and adjustments necessary for disabled children to access the general education curriculum and the special services which may be necessary for appropriate participation in particular areas of the curriculum (Sen. Rep. No. 105-17, at 17 (1997)).

It is to be noted that the third provision refers to the use of "program modifications" and does not mention the word "accommodations."⁴ In fact, throughout IDEA '97 and the implementing regulations, there is an inconsistency in the usage of these two terms, and neither the statute nor the regulations provide definitions. In the field of special education, an accommodation is generally thought of as an alteration that does not change the content of the curriculum or lower standards. In contrast, a modification is generally considered a change that creates a substantial alteration in the content of the curriculum or lowers standards (for example, teaching less content or different content) (Nolet & McLaughlin, 2000).

Two additional requirements in IDEA '97 that do not specifically mention involvement in the general curriculum have implications for involvement by referring to the "regular class" and the "regular education environment":

- The IEP must include an explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class (20 U.S.C. § 1414(d)(1)(A)(iv)).
- The IEP team must include at least one regular education teacher of such child (if the child is, or may be, participating in the regular education environment); [and] at least one special education teacher, or where appropriate, at least one special education provider of such child (*Id.* §§ 1414(d)(1)(B)(ii)-(iii)).

According to the first provision, school districts are now obligated to provide greater justification for not including students with disabilities in the regular class. This provision expands upon IDEA's mandate that students with disabilities must be educated in the least restrictive environment to the maximum extent appropriate. The implementing regulations further elaborate that a child cannot be removed from education in age-appropriate regular classrooms solely because of needed modifications in the general curriculum (34 C.F.R. § 300.552(e)). Although these new requirements do not convey an automatic obligation to place students with

⁴ But note that in the Appendix to the regulations, the Department of Education mentions the inclusion of both accommodations and modifications in the student's IEP (34 C.F.R. App. A at pt. 300).

disabilities in the regular class, they reinforce IDEA's long-standing preference in favor of such placement.⁵

The second provision concerns the composition of the IEP team. Prior to 1997, IDEA merely specified that the "child's teacher" had to participate (34 C.F.R. § 300.344(a)(2)(1990)), but did not refer directly to the child's regular education teacher.⁶ The inclusion in IDEA '97 of the regular education teacher on the IEP team (if the child is, or may be, participating in the regular education environment) should help regular education teachers to begin to view students with disabilities as part of their responsibility and to think about ways of involving them in the general curriculum. In addition, this provision has the potential to lead special education and regular education teachers to work together. Because the regular education teacher is the individual who is most familiar with the general curriculum and who oversees instruction in the regular class, the input of this teacher, in conjunction with his/her collaboration with special education personnel, can help to ensure that the student participates in the general curriculum in a meaningful way.

Progress in the General Curriculum

As described earlier, access to the general curriculum consists of three interrelated phases forming a cycle, the third of which is progress. Three aspects of progress in the general curriculum⁷ can be delineated: (1) progress toward IEP goals, (2) participation in State and district-wide assessments and (3) the establishment of state level performance goals and indicators.

The first aspect of progress in the general curriculum concerns progress toward IEP goals:

- The IEP must include a statement of how the child's progress toward the annual goals will be measured (20 U.S.C. § 1414(d)(1)(A)(viii)(I)).
- The IEP must include a statement of how the child's parents will be regularly informed (by such means as periodic report cards), at least as often as parents are informed of their nondisabled children's progress, of their child's progress toward the annual goals (*Id.* § 1414(d)(1)(A)(viii)(II)(aa)).
- The IEP must be reviewed periodically, but not less than annually and revised as appropriate to address any lack of expected progress toward the annual goals and in the general curriculum, where appropriate (*Id.* §§ 1414(d)(4)(A)(i), (ii)(I)).

As with the IDEA '97 provisions pertaining to involvement, these three requirements also translate into specific educational obligations for school districts. The first two requirements do not explicitly mention the general curriculum; however, because IEP goals must address the child's involvement and progress in the general curriculum (as appropriate to the needs of the

⁵ For a discussion of this congressional preference, see, e.g., *Oberti v. Board of Educ.*, 995 F.2d 1204, 1214 (3d Cir. 1993); *Daniel R.R. v. State Bd. of Educ.*, 874 F.2d 1036, 1044 (5th Cir. 1989); *Roncker v. Walter*, 700 F.2d 1058, 1063 (6th Cir. 1983).

⁶ In addition, IDEA '97 specifies that the IEP team must include a representative of the local educational agency (LEA) who is knowledgeable about the general curriculum and about the availability of resources of the LEA (20 U.S.C. § 1414(d)(1)(B)(iv)(II)-(III)).

⁷ In addition, the regulations require that when a student with a disability is placed in an "interim alternative educational setting," the setting must be selected so as to enable the child to continue to progress in the general curriculum (34 C.F.R. § 300.522(b)(1)).

child), the measurement of progress toward the attainment of these goals and the reporting of this progress to parents will also be connected to the general curriculum. All three of these provisions pertain to the IEP, which can be viewed as the central mechanism, both legally and educationally, for ensuring access to the general curriculum.

