



Council for  
Exceptional  
Children

*CEC Recommendations  
on House and Senate  
IDEA Bills:*

*Comparison of House Passed Bill and Senate Committee Passed Bill  
Part A and B*

September 2003

# The Council for Exceptional Children

## **CEC: Leading the Way**

The Council for Exceptional Children (CEC) is the largest professional organization committed to improving educational outcomes for individuals with exceptionalities. CEC accomplishes its worldwide mission on behalf of educators and others working with children with exceptionalities by advocating for appropriate government policies, setting professional standards, providing continuing professional development, and assisting professionals in obtaining conditions and resources necessary for effective professional practice.

## **CEC: The Unifying Force of a Diverse Field**

A private nonprofit membership organization, the Council for Exceptional Children was established in 1922. CEC is an active network of 59 state/provincial units, 17 special-interest divisions, hundreds of local chapters and subdivisions, and more than 50,000 individual members in the United States and 82 other countries.

## **The CEC Information Center: International Resource for Topics in Special and Gifted Education**

The Council for Exceptional Children is a major publisher of special education literature and produces a comprehensive catalog semiannually. Journals such as *TEACHING Exceptional Children* and *Exceptional Children*, and a newsletter, *CEC Today*, reach over 100,000 readers and provide a wealth of information on the latest teaching strategies, research, resources, and special education news.

## **CEC Recommendations on House and Senate IDEA Bills:**

### **Comparison of House Passed Bill and Senate Committee Passed Bill Part A and B**

For more information please contact Deborah A. Ziegler, Assistant Executive Director for Public Policy at [debz@cec.sped.org](mailto:debz@cec.sped.org) or 1-800-224-6830 ext. 406.



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## INTRODUCTION

The Council for Exceptional Children (CEC) is the largest professional organization of teachers, administrators, parents, and others concerned with the education of children with disabilities, giftedness, or both.

The Council for Exceptional Children is committed to the achievement of successful outcomes for children and youth with exceptionalities, through the promotion of professional excellence in special education and the provision of high quality professional supports and quality conditions for teaching and learning.

CEC published IDEA Reauthorization Recommendations in April of 2002 that have been disseminated widely to Members of Congress. Many of CEC's recommendations are contained in H.R. 1350 and S. 1248 and we appreciate the attention given to them by Congress.

This document provides the reader with selected changes proposed to Parts A and B of existing law by H.R. 1350 as passed by the full House and S. 1248 as marked-up by the Senate Health, Education, Labor and Pensions (HELP) Committee. The document also includes CEC's current recommendations and comments on these proposed changes. Eight issues are addressed in this document: Paperwork Reduction, Personnel, Evaluation/Eligibility, IEPs, Procedural Safeguards, Discipline, Monitoring/Enforcement and Funding.

When using this document, the reader should note the following:

- ❑ The 1<sup>st</sup> Column "Issue" contains a citation for current law, if applicable;
- ❑ Summaries of the proposed changes and citations from the bills are included in the 2<sup>nd</sup> Column "House-Passed Bill" and the 3<sup>rd</sup> Column "Senate Bill (Committee-Passed)";
- ❑ Senate language will change as a result of pending Senate floor action;
- ❑ The 4<sup>th</sup> Column "CEC Recommendations" contains CEC positions on these matters. CEC has not made comments on all recommended changes; and
- ❑ None of these changes are in effect. Final changes to IDEA will only occur as a result of final Congressional passage of a revised IDEA that is signed into law by the President.

The IDEA reauthorization provides an important opportunity to continue CEC's efforts to assist in ensuring effective implementation of IDEA '97. As the IDEA reauthorization process continues, CEC will continue to consider other proposals that may come forward and take positions as may be appropriate.

Issue	House Passed Bill	Senate Bill (Committee Passed)	CEC Recommendations
<p><b>Paperwork Reduction<sup>1</sup></b></p> <p>Model Forms</p>	<p>Adds a new section “Model Forms” which requires the Secretary to publish and disseminate widely to States, LEAs, and parent training and information centers no later than the day final regulations are published a model IEP form, a model form for the procedural safeguards notice (615(d)) and a model form for prior written notice (615(b)(3)) that would meet the requirements of the Act. <b>(Sec. 617(g)).</b></p>	<p>Adds a new section “Model Forms” which requires the Secretary to publish and disseminate widely to States, LEAs, and parent training and information centers no later than the day final regulations are published a model IEP form, a model form for the notice of procedural safeguards described in (Sec. 615(d)) and a model form of the prior written notice (Sec. 615(b)(3) and (c)(1)) that is “consistent with the requirements of this part and is sufficient to meet such requirements.” <b>(Sec. 617(e)).</b></p>	<p>CEC supports the development of model IEP and procedural safeguard forms.</p>
<p><b>Paperwork Reduction</b></p> <p>Regulations (Sec 607 and 617)</p>	<p>Adds to the General Introduction of this section that, “The Secretary may issue regulations under this Act only to the extent that such regulations are reasonably necessary to ensure that there is compliance with the specific requirements of this Act.” <b>(Sec. 607(a)).</b></p> <p>Deletes the language stating that the Secretary shall issue regulations only to the extent that such regulations are necessary to ensure there is compliance with the requirements of the Act. <b>(Current Law - Sec. 617(b)).</b></p>	<p>Adds to the General Introduction of this section that, “In carrying out the provisions of this Act, the Secretary shall issue regulations under this Act only to the extent that such regulations are necessary to ensure that there is compliance with the specific requirements of this Act.” <b>(Sec. 607(a)).</b></p>	<p>While CEC recognizes that regulations play a necessary role in clarifying statutory language, we recommend that regulations be promulgated without unnecessary administrative burden on special education systems.</p>

