

DEPARTMENT OF EDUCATION

**PREPARED STATEMENT OF ROBERT H. PASTERNAK, ASSISTANT
SECRETARY**

**OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES BEFORE THE SENATE
COMMITTEE ON HEALTH, EDUCATION, LABOR AND PENSIONS**

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Good morning Mr. Chairman, Mr. Gregg, and members of the Committee.

Thank you for inviting me here today to talk with you about implementation of the Individuals with Disabilities Education Act (IDEA). I am pleased to be here with you, and would like to thank you for joining the President and supporting, in a bipartisan way, the landmark legislation to reform elementary and secondary education, the No Child Left Behind (NCLB) Act. I look forward to working with you in the future to develop legislation to reauthorize the IDEA.

Over the past twenty-five years, the IDEA has successfully ensured that children with disabilities have access to a free appropriate public education. Prior to the IDEA, in 1970 for example, schools in America educated only one in five students with disabilities. Many States had laws excluding certain children with disabilities – such as those who were blind, deaf, emotionally disturbed, or mentally retarded – from school. Over one million students with disabilities were excluded from public schools altogether, and an untold number of students had disabilities that were never detected or were incorrectly diagnosed. Almost 200,000 children diagnosed with mental retardation or mental illness were institutionalized.

Today, the overwhelming majority of children with disabilities – about 96 percent – learn in regular schools with other children rather than in State institutions or separate

facilities. Three-quarters of students with disabilities now spend at least 40 percent of their day in a regular classroom with their non-disabled peers, instead of in separate rooms. Half of the students with disabilities spend 80 percent or more of their day in regular classrooms. Additionally, more students with disabilities than ever before are participating in the same State, district-wide, and national standardized testing programs as other students. College enrollment rates among students with disabilities have more than tripled in twenty years. Young adults with disabilities are employed at higher rates, and in more competitive jobs, than their older counterparts who didn't have the benefit of the IDEA, although unemployment rates for adults with disabilities remain unacceptably high.

This list of accomplishments reflects the dedication of lawmakers, educators, parents, and the students themselves, to ensuring that all students with disabilities receive a high-quality education that prepares them for post-secondary education, good jobs, and a productive and independent life. However, despite the many accomplishments of the IDEA over the last twenty-five years, many challenges remain. As with any successful program, the IDEA must evolve to meet changing needs and new demands. Although the 1997 amendments included many important and needed changes, I believe that we have learned much since then. We must use these lessons to guide our approach to improving results for students served through the IDEA.

We know that we will never improve outcomes for students with disabilities by focusing on special education alone. We must look at the whole education system, and see whether we are providing the right services to the right children, at the right time, in the

right settings, and with the right personnel to achieve the right results. What happens in the regular classroom is vitally important for all children, including those with disabilities.

That is why I am so excited about the sweeping reforms made the NCLB Act and its impact it will have on students with disabilities. From the Reading First Program, which will help States implement scientifically based reading programs for all students, to the Title I accountability provisions that, for the first time ever, will truly hold States and school districts accountable for the annual progress of all students, including students with disabilities, the NCLB Act makes great strides in improving educational opportunities for students with disabilities and holding schools specifically accountable for their achievement. NCLB also focuses on professional development to ensure that all students, including students with disabilities, are taught by highly qualified teachers. This will enable us to focus our attention in special education where it should be – on providing high-quality special education services to those students whose disabilities prevent them from responding to scientifically based instruction delivered by highly qualified teachers. With these and other changes to the Elementary and Secondary Education Act of 1965 (ESEA) in place, we must now turn our attention to the IDEA and determine what we need to do to further improve that law.

IMPLEMENTATION ISSUES

In reviewing the challenges of implementing the IDEA, there are several major issues that present themselves.

We know that having highly qualified and well-trained teachers and administrators is central to providing appropriate services to children with disabilities. Both regular and special education personnel must be well prepared to meet the challenges of educating students with disabilities in both regular and special education.

Recently, the President launched an initiative to provide a high-quality teacher in every classroom in America. Over the next decade, school districts will face the daunting challenge of attracting a greater quantity of people to the teaching profession while also ensuring teacher quality. The NCLB Act provides States and localities multiple tools to help them improve teacher quality. We must continue to improve professional development and teacher quality for both general education and special education teachers. Under the IDEA, we must examine our Part D programs to ensure that we are able to help improve the education that aspiring teachers are provided at the college and graduate level as well as examine our professional development programs to ensure that these programs use sound research as the foundation to help existing teachers gain the needed skills to provide a high-quality education.