A second aspect of progress in the general curriculum pertains to the participation of students with disabilities in State and district-wide assessments:

- Children with disabilities must be included in general State and district-wide assessment programs, with appropriate accommodations, where necessary; as appropriate, States or districts must develop guidelines for the participation of children with disabilities in alternate assessments, and conduct the alternate assessments no later than July 1, 2000 (20 U.S.C. § 1412(a)(17)(A)).
- The IEP must include a statement of any individual modifications in administration of State or district-wide assessments that are needed in order for the child to participate; if the IEP team determines that the child will not participate, the IEP must include a statement of why that assessment is not appropriate and how the child will be assessed (*Id.* § 1414(d)(1)(A)(v)).
- States must report, and make available to the public, information concerning the number and performance of children with disabilities on regular assessments and on alternate assessments⁸; the data must be disaggregated (*Id.* § 1412(a)(17)(B)).

It is important to note, however, that IDEA does not mandate the establishment of State or district-wide assessments, but rather requires that if a State or district has such a system in place, students with disabilities must be included.

The above provisions in IDEA '97 are significant because they represent the first time that IDEA explicitly mandated that States and districts include students with disabilities in their assessment programs, with appropriate accommodations or by means of alternate assessments, and that States report on the results of these assessments. These requirements were included in order to increase accountability for the performance of students with disabilities and thereby improve their educational results. As part of the IDEA reauthorization process completed in 1997, the Department of Education (1995) stated:

When schools are required to assess students with disabilities and report on the results, schools are more likely to focus on improving results for students with disabilities, and students are more likely to have *meaningful access to the general curriculum* (p. 12) (emphasis added).

The participation of students with disabilities in State and district-wide assessments raises complex educational and psychometric issues with which States and districts must grapple in administering appropriate testing accommodations and alternate assessments. Testing accommodations that are appropriate can be thought of as a “corrective lens” through which “to correct for distortions in a student’s true competence caused by a disability unrelated to the

⁸ States are only required to report on the performance of students with disabilities “if doing so would be statistically sound and would not result in the disclosure of performance results identifiable to individual children” (20 U.S.C. § 1412(a)(17)(B)(iii)(I)).

construct being measured” (National Research Council (NRC), 1997, pp. 173, 176). There is the risk, however, that the accommodations may over- or under-compensate for such distortions and thereby interfere with the validity of the inferences being drawn from the assessment scores. Although decisions about the use of appropriate accommodations with respect to physical disabilities may be somewhat straightforward, according to the National Research Council (1997): “Most students with disabilities have cognitive impairments that presumably are related to at least some of the constructs tested” (p. 170). Unfortunately, there is little research examining the effects of specific accommodations on the validity of inferences made from the assessment scores of students with different types of disabilities (NRC, 1997, 1999; Sireci, Li, and Scarpati, 2003).

An alternate assessment is a different measure of the educational progress of students who cannot take part in the regular assessment, even with the help of accommodations. An alternate assessment, for example, may be a portfolio of the student’s work. As with the use of accommodations, educational and psychometric issues arise with respect to the use of alternate assessments (see, e.g., Quenemoen, Rigney and Thurlow, 2002. In addition, there are questions pertaining to the standards against which alternate assessments should be measured⁹ and the manner in which the results of alternate assessments should be reported.

Finally, the third aspect of progress in the general curriculum concerns the establishment of performance goals and indicators. Specifically, States must:

- Establish performance goals for children with disabilities that are consistent, to the maximum extent appropriate, with other goals and standards for children established by the State;
- Establish performance indicators to assess progress toward achieving those goals that, at a minimum, address the performance of children with disabilities on assessments, drop-out rates, and graduation rates;
- Provide reports every two years on the progress of the State, and of children with disabilities in the State, toward meeting the performance goals.

(20 U.S.C. §§1412(a)(16)(A)-(C))

These three requirements pertain to obligations on the part of States. As noted with respect to the earlier assessment and accountability provisions, the inclusion of these requirements in IDEA ’97 is intended to increase accountability for the educational performance of students with disabilities. The first provision, requiring performance goals for students with disabilities to be consistent to the maximum extent appropriate with goals and standards for all children, also underscores the intent of IDEA ’97 to raise the level of expectations for the educational performance of students with disabilities.

In summary, IDEA lays out specific obligations incumbent on States and districts to ensure that students with disabilities have access to, are involved in and make progress in the general curriculum. For many of these obligations, the IEP serves as the central mechanism, both legally and educationally, for ensuring access to the general curriculum. The next section will discuss

⁹ Newly promulgated regulations for NCLB (Dec. 9, 2003) attempt to address this issue (see “Alternate Achievement Standards” section).

the impact of certain provisions in the No Child Left Behind Act of 2001 on the provision of access to the general curriculum for students with disabilities.

III. No Child Left Behind Act of 2001

In 2002, four years after the 1997 reauthorization of IDEA, Congress passed the No Child Left Behind Act (NCLB), the purpose of which was “to ensure that *all* children have a fair, equal, and significant opportunity to obtain a high-quality education and reach, at a minimum, proficiency on challenging State academic achievement standards and State academic assessments” (20 U.S.C. § 6301 (emphasis added)). Although NCLB applies to all students, including students with disabilities, and IDEA applies only to students with disabilities, both statutes share the goal of raising expectations for the educational performance of students with disabilities and increasing accountability for their educational results. In several places in the law, NCLB makes explicit reference to IDEA.¹⁰ At the same time, however, the two statutes differ in nature in that IDEA allows parents to bring individual claims and seek a remedy. A recent federal court case in New York has held that NCLB does not convey to parents or students “individually enforceable rights” (*Assoc. of Comm. Organizations for Reform NOW v. New York City Dept. of Educ.*, 269 F. Supp. 2d 338, 347 (S.D.N.Y. 2003)). This section will examine various requirements in NCLB that have implications for providing access to the general curriculum for students with disabilities. These requirements will be discussed under the three rubrics of access, involvement and progress.¹¹