<sup>1</sup> Note on Paperwork Reduction: Multiple additional provisions intended to reduce unnecessary paperwork are contained in both the House and the Senate bills. These are included primarily in the IEP and Procedural Safeguards sections of this document.

Issue	House Passed Bill	Senate Bill (Committee Passed)	CEC Recommendations
<p><b>Paperwork Reduction</b></p> <p>State Eligibility (Section 612)</p>	<p>Replaces “demonstrates to the satisfaction of” the Secretary to “reasonably demonstrates to” the Secretary that the state has in effect policies and procedures in order to eligible for a grant under Part B. <b>(Sec. 612(a)).</b></p>	<p>Replaces “demonstrates to the satisfaction of” the Secretary to “provides assurances to” the Secretary that the state has in effect policies and procedures in order to be eligible for a grant under Part B. <b>(Sec. 612(a)).</b></p>	<p>While CEC would support any efforts to eliminate unnecessary and overly prescriptive administrative paperwork, we are recommending caution and further consideration of the proposed language. Assurances are difficult to measure and are open to multiple interpretations as to what is specifically required to meet any given Part B requirement.</p>
<p><b>Paperwork Reduction</b></p> <p>LEA Eligibility (Section 613)</p>	<p>Replaces the phrase “Demonstrates to the satisfaction of” with “reasonably demonstrates” to the SEA that the LEA will meet specific requirements under Part B of IDEA in order to be eligible for assistance. <b>(Sec. 613(a)).</b></p>	<p>Replaces the phrase “demonstrates to the satisfaction of” with “provides assurances” to the SEA that the LEA will meet specific requirements under Part B of the IDEA in order to the eligible for assistance. <b>(Sec. 613(a)).</b></p>	<p>While CEC would support any efforts to eliminate unnecessary and overly prescriptive administrative paperwork, we are recommending caution and further consideration of the proposed language. Assurances are difficult to measure and are open to multiple interpretations as to what is specifically required to meet any given Part B requirement.</p>
<p><b>Paperwork Reduction</b></p> <p>Pilot Program and Reports</p>	<p>Adds a new section “Pilot Program” which authorizes the Secretary to grant waivers of paperwork requirements for up to 4 years to not more than 10 states. States would submit proposals to address reduction of paperwork and non-instructional time spent fulfilling requirements. <b>(Sec 617(e)).</b></p> <p>Adds a new section “Report” which requires the Secretary in the annual report to Congress to report on the effectiveness of the waivers under (e)</p>	<p>Adds Comptroller General Review/Report, to be completed no later than 18 months after the date of enactment of the Act, on resulting paperwork and strategies for reducing burdens on teachers, related services providers, and school administrators. <b>(Sec. 609).</b></p>	<p>Consistent with existing CEC recommendations on IDEA reauthorizations, CEC supports the new language in the House Bill in Sec. 617 (e-g) related to the state pilot program for reduction of paperwork, the Secretary’s report on the experience with these pilot “waivers.” However, regarding the state pilot program CEC requests additional language describing what specific components may be waived and how such waivers will ensure the maintenance of rights for children</p>

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	<p>above in reducing paperwork burdens and non-instructional time spent, in enhancing long-term planning, improving outcomes for students, promoting collaboration between IEP team members and ensuring family satisfaction. <b>(Sec. 617(f)).</b></p> <p>Adds multiple Comptroller General reviews/reports, to be completed no later than two years after the date of enactment of the Act, on paperwork, disability definitions, distance learning professional development programs, and limited English proficient children. <b>(Sec. 608)</b></p> <p>HR 1350 directs the Secretary of Education to conduct a study on the amount it costs states to comply with the requirements of IDEA, and to report the results of this study to Congress within two years after enactment of the IDEA amendments. <b>(Sec. 502 of Title V – Miscellaneous Provisions).</b></p>		<p>and their families under Part B.</p> <p>In general, CEC supports studies that are aimed at reducing unnecessary paperwork.</p>