The successful implementation of the IDEA is perhaps most critically dependent on the quality of the people who implement the principles contained in the law – the teachers, para-educators, related service providers, and administrators, in cooperation with the

parents and the students. Unfortunately, many regular and special education teachers, as well as the administrators and other school personnel who work with them, are often ill prepared to meet the needs of students with disabilities. We know that much more needs to be done to better prepare and support all the members of the learning community in their efforts to educate students with disabilities.

Accountability provisions have been strengthened in the IDEA over the years, but more needs to be done. The 1997 IDEA amendments required States to include students with disabilities in their State and district-wide assessments. Even so, the inclusion of children with disabilities in these assessment programs does not necessarily mean that these children are part of accountability systems that are designed to ensure improved results. The requirements in the NCLB Act present us a great opportunity to make sure that children with disabilities are part of these accountability systems. We must build on the accountability provisions enacted in NCLB to ensure that States and local school districts are accountable for results and that students with disabilities are included in rigorous assessments of student performance.

Closely linked to accountability is the issue of assessments. While the IDEA requires that children with disabilities be included in assessments, States and school districts have struggled to implement those requirements. We need to do more to provide research and technical assistance on alternate assessments and appropriate accommodations for children who need them. And, perhaps more importantly, we need to push for assessment tools that are created using universal design concepts that can

significantly reduce the need for alternate assessments. Universal design, as applied to curriculum and assessments, means that materials and activities are designed to achieve their purposes for the widest possible range of students, including students with disabilities and other special needs. For example, curriculum and assessment materials can be designed for maximum flexibility, by allowing information to be presented in a variety of visual or auditory modes, and by designing assessment tools that are accessible for the widest variety of students (e.g., Braille).

Another important aspect of the 1997 amendments was the emphasis placed on access to, and participation and progress in, the general curriculum for children with disabilities. Those changes raised the bar by requiring school districts and States to provide meaningful access for children with disabilities to the general curriculum. However, we know that many regular and special education teachers are not well trained in how to make that happen. We need better research and better technical assistance to support the focus that the 1997 amendments placed on access to, and participation and progress in, the general curriculum. Much of what we have done so far has been targeted to the provision of reading and language skills, but we also must focus on math, science, social studies, and other areas of the general curriculum. Teachers need strategies that will enable children with different learning needs to benefit from instruction and participate and progress in the general curriculum to the maximum extent appropriate.

While we can point to lower dropout and higher graduation rates among students with disabilities as significant accomplishments for the IDEA, we still need much

improvement in the transition from school to work and from school to postsecondary education for students with disabilities. The dropout rate for children with disabilities is still about twice that of their peers, and students with disabilities are still far less likely than other students to graduate from high school. Transition services, which require coordination with other agencies and entities, are an implementation challenge, requiring serious study that may lead us to innovative, statutory solutions.

There are also a number of implementation issues around the identification of children with disabilities, including the disproportionate representation of minorities. We know that too many children are referred for special education services because of a lack of effective instruction and early interventions in general education classrooms. While many children are appropriately classified as having learning disabilities, we know, for example, that many are classified as such because of the lack of effective reading instruction using scientifically based instructional approaches in the regular classroom. Many children with learning and emotional disabilities are identified and served too late for services to lead to maximum positive results for these children. This, again, is an issue of providing special education services to the right children and having well-trained and qualified teachers and administrators who have the knowledge, skills, and supports to ensure that we are, in fact, serving only the right children – those with disabilities who truly need special education services. We must make sure that no child is determined to be eligible for special education services merely because of a lack of good instruction or because our teachers and administrators do not have the skills, supports, and technical assistance needed to properly serve them in regular classrooms where they can learn to

high standards.

I also want to address an implementation issue that is of concern to many parents, educators, and certainly to many of you. The discipline provisions of the IDEA are predicated on the concept that every child in every school has the right to be educated in a safe environment, and that school teachers and administrators have the tools necessary to keep their schools safe. As the law has been implemented since the 1997 amendments, it is evident that some of the current statutory and regulatory requirements may be too complicated or confusing and need to be reviewed.