Access to the General Curriculum

Challenging Content and Achievement Standards

IDEA '97, as noted, requires that students with disabilities have access to the general curriculum – i.e., the same curriculum as that provided to students without disabilities – but does not elaborate further on the meaning of the term “general curriculum,” leaving the details to be filled in by States and school districts. NCLB focuses attention on the general curriculum by requiring that States develop “challenging” academic standards for both content and student achievement for all children in at least mathematics, reading/language arts and, by the beginning of the 2005-2006 school year, science (20 U.S.C. §§ 6311(b)(1)(A)-(C)).¹² The obligation to develop challenging content standards should help States define the general curriculum. Moreover, the requirement for States to adopt challenging achievement standards has the potential to raise the level of the general curriculum. The development of standards is thus a point of intersection for the two statutes: IDEA requires that students with disabilities have access to the general curriculum, according to their individualized needs, while NCLB helps to define and raise the level of the general curriculum.

¹⁰ For example, NCLB mandates that, in order to receive Title I funds, the plan of a State or district must be coordinated with the requirements of IDEA (20 U.S.C. §§ 6311(a)(1), 6312(a)(1)).

¹¹ NCLB is a vast statute with many components. This paper includes only select provisions that relate specifically to access to the general curriculum for students with disabilities.

¹² Content standards are to “specify what children are expected to know and be able to do; contain coherent and rigorous content; and encourage the teaching of advanced skills” (20 U.S.C. § 6311(b)(1)(D)(i)). Achievement standards are to be aligned with a State’s content standards and describe at least two levels of high achievement (proficient and advanced), as well as a third level of achievement (basic) (*Id.* § 6311(b)(1)(D)(ii)).

It is significant that the applicability of a State’s challenging academic standards to all students is inclusive of students with disabilities. In the Appendix to the statute’s implementing regulations, the DOE states:

Too often in the past, schools and LEAs [local educational agencies] have not expected students with disabilities to meet the same grade-level standards as other students. The NCLB Act sought to correct this problem by requiring each State to develop grade-level academic content and achievement standards that it expects all students – including students with disabilities – to meet (67 F.R. 71710, 71741).

Thus, IDEA ’97 and NCLB converge with respect to expectations for the educational performance of students with disabilities: IDEA ’97 requires that students with disabilities have access to the same curriculum (according to their individualized needs) as students without disabilities so that they can meet the educational standards that apply to all children; NCLB establishes the expectation that students with disabilities can meet the same standards as students without disabilities.

High-Quality Curricula

In addition to the mandate for States to develop challenging content and achievement standards, NCLB also refers, in a number of places, to the use of a high-quality curriculum, further emphasizing the high level expected of a State’s general curriculum. For example, NCLB discusses the shared responsibility of schools and parents to develop a school-parent compact that describes “the school’s responsibility to provide *high-quality curriculum* and instruction ... that enables the children served under this part to meet the State’s student academic achievement standards” (20 U.S.C. § 6318(d)(1) (emphasis added); see also *id.* §§ 6311(b)(8)(D), 6312(c)(1)(O)). Thus, NCLB raises the level of the general curriculum by requiring that a State develop “challenging” content and achievement standards and establish a curriculum that is of a “high-quality.”

Involvement in the General Curriculum

IDEA ’97, as noted, requires that students with disabilities be involved in the general curriculum. Several provisions in NCLB have implications for such involvement – namely, (1) teacher qualifications, (2) professional development and (3) special programs and services.

Teacher Qualifications

In addition to the development by a State of challenging standards and a high-quality curriculum, in order to raise the level of the general curriculum, NCLB also mandates requirements concerning the qualifications of teachers: Beginning in the 2002-2003 school year, all newly hired teachers must be “highly qualified,” and no later than the end of the 2005-2006 school year, all teachers who teach the “core academic subjects” must be highly qualified (20 U.S.C. § 6319(a)). A teacher who is highly qualified is one who: (1) has obtained full State certification or has passed a State teacher licensing examination and holds a license to teach in the State; (2) holds at least a bachelor’s degree; and (3) has demonstrated competence in the subjects in which he/she teaches (*Id.* § 7801(23)).¹³ Underlying the requirement that teachers be highly qualified is

¹³ The specific requirements differ somewhat for elementary and middle/secondary teachers and for newly hired and veteran teachers.

the assumption that such teachers will be better able to teach the general curriculum established by a State or district.

NCLB defines the core academic subjects as follows: “English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography” (20 U.S.C. § 7801(11)). It can be seen that special education is not included in this list. In the Appendix following the regulations, the DOE states:

The statute does not identify special education as a core academic subject, and the Secretary lacks authority to delete or change the subjects included in this statutory definition (67 F.R. at 71763).

The DOE goes on to acknowledge, however, that special education teachers who do not teach the core academic subjects, but who provide only consultative services to other teachers (for example, adapting curriculum materials and determining appropriate accommodations), are not required to meet the NCLB provisions for being “highly qualified” (*Id.* at 71763-64). Special education teachers who do teach the core academic subjects and who provide more than consultative services are required to be “highly qualified” (see Office of Elementary and Secondary Education, Non-Regulatory Guidance, Jan. 16, 2004). If students with disabilities are to participate in the general curriculum, it is important for special education teachers to be knowledgeable about the core academic subjects they teach as well as the impact of disability on development, learning and behavior.