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<p><b>Paperwork Reduction</b></p> <p>State Regulations</p>	<p>Adds criteria for the development of state rules, regulations and policies - ensuring these conform to the purposes of the Act; minimizing their number; and identifying in writing to LEAs and the Secretary when these exceed federal requirements. <b>(Sec. 608)</b></p>	<p>Adds criteria for the development of state rules, regulations and policies – ensuring these conform to the purposes of the Act; minimizing their number; identifying in writing to LEAs and the Secretary when these exceed federal requirements; and that they support/facilitate local reform designed to enable children with disabilities to meet state standards for academic achievement. <b>(Sec. 608)</b></p>	<p>In general, CEC supports federal, state, and local efforts to minimize unnecessary rules, regulations and policies.</p>

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<p><b>Paperwork Reduction</b></p> <p>Data Collection (Sec. 618)</p>	<p>In almost all instances, when data are required on the number of children meeting a certain criteria (e.g. receiving FAPE, receiving early intervention services, participating in regular education, etc.) new language has been added to require that percentages also be submitted annually. <b>(Sec 618(a)).</b></p> <p>Adds a new provision requiring data to be submitted annually by number/percentage and by race, ethnicity, and disability category, on students who begin secondary school and graduate with a regular high school diploma through the age of 21. <b>(Sec. 618(a)(1)(A)(v)).</b></p> <p>Adds a new provision requiring data to be submitted annually on students removed to an interim alternative educational setting regarding the incidence, duration, and type of disciplinary actions, by race and ethnicity, including suspensions and expulsions. <b>(Sec. 618(a)(1)(A)(viii)(IV)).</b></p> <p>Adds two new provisions requiring data to be submitted annually on the number of complaints resolved through voluntary binding arbitration and the number of mediations held and the number of settlement agreements reached through mediation.</p>	<p>In most instances, when data are required on children or services under Part B or Part C, (e.g. receiving FAPE, receiving early intervention services, participating in regular education, etc.) a new data element has been added so that data are provided on the number “<b>and percentage</b>” of children with disabilities, by race, ethnicity. Additionally, “<b>limited English proficiency status...</b>” is now required for Part B counts. <b>(Sec 618(a)(1)(A-F)).</b></p> <p>Adds several new provisions requiring data to be submitted annually on disciplinary actions, the number and resolution of dispute procedures related to these actions, the number of hearings requested, hearings held, number of mediations requested, and the number of settlements reached. <b>(Sec. 618(a)(1)(G-M)).</b></p> <p>Deletes the language related to the use of samples when providing data under this section. <b>(Current Law – Sec. 618(b)).</b></p> <p>Adds a new provision authorizing the Secretary to provide technical assistance to States to ensure compliance with data collection and reporting requirements. <b>(Sec 618(b)).</b></p>	<p>CEC supports the additional collection of information annually on “limited English proficiency” in the Senate bill. This is necessary to ensure that children with limited English proficiency receive appropriate services under IDEA. However, CEC is concerned that the amount of additionally required data collection, as included in both bills, will result in a significant paperwork burden which will divert necessary resources from the provision of services. CEC recommends careful consideration of the value to be gained in each of the new proposed data elements.</p>

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	<p><b>(Sec. 618(a)(1)(A)(viii) and (ix)).</b></p> <p>Adds a new provision requiring data to be submitted annually on the number of students served with funds under the new Section 613(f) “Peripheral Services.”</p> <p><b>(Sec 618(a)(1)(C)).</b></p> <p>Adds a new provision to the collection and examination of data to determine if significant disproportionality based on race and ethnicity is occurring in the State and LEAs with respect to the incidence, duration, and type of disciplinary actions, including suspensions and expulsions. <b>(Sec. 618(c)(1)(C)).</b></p> <p>Adds a new provision that a State must require any LEA identified as having significant disproportionate representation based on race to reserve the maximum amount of funds available under the new Prereferral subsection (613(f) to provide comprehensive coordinated pre-referral support services to serve children in the LEA, particularly students in those groups that were significantly over identified and to publicly report on revisions of policies, practices, and procedures. <b>(Sec. 618(c)(2)(B) and (C)).</b></p>	<p>Adds a new provision to the current requirement for collection and examination of data to determine if significant disproportionality based on race is occurring in the State and LEAs with respect to the incidence, duration, and type of disciplinary actions, including suspensions and expulsions. <b>(Sec. 618(c)(1)(C)).</b></p>	