More importantly, however, our experience with implementing these provisions has highlighted the overall need for schools and school districts to focus on improved classroom management, effective school-wide models of positive behavior strategies, and the use of functional behavioral assessments. As we have looked at the issue of discipline, we have learned that appropriate use of these strategies, models, and techniques has had significant results in reducing discipline problems for the entire school community and keeping students safe.

Next, I would like to discuss several issues relating to the implementation of Part C of the IDEA, which authorizes the Grants to Infants and Families program. I believe that the Part C program is a vital part of the IDEA which deserves thoughtful consideration as we move toward reauthorization of the statute. We know that early intervention in the lives of children with disabilities works and can result in more positive outcomes for a child

later on. Still, I have a number of concerns with how the current statute is being implemented. We need to examine the appropriate balance between the States' need to access all revenue sources, such as public and private insurance programs, and the financial burden Part C services impose on some families. The requirements under the program for service coordination often present significant challenges that have not always been overcome. There are also IDEA Part C implementation challenges relating to how States identify infants and toddlers who could benefit from services, and how we can improve the transition of children with disabilities from the more family-centered Part C program to the Part B preschool program. We also know that the States have had difficulty in monitoring and measuring success of the Part C program. Finally, the IDEA's requirements toward providing early intervention services in natural environments has raised issues around home-based versus center-based services. I believe that we need to review these issues carefully and explore ways to improve the implementation of Part C, and improve this part of the law itself.

Finally, in the short time I have been on the job, I have spent a good deal of time asking questions of parents, advocates, students, teachers, principals, university professors, researchers and State directors of Special Education around the country. If, as some have argued, no State is in compliance with the IDEA, is it possible that we have constructed a statute and regulations where no State can be in compliance and where we are too focused on process and not enough on progress? Are we too focused on process and not enough on academic achievement? I think this may be the case. When the IDEA was first enacted, its primary purpose was to guaranteed access to education for students with disabilities.

Today, I believe we need a stronger focus on how we can improve the academic achievement of students with disabilities.

I ask these questions to encourage all of us to think creatively and insist on a culture of accountability within the IDEA, that focuses on improved results and outcomes for students with disabilities receiving special education.

Building a culture of accountability within the IDEA is two-fold. First, we must continue to insist on holding school districts and States accountable for ensuring that children with disabilities have access to early intervention services and a free appropriate public education in the least restrictive environment. Second, we must also hold school districts and States accountable for the annual academic growth of students with disabilities. The provisions of the NCLB Act, supported by the changes we need to make to the IDEA, will ensure that the IDEA adheres to a culture of accountability. The question we must address over the next several months is how best to create this cultural change. I look forward to continuing that conversation with you in your efforts to reauthorize this critically important legislation.

CONCLUSION

Mr. Chairman, members of the Committee, I have touched on but a few of the issues that relate to the implementation of the IDEA and recognize that each of these topics deserves far more attention than I have given today in this statement. But I want to be clear in stating my belief that the IDEA is a law that has made, and must continue to make,

a difference in the lives of our nation's children and youth with disabilities. It is time for all of us – the Department of Education, the Congress, parents, and educators – to take a serious look at the IDEA. We must look honestly to see what has worked well and what has not worked well. We must not hesitate to refocus the statute where necessary and where doing so will improve results for America’s children. We must build on the gains made for students with disabilities in the NCLB Act. We must be bold in our solutions, committed to change areas that need improving, but steadfast where the law works well.

As you are aware, the President has established a Commission on Excellence in Special Education that is charged with collecting information and studying issues related to Federal, State, and local special education programs, with the goal of recommending policies for improving the educational performance of students with disabilities. I am pleased to sit on that Commission and think that this is another example of the Administration’s desire to engage in the systemic reform of education by looking at all its facets, asking the tough questions that get us to the heart of the problems, and generating solutions that address the need for reform head on. When the Commission is finished with its work in July, we will have taken a thorough look at all facets of special education and am confident that the Commission’s report will inform the proposals that are put together to reauthorize the IDEA.

Finally, I look forward to working with all of you in the years ahead. Your commitment to this important statute has lead to the education of millions of children with disabilities who otherwise might never have had the educational opportunities made

possible by the IDEA. I hope that we can continue to work closely together to extend that legacy.

Thank you, and I welcome your questions.