Professional Development

A second area that can be identified as having the potential to facilitate the involvement of students with disabilities in the general curriculum is professional development. NCLB calls for professional development, for example, that is aligned with State content and achievement standards as well as assessments (20 U.S.C. § 7801(34)(A)(viii)). Such alignment has the effect of linking professional development activities to an understanding of the general curriculum, an important step for teachers who will be helping students with disabilities to be involved in the general curriculum. In addition, professional development, to the extent appropriate, is to include training in the use of technology that can improve the quality of teaching in the curricula and core academic subjects (*Id.* § 7801(34)(A)(xi)). The provision of training for teachers in technology is crucial in helping teachers to integrate technology into their instructional practices. Such integration is not only important for teaching the general curriculum to students without disabilities but can also play a significant role in helping students with disabilities have access to and participate in the general curriculum (Rose & Meyer, 2002).

NCLB further specifies that professional development should, among other pedagogical activities, “provide instruction in methods of teaching children with special needs” (20 U.S.C. § 7801(34)(A)(xiii)) and “provide training in how to teach and address the needs of students with different learning styles, particularly students with disabilities...” (*Id.* § 6623(a)(3)(B)(ii)). Moreover, NCLB also encourages the development of programs to train and hire regular and special education teachers, including the hiring of special education teachers who will team-teach classes that include students with and without disabilities (*Id.* § 6623(a)(2)(C)(i)). IDEA

'97 has similar statements regarding professional development.¹⁴ Professional development that is instructive to regular education teachers in promoting an understanding of the needs of students with disabilities in their classroom can help these teachers provide more effective instruction to these students. Similarly, professional development that trains special education teachers to team-teach with regular education teachers is also important. When regular and special education teachers work together, they can pool their resources and expertise toward the goal of involving students with disabilities in the general curriculum.

Special Programs and Services

Reading First. A third area of NCLB that has the potential to facilitate the involvement of students with disabilities in the general curriculum relates to special programs and services that are available to schools and students – for example, the Reading First program. Reading First assists States and local districts “in selecting or developing effective instructional materials (including classroom-based materials to assist teachers in implementing the essential components of reading instruction), programs, learning systems, and strategies to implement methods that have been proven to prevent or remediate reading failure” (20 U.S.C. § 6361(4)). This program is targeted at children who, among other criteria, are at risk of being referred to special education or are served under IDEA because of a learning disability (LD) related to reading (*Id.* § 6362(c)(7)(A)(ii)(II)). The goal of this program is to help all children learn to read by the end of the third grade (20 U.S.C. § 6361(1)). Research has shown that more than half of all students who are identified for special education services are classified as LD (Vaughn & Fuchs, 2003), and approximately 80% of children with LD have problems with reading (Lyon et al., 2001). The emphasis on reading in NCLB, particularly as part of the Reading First program, has the potential to lead educators to focus on effective instructional techniques in reading that can help students with disabilities be involved in the general curriculum. Early identification of struggling readers, followed up with carefully targeted literacy instruction, can reduce the number of students referred to special education. Moreover, effective reading instruction in the early grades can provide the foundation for the establishment of literacy skills that are crucial for later content area learning in the core curriculum subjects.

Supplemental Educational Services. NCLB also requires school districts to arrange for the provision of supplemental educational services, from a State-approved provider, for children from low-income families, including children with disabilities, who attend schools that have failed to make “adequate yearly progress” (see “Accountability” section below) for three consecutive years (20 U.S.C. § 6316(e)(1)). Such services, defined as “tutoring and other supplemental academic enrichment services,” are to be provided outside of the regular school day and are designed to improve the achievement of children eligible to receive supplemental educational services on State assessments and help them attain proficiency in meeting the State achievement standards (*Id.* § 6316(e)(12)(C)). For students with disabilities, the supplemental educational services must be consistent with the child’s IEP (*Id.* § 6316(e)(3)(A)); the services, however, do not have to meet the goals of the IEP and are not considered part of the IEP (67 F.R.

¹⁴ IDEA '97 discusses the importance of “supporting high-quality, intensive professional development for all personnel who work with [students with disabilities]” (20 U.S.C. § 1400(c)(5)(E)) and states: “[T]he State will provide for the joint training of parents and special education, related services, and general education personnel” (*Id.* § 1453(c)(3)(D)(x)).

at 71757).¹⁵ These services have the potential to facilitate involvement in the general curriculum because they are designed to help students improve their achievement on State assessments and attain proficiency. Moreover, the interactive one-on-one tutoring creates a focus on the specific needs of the child. Finally, because the tutoring is provided outside the regular school day, the services do not take the child out of class.

Progress in the General Curriculum

A major focus of NCLB is the area of assessments and accountability, which parallels to a certain extent assessments and accountability in IDEA '97. At the same time, the provisions in NCLB extend far beyond those in IDEA '97.

Assessments

General Requirements. NCLB requires States to institute “high-quality, yearly student academic assessments” that are to be the same for all children and are to be aligned with the State’s content and achievement standards (20 U.S.C. §§ 6311(b)(3)(A), (C)(i)-(ii)). The implementing regulations add that the assessments must “be designed to be valid and accessible for use by the widest possible range of students, including students with disabilities” (34 C.F.R. § 200.2(b)(2)). These assessments must include, at a minimum, mathematics and reading/language arts (also science, beginning in the 2007-2008 school year) and are to be the primary measure to determine the annual performance of the State, districts and schools in helping all children meet the State’s achievement standards (*Id.* § 6311(b)(3)(A)). Beginning in the 2005-2006 school year, students must be tested in each of grades 3 through 8 (*Id.* § 6311(b)(3)(C)(vii)) and at least once in grades 10 through 12 (34 C.F.R. § 200.5(a)(2)(ii)). Thus, while IDEA '97 calls for the participation of students with disabilities in State assessments, NCLB mandates that States must establish yearly assessments for all students and that these assessments must be aligned with State content and achievement standards. Moreover, because State standards help define the general curriculum, the assessments under NCLB will also be based on the general curriculum. These provisions have implications for the provision of access to the general curriculum for students with disabilities. If students are to be evaluated by means of tests that are based on the general curriculum, the students must first be taught the material that comprises this curriculum. Therefore, the assessment provisions of NCLB also have the potential to impact access to and involvement in the general curriculum for students with disabilities.

