

Theme E:
Procedural Safeguards

Theme E's Resources for Trainers



*These resources are part of NICHCY's training curriculum
on IDEA 2004 and the final Part B regulations.
See the next page for a description of the curriculum.*



*This training curriculum is a product of NICHCY
the National Dissemination Center for Children with Disabilities.*

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Title of the Curriculum

Building the Legacy: Individuals with Disabilities Education Act Amendments of 2004.

Purpose of the Curriculum

To provide authoritative information about, and training materials on, IDEA and its final Part B regulations.

Source

The *Building the Legacy* training curriculum is a product of the National Dissemination Center for Children with Disabilities (NICHCY), produced at the request of the Office of Special Education Programs (OSEP) at the U.S. Department of Education.

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A snapshot table of contents for the training curriculum is shown at the right. As of August 2007, *Building the Legacy* has the 19 training modules listed there. A title in gray text will be available in Fall 2007. The titles in bold—and marked with an asterisk (*)—are already available online. Come and get 'em at:

www.nichcy.org/training/contents.asp

Slide Shows, Details, Handouts!

Materials for each module include: a PowerPoint slide show for use in training, detailed background text and explanation for trainers, handouts for participants, and supplemental resources for trainers.

Sign Up!

Individual modules will become available as they are finalized. Sign up, and NICHCY will let you know when a new module is ready for downloading for free. The Sign Up's on NICHCY's site, at:

www.nichcy.org/mod_signup.asp



What's Cooking

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* *Available online right now!*

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Please feel free to copy and share these handouts.

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*Additional Resources for Trainers will be added to this packet
as other modules under Theme E are finalized.*

Provisions of FERPA at §99.22

Editor's Note: The regulation below from the Family Educational Rights and Privacy Act (FERPA), 34 CFR §99.22, applies to the conduct of a hearing held under IDEA's provision at §300.619. See §300.622 in **Handout E-1**. Such a hearing is requested by the parents to challenge the accuracy of information in their child's educational records when the public agency has refused their request to do so. See §§300.618 and 300.619.

§99.22 What minimum requirements exist for the conduct of a hearing?

The hearing required by §99.21 must meet, at a minimum, the following requirements:

(a) The educational agency or institution shall hold the hearing within a reasonable time after it has received the request for the hearing from the parent or eligible student.

(b) The educational agency or institution shall give the parent or eligible student notice of the date, time, and place, reasonably in advance of the hearing.

(c) The hearing may be conducted by any individual, including an official of the educational agency or institution, who does not have a direct interest in the outcome of the hearing.

(d) The educational agency or institution shall give the parent or eligible student a full and fair opportunity to present evidence relevant to the issues raised under §99.21. The parent or eligible student may, at their own expense, be assisted or represented by one or more individuals of his or her own choice, including an attorney.

(e) The educational agency or institution shall make its decision in writing within a reasonable period of time after the hearing.

(f) The decision must be based solely on the evidence presented at the hearing, and must include a summary of the evidence and the reasons for the decision.

(Authority: 20 U.S.C. 1232g(a)(2))

Changes in the Procedural Safeguards Notice: Impact and Discussion

Editor's Note: The following text is drawn verbatim from page 46747 of the U.S. Department of Education's Summary of Costs and Benefits, which accompanied publication of IDEA 2004's final Part B regulations on August 14, 2006 (71 Fed. Reg. at 46747). These are available online at: www.nichcy.org/reauth/IDEA2004regulations.pdf

The discussion focuses upon changes in the procedural safeguards notice at §300.504 and their anticipated impact.

Procedural Safeguards Notice

Section 300.504(a), which incorporates changes in section 615(d)(1) of the Act, requires that a copy of the procedural safeguards notice be given to parents of children with disabilities only once a school year, except that a copy must also be given when an initial evaluation or parent request for an evaluation occurs; the first time a due process hearing is requested during a school year; when the decision to take disciplinary action is made; and when a parent requests the notice. The prior law required that a copy of the procedural safeguards notice be given to the parents upon initial referral for an evaluation, each notification of an IEP Team meeting, each reevaluation of the child, and the registration of each request for a due process hearing. Under the final regulations, a copy of the procedural safeguards notice no longer has to be given to parents with each notice for an IEP Team meeting or every time a request for a due process hearing is received. Instead, the document only has to be given to parents once a year, and the first time a due process hearing is requested in a year, when the decision to take disciplinary action is made, when a copy of the document is specifically requested by a parent, or when an initial evaluation or request for a reevaluation occurs.

To determine the impact of this change, it is necessary to estimate the savings created by providing fewer notices to parents who are notified about more than one IEP Team meeting during the year or who file more than one request for a due process hearing. Given the small number of hearing requests in a year (about 20 per 10,000 children with disabilities), our analysis will focus on the number of parents involved in more than one IEP Team meeting. Although we lack detailed data on the number of IEP Team meetings conducted each year, we estimate that approximately 6.947 million children with disabilities will be served in school year 2006–2007. For the vast majority of these children, we believe there will be only one IEP Team meeting during the year. For purposes of estimating an upper limit on savings, if we assume an average of 1.2 meetings per year per child, 1.39 million children will have two IEP Team meetings each year and the change reflected in §300.504(a) will result in 1.39 million fewer procedural notices provided to parents. While some people may believe this change represents a significant reduction in paperwork for schools, the actual savings are likely to be minimal given the low cost of producing a notice of this size (about 10 pages) and the small amount of administrative staff time involved in providing this notice to parents (about 10 minutes). Taking all of this into consideration, total savings are unlikely to exceed \$5 million.



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NICHCY is here for you.

This training curriculum is designed and produced by NICHCY, the National Dissemination Center for Children with Disabilities, at the request of our funder, the Office of Special Education Programs (OSEP) at the U.S. Department of Education.

We have a tremendous amount of information available on our Web site, in our library, and in the combined expertise of our staff. Please feel free to contact NICHCY for the latest information and connections in research and disabilities. We'd also love for you to visit our Web site and help yourself to all that's there.