Reporting. NCLB, as IDEA '97, requires reporting on the results of the assessments and disaggregation by students with disabilities as compared to students without disabilities. Similar to IDEA '97, NCLB also provides for an exception to the requirement for disaggregation when “the number of students in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student” (20 U.S.C. § 6311(b)(3)(C)(xiii)). The implementing regulations add that each State must determine what constitutes the minimum number of students that would provide statistically reliable information (34 C.F.R. § 200.7(a)(2)). As noted with respect to IDEA '97, assessing students

¹⁵ The State and district must make sure that at least some of the available providers are able to provide services to students with disabilities and students covered under Section 504, including necessary accommodations; if no provider is able to make such accommodations, the district would have to provide the services with the necessary accommodations “either directly or through a contract” (67 F.R. at 71757-58).

with disabilities and reporting on the assessment results is intended to hold educators accountable for the educational performance of these students. NCLB again goes beyond IDEA '97 by also requiring that an individual report of each student's performance be provided to parents, teachers and principals in "a language that parents can understand" (*Id.* § 6311(b)(3)(C)(xii)), thus including an additional layer of accountability that extends to parents.

Accommodations. NCLB, as IDEA '97, further requires that State assessments provide for the participation of students with disabilities (as defined under IDEA) with accommodations (20 U.S.C. § 6311(b)(3)(C)(ix)(II)). The implementing regulations for NCLB add that the accommodations are to be determined by the student's IEP team (34 C.F.R. § 200.6(a)(1)(i)). The references to IDEA and the IEP team again show the intended coordination between the two statutes. In addition, it is to be noted that NCLB, as IDEA, does not address the issues concerning the validity of inferences drawn from scores on assessments on which students receive accommodations.¹⁶ As noted, there has been little research on the effect of specific accommodations on the validity of inferences made from the scores of students with different types of disabilities.

Alternate Assessments. Also as IDEA '97, NCLB requires that States allow for the use of alternate assessments for those children for whom a determination is made by the IEP team that they cannot take part in the assessment, even with appropriate accommodations (34 C.F.R. § 200.6(a)(2)(i)). The regulations for NCLB also require that the alternate assessments provide results for the particular grade in which the student is enrolled¹⁷ for at least reading/language arts and mathematics as well as science beginning in the 2007-2008 school year (*Id.* § 200.6(a)(2)(ii)(A)).

Alternate Achievement Standards. A new area recently added to the implementing regulations of NCLB that does not appear at all in IDEA '97 is the use of alternate achievement standards. The regulations that were published in the Federal Register on December 9, 2003 allow States to develop "alternate academic achievement standards" for students with the most significant cognitive disabilities whose performance is assessed by means of an alternate assessment (34 C.F.R. § 200.1(d)). An alternate achievement standard is "an expectation of performance that differs in complexity from a grade-level achievement standard" (68 F.R. 68698, 68699). It must be "aligned with the State's academic content standards¹⁸; *promote access to the general curriculum*; and reflect professional judgment of the highest achievement standards possible" (34 C.F.R. §§ 200.1(d)(1)-(3) (emphasis added)). A previous NPRM (March 20, 2003) had defined students with the most significant disabilities as those "whose intellectual functioning and adaptive behavior are three or more standard deviations below the mean" (68 F.R. 13796,

¹⁶ The regulations do state that assessments should "be designed to be valid and accessible for use by the widest possible range of students, including students with disabilities" (34 C.F.R. § 200.2(b)(2)).

¹⁷ The one exception is for students with the most significant cognitive disabilities whose performance is measured against alternate achievement standards (*see* "Alternate Achievement Standards" section) (34 C.F.R. § 200.6(a)(2)(ii)(B)).

¹⁸ According to the DOE, alignment with the State's content standards refers to a "connection between the instructional content appropriate for non-disabled students and the related knowledge and skills that may serve as the basis for a definition of proficient achievement for students with the most significant disabilities" (68 F.R. at 68703).

13801). The final regulations do not include this definition, leaving greater flexibility to the States (68 F.R. at 68700).

A State is not required to use alternate achievement standards; however, if a State chooses to do so, it must first satisfy a number of conditions, including, for example, the establishment of appropriate guidelines for IEP teams to use in determining whether a student's achievement should be based on alternate achievement standards as well as documentation "that students with the most significant cognitive disabilities are, to the extent possible, *included in the general curriculum and in assessments aligned with that curriculum*" (34 C.F.R. § 200.6(a)(2)(iii) (emphasis added)).

States would be allowed to use the proficient and advanced scores of students with the most significant cognitive disabilities based on the alternate achievement standards in determining "adequate yearly progress" (see "Accountability" section, below), provided that the number of students who attain a proficient or advanced level based on the alternate achievement standards at the district and State level,¹⁹ separately, does not exceed 1.0 percent of all students in the grades assessed (34 C.F.R. § 200.13(c)(1)(ii)). If the percentage of students attaining a proficient or advanced level based on the alternate achievement standards exceeds the 1.0 percent cap, the State must make sure that the scores of all students with the most significant cognitive disabilities are included but must count the proficient and advanced scores above the cap as "non-proficient" (*Id.* §§ 200.13(c)(4)(i)-(ii)). States can determine which proficient scores based on the alternate achievement scores to count as "non-proficient," and they must make sure that parents are informed of the actual achievement levels of their children (*Id.* §§ 200.13(c)(4)(iii), (v)). The DOE has explained that the 1.0 percent cap has been included in order to ensure that alternate achievement standards are used in a thoughtful manner and to protect against the assignment of children to inappropriate assessments and curricula (68 F.R. at 68706). States and districts can ask for an exception permitting them to exceed the 1.0 percent cap if they can show that the incidence of students with the most significant cognitive disabilities is higher than 1.0 percent of all students in the grades assessed, and if they can explain why the incidence is higher (34 C.F.R. §§ 200.13(c)(2)(i)-(ii), (3)(i)). States and districts requesting an exception must also document that they have fully addressed certain conditions (discussed above) associated with the use of alternate achievement standards (*Id.* §§ 200.13(c)(2)(iii), (3)(i)).²⁰

The purpose of the new regulations concerning alternate achievement standards is to provide for the inclusion of students with the most significant cognitive disabilities in school accountability systems. According to the DOE:

These regulations are designed to ensure that schools are held accountable for the educational progress of students with the most significant cognitive disabilities, just as schools are held accountable for the educational results of all other students with disabilities and students without disabilities (68 F.R. at 68698).

¹⁹ The 1.0 percent cap applies only at the State and district levels, not at the school level, and should be based on the number of students enrolled in the particular grade(s) being tested (68 F.R. at 68706).

²⁰ The Department of Education has explained, however, that the use of alternate achievement standards at the school level is not unlimited and that it is to be expected that not more than 9.0 percent of students with disabilities will be tested relative to the alternate achievement standards (68 F.R. at 68700).

Allowing the use of alternate achievement standards should help facilitate the participation of students with significant cognitive disabilities in assessments. At the same time, however, certain policy and psychometric issues remain – for example, how a State should go about setting achievement standards (i.e., determining the meaning of “proficiency.”)

Accountability

The area of accountability is the strongest example of the divergence between IDEA '97 and NCLB. Whereas IDEA '97 calls for the development of performance goals and indicators for students with disabilities and reporting on these indicators, as well as reporting on assessments, NCLB includes far more stringent accountability requirements. Specifically, NCLB requires that each State develop a Statewide system of accountability to measure whether schools and districts are making “adequate yearly progress” (AYP) toward enabling all students, including students with disabilities, to meet or exceed the proficiency level on the State assessments no later than 12 years after the end of the 2001-2002 school year (20 U.S.C. §§ 6311(b)(2)(A), (F)). Moreover, AYP also requires States to establish measurable annual objectives, applied separately to students with disabilities,²¹ which will specify the minimum percentage of students who must meet or exceed the State’s proficiency level on the State assessments (*Id.* § 6311(b)(2)(G)(iii); see also *id.* § 6311(b)(2)(C)(v)). Thus, the concept of accountability in NCLB, encompassing AYP, goes far beyond the notion of accountability specified in IDEA '97. In addition, while IDEA '97 includes a general mandate for the participation of students with disabilities in assessments, NCLB specifies that in order for a school or district to make AYP, not less than 95 percent of students with disabilities²² must participate in the assessments through regular assessments, regular assessments with accommodations, or by means of alternate assessments (*Id.* § 6311(b)(2)(I)(ii)). The regulations add that if a student takes the same assessment more than once, the score from the first administration should be used to determine AYP (34 C.F.R. § 200.20(c)(3)).

In spite of these stringent requirements, it is important to note that NCLB does not attach “high stakes” for the individual student such as the denial of a high school diploma. There are, however, real consequences for schools and districts, which can weigh heavily on school personnel. As part of a State’s accountability system, the district must identify for improvement those schools that have failed to make AYP for two consecutive years (20 U.S.C. § 6316(b)(1)(A)). In addition, the district must allow all students, including students with disabilities, who are enrolled in a school that has been identified for school improvement (i.e., did not make AYP for two consecutive years), the option of transferring to another public school within the district that has not been identified for school improvement (*Id.* §§ 6316(b)(1)(E)-(F)). The regulations add that for students with disabilities covered under IDEA or Section 504, “the public school choice option must provide a free appropriate public education” (34 C.F.R. § 200.44(j)). If the school continues to fail to make AYP after being identified for school

²¹ Disaggregation is not required when the number of students in the category is so small that the results would not be statistically reliable or would reveal identifiable information about the students (20 U.S.C. § 6311(b)(2)(C)(v)).

²² The 95% rule does “not apply in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student” (20 U.S.C. § 6311(b)(2)(I)(ii)).

improvement, the district must identify the school for “corrective action” and subsequently for “restructuring” (*Id.* §§ 6316(b)(7)-(8)).²⁴

The expectation underlying NCLB is that holding schools accountable for the educational performance of students with disabilities will ultimately lead to improvement in the provision of educational services for these students as well as improved results. At the same time, however, it is also possible that the stringent accountability requirements of NCLB may, in certain respects, have a negative impact on students with disabilities. For example, being identified as a school that has failed to make AYP can lower the morale of both teachers and students, including students with disabilities, especially in light of the fact that sanctions are applied to schools without regard to factors that might contribute to low performance (e.g., lack of resources). Moreover, although NCLB does not attach high stakes for the individual student, such as denial of a high school diploma, many States on their own have done so, with potentially negative consequences for students with disabilities.

IV. Conclusion

Since passage of the EAHCA in 1975, significant improvements have been made in the quality of education provided to students with disabilities. Increased numbers have been attending public schools and participating in classes with students without disabilities. Moreover, attention has shifted from mainstreaming and inclusion to the meaningful participation of students with disabilities in the regular class. IDEA '97 has played a major role in this evolution, with one of the most important innovations being the requirement that students with disabilities have access to the general curriculum. NCLB shares with IDEA '97 the goal of raising expectations for the educational performance of students with disabilities and increasing accountability for their educational results, and a number of requirements in NCLB have further impacted the provision of access to the general curriculum.

This paper has discussed the legal provisions in IDEA '97 and NCLB associated with access to the general curriculum as well as the translation of these provisions into educational obligations for States and school districts. A theoretical framework has been utilized that conceptualizes the overall right of students with disabilities in IDEA '97 to have access to the general curriculum as comprising three interrelated stages that form an ongoing cycle: access, involvement and progress. The educational obligations of States and school districts extend to each of these stages. The first stage, access, requires that the general curriculum be accessible to students with disabilities. The second stage, involvement, requires that students with disabilities participate in the general curriculum in an on-going and meaningful way. The third stage, progress, requires that students with disabilities be able to demonstrate progress in the general curriculum through improved educational performance.

The first stage of the cycle involves consideration of whether the general curriculum is accessible to students with disabilities. IDEA '97 describes the general curriculum as the same curriculum

²⁴ Corrective action may include such measures as replacing staff, implementing a new curriculum, appointing an outside expert or extending the school year or school day (20 U.S.C. § 6316(b)(7)(C)(iv)). Restructuring may include reopening the school as a public charter school, replacing all or most of the school staff or turning over operation of the school to the State or a private contractor (*Id.* § 6316(b)(8)(B)).

as that provided to students without disabilities but does not elaborate further on the meaning of the term. The requirement in NCLB that States adopt challenging academic content and achievement standards as well as the emphasis on high-quality curricula should help States define and raise the level of the general curriculum.

With respect to the second stage, involvement in the general curriculum, IDEA '97 specifies various obligations on the part of districts that center on the IEP. These obligations include: specification in the IEP of how the student's disability affects his/her involvement and progress in the general curriculum; IEP goals that will enable the student to be involved and progress in the general curriculum; identification in the IEP of supplementary aids and services, program modifications or supports provided to the student and for personnel that will enable the student to be involved and progress in the general curriculum; explanation of the extent to which the student will not participate in the regular class; and inclusion of the regular education teacher (if the student is, or may be, participating the regular education environment) on the IEP team. These requirements are intended to engage students with disabilities as actual participants in the regular education class rather than passive observers. A number of provisions in NCLB have the potential to facilitate such involvement – namely, the requirement that teachers be highly qualified, professional development that focuses on, for example, strategies for providing instruction to students with disabilities in regular education classes, and programs/services such as Reading First and supplemental educational services.

Finally, with respect to the third stage, progress in the general curriculum, IDEA '97 includes requirements concerning: progress toward IEP goals, participation in State and district-wide assessments, and the establishment of state performance goals and indicators. The provisions in NCLB pertaining to assessments and accountability parallel those in IDEA '97 but also extend further. While IDEA '97 calls for the participation of students with disabilities in Statewide assessments with appropriate accommodations where necessary or by means of alternate assessments, NCLB mandates that States must establish high-quality, yearly academic assessments for all students, including students with disabilities (with accommodations or by means of alternate assessments), and that these assessments must be aligned with State content and achievement standards. Recently published regulations for NCLB also allow for the development of alternate achievement standards for students with the most significant cognitive disabilities whose performance is based on an alternate assessment.

The divergence between IDEA '97 and NCLB is strongest in the area of accountability, with NCLB including more stringent requirements based on the establishment of a system of accountability to measure whether schools and districts are making “adequate yearly progress” toward enabling all students, including students with disabilities, to meet or exceed the proficiency level on the State assessments within 12 years. The recently published regulations modify the manner of the inclusion of the performance of students with the most significant cognitive disabilities in determination of adequate yearly progress. The new regulations permit the use of alternate achievement standards in determination of adequate yearly progress, provided that the number of proficient or advanced scores based on the alternate achievement standards counted towards AYP at the district and State level does not exceed 1.0 percent of all students assessed.

The accountability system called for under NCLB is intended to increase accountability for the educational performance of all students, including students with disabilities. At the same time, there is also the possibility that the stringent accountability requirements in NCLB, including the threat of sanctions, may in some instances have a negative effect on students with disabilities. For example, the sanctions are applied without taking into account factors such as a lack of resources and may adversely affect the morale of teachers and students, including students with disabilities. In addition, many States on their own have decided to attach high stakes for the individual student, which can have significant consequences for students with disabilities.

Congress is currently in the process of reauthorizing IDEA once again. Both the House (H.R. 1350) and Senate (S. 1248) reauthorization bills contain provisions that could potentially impact access, involvement and progress in the general curriculum. In some instances, the bills call for further alignment with provisions in NCLB. While the final version of the reauthorization that will emerge from Congress is not known at the present time, it is hoped that the reauthorization will continue to move forward in the direction that was begun by IDEA '97 of raising expectations for the educational performance of students with disabilities and improving their educational results.

V. References

Association of Community Organizations for Reform NOW v. New York City Department of Education, 269 F. Supp. 2d 338 (S.D.N.Y. 2003).

Council for Exceptional Children (CEC) (2003). *No Child Left Behind Act of 2001 implications for special education policy and practice: Selected sections Title I and Title II*. Arlington, VA: Council for Exceptional Children. Retrieved July 15, 2003 from <http://www.cec.sped.org/pp/NCLBside-by-side.pdf>.

Daniel R.R. v. State Board of Education, 874 F.2d 1036 (5th Cir. 1989).

Hitchcock, C., Meyer, A., Rose, D., & Jackson, R. (2002). Providing new access to the general curriculum: Universal Design for Learning. *Teaching Exceptional Children*, 35, 8-17.

Hocutt, A.M. (1996). Effectiveness of special education: Is placement the critical factor? *The Future of Children*, 6(1), 77-102.

H.R. Rep. No. 105-95 (1997).

Improving Education Results for Children With Disabilities Act of 2003, H.R. 1350, 108th Cong. (2003).

Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 *et seq.*(2002); 34 C.F.R. §§ 300.1 *et seq.* (2003)

Individuals with Disabilities Education Improvement Act of 2003, S. 1248, 108th Cong. (2003).

- Lyon, G.R., Fletcher, J.M., Shaywitz, S.E., Shaywitz, B.A., Torgesen, J.K., Wood, F.B. et al. (2001). Rethinking learning disabilities. In C.E. Finn, A.J. Rotherman, & C.R. Hokanson (Eds.), *Rethinking special education for a new century* (pp. 259-287). Washington, DC: Thomas B. Fordham Foundation and the Progressive Policy Institute.
- National Research Council, Committee on Goals 2000 and the Inclusion of Students with Disabilities (1997). *Educating one and all: Students with disabilities and standards-based reform* (L.M. McDonnell, M.J. McLaughlin & P. Morison, Eds.). Washington, DC: National Academy Press.
- National Research Council, Committee on Appropriate Test Use (1999). *High stakes: Testing for tracking, promotion, and graduation* (J.P. Heubert & R.M. Hauser, Eds.). Washington, DC: National Academy Press.
- No Child Left Behind Act, 20 U.S.C. §§ 6301 *et seq.* (2002); 34 C.F.R. §§ 200.1 *et seq.* (2003).
- Nolet, V. & McLaughlin, M.J. (2000). *Accessing the general curriculum: Including students with disabilities in standards-based reform*. Thousand Oaks, CA: Corwin Press.
- Oberti v. Board of Education*, 995 F.2d 1204 (3d Cir. 1993).
- Office of Elementary and Secondary Education, U.S. Department of Education (Dec. 2, 2002). *Title I—Improving the academic achievement of the disadvantaged: Analysis of comments and changes*. 67 F.R. 71710, 71739-71771.
- Office of Elementary and Secondary Education, U.S. Department of Education (Mar. 20, 2003). *Title I—Improving the academic achievement of the disadvantaged: Notice of Proposed Rulemaking*. 68 F.R. 13796-13801.
- Office of Elementary and Secondary Education, U.S. Department of Education (Dec. 9, 2003). *Title I—Improving the academic achievement of the disadvantaged: Background and analysis of comments and changes*. 68 F.R. 68698-68701, 68703-68708.
- Office of Elementary and Secondary Education, U.S. Department of Education (Jan. 16, 2004). *Improving teacher quality state grants (Title II part A): Non-regulatory guidance*. Retrieved June 7, 2004 from <http://www.ed.gov/programs/teacherqual/guidance.pdf>.
- Quenemoen, R., Rigney, S., & Thurlow, M. (2002). *Use of alternate assessment results in reporting and accountability systems: Conditions for use based on research and practice* (Synthesis Report 43). Minneapolis, MN: University of Minnesota, National Center on Educational Outcomes. Retrieved June 7, 2004 from <http://education.umn.edu/NCEO/OnlinePubs/Synthesis43.html>.
- Roncker v. Walter*, 700 F.2d 1058 (6th Cir. 1983).

Rose, D.H. & Meyer, A. (2002). *Teaching every student in the digital age: Universal design for learning*. Alexandria, VA: Association for Supervision and Curriculum Development.

Sen. Rep. 105-17 (1997).

Sireci, S.G., Li, S. & Scarpatti, S. (2003). *The effects of test accommodations on test performance: A review of the literature* (Center for Educational Assessment Research Report no. 485). Amherst, MA: School of Education, University of Massachusetts Amherst. Commissioned by the Board on Testing and Assessment of the National Research Council of the National Academy of Sciences. Retrieved June 7, 2004 from <http://education.umn.edu/nceo/OnlinePubs/TestAccommLitReview.pdf>.

U.S. Department of Education (1995). *Individuals with Disabilities Education Act amendments of 1995: Reauthorization of the Individuals with Disabilities Education Act (IDEA)*. Washington, DC: Author.

Vaughn, S. & Fuchs, L.S. (2003). Redefining learning disabilities as inadequate response to instruction: The promise and potential problems. *Learning Disabilities Research and Practice*, 18, 137-146.

Wagner, M., Blackorby, J., Cameto, R., Hebbeler, K., & Newman, K. (1993). *The transition experiences of young people with disabilities*. Palo Alto, CA: Stanford Research International.