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<p><b>Personnel</b></p> <p>Findings (Sec. 601)</p>		<p>Adds language to findings ensuring personnel have the skills and knowledge necessary "...to improve the academic achievement and functional performance of children with disabilities, including the use of scientifically based instructional practices to the maximum extent possible." <b>(Sec. 601(c)(5)(E)).</b></p>	<p>CEC supports ensuring that all personnel have the skills and knowledge necessary to improve the academic achievement and functional performance of children with disabilities, including the use of scientifically based instructional practices.</p>
<p><b>Personnel</b></p> <p>Definition (Sec 602)</p>	<p>Adds a definition of "highly qualified" which has the same meaning as that term in section 9101 of the ESEA of 1965. <b>(Sec. 602(9))</b></p>	<p>Adds a definition of "highly qualified" which is aligned with the definition in section 9101(23) of the ESEA of 1965 but with further clarification for special education teachers. <b>(Sec. 602(10A))</b></p> <p>Adds a definition of "consultative services." <b>(Sec. 602(10)(B))</b></p>	<p>CEC supports in concept the Senate definition of "highly qualified". Further refinement of the clarification for special education teachers is necessary.</p>

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<p><b>Personnel</b></p> <p>CSPD (Sec. 612(a)(14))</p>	<p>Deletes State Comprehensive System of Personnel Development. <b>(Current Law – Sec. 612(a)(14)).</b></p> <p>Deletes the provision that an LEA, if it determines to be appropriate, shall contribute to and use the comprehensive system of personnel development established of the state. <b>(Current Law – Sec. 613(a)(3)(B)).</b></p> <p>Adds the provision that the LEA, in ensuring that all personnel necessary to carry out Part B are appropriately and adequately prepared, shall do so consistent with Section 1119 of ESEA of 1965. <b>(Sec. 613(a)(3)).</b></p>	<p>Deletes State Comprehensive System of Personnel Development. <b>(Current Law – Sec. 612(a)(14)).</b></p> <p>Deletes the provision that an LEA, if it determines to be appropriate, shall contribute and use the comprehensive system of personnel development required at the state level. <b>(Current Law – Sec. 613(a)(3)(B)).</b></p> <p>Adds a provision that the LEA, in ensuring that all personnel necessary to carry out Part B are appropriately and adequately prepared, shall do so consistent with Section 2122 of the ESEA of 1965. <b>(Sec. 613(a)(3)).</b></p>	<p>CEC recommends retaining requirements at the state and local level similar to the components of the Comprehensive System of Personnel Development that require states to create and implement state systems for comprehensive workforce planning, and that further guarantee the involvement of a wide base of stakeholders. The state education agency shall describe:</p> <ol style="list-style-type: none"> <li>1. Demand for general and special educational personnel to ensure all children with disabilities are taught by highly qualified teachers and related service personnel;</li> <li>2. Attrition rates of general and special education personnel including such information as attrition within and across school districts and across educational disciplines, the reasons for attrition, and conditions in school systems that are related to higher need areas;</li> <li>3. Capacity, based on infrastructure, to produce highly qualified general and special educational personnel within areas of need;</li> <li>4. Demand for effective ongoing professional</li> </ol>

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			<p>development of the existing general and special educational workforce, including the need for career paths designed to encourage the retention of highly qualified related services personnel and general and special education teachers in classrooms;</p> <ol style="list-style-type: none"> <li>5. Effective strategies for recruiting and retaining personnel in high need areas; and</li> <li>6. Strategies for ensuring that the state's professional standards align with student learning standards, nationally recognized program accreditation standards, and standards for the licensure of educational professionals.</li> </ol> <p>CEC supports ensuring that all personnel necessary to carry out Part B are appropriately and adequately prepared consistent with Section 1119 of ESEA of 1965.</p>

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<p><b>Personnel</b></p> <p>Standards (Sec. 612(a)(15))</p>	<p>Adds standard for ensuring that special education teachers who teach in core academic subjects are highly qualified in those subjects. <b>(Sec. 612(a)(14)(B)(i)).</b></p> <p>Deletes standard for retraining or hiring of personnel who meet highest requirements in the state. <b>(Current Law - Sec. 612(a)(15)(B)(ii)).</b></p> <p>Deletes policy on good-faith effort to recruit and hire qualified staff, shortages of personnel, and timeline of three years. <b>(Current Law - Sec. 612(a)(15)(c)).</b></p> <p>Adds provision requiring the state educational agency to encourage the development and use of innovative strategies to deliver intensive professional development that improve educational results for students and that are both cost-effective and accessible. <b>(Sec. 612(a)(14)(C)).</b></p>	<p>Adds requirement that all personnel have the <i>content knowledge and skills</i> to serve children with disabilities. <b>(Sec. 612(a)(14)(A)).</b></p> <p>Requires that standards be consistent with any state-approved or state-recognized certification, licensing, registration, or other comparable requirements and that these requirements have not been waived on an emergency temporary or provisional basis, but applies this only to related services personnel and paraprofessionals. <b>(Sec. 612(a)(14)(B)(i) and (ii))</b></p> <p>Adds standard for special education teachers that each special education teacher in the state shall be <i>highly qualified</i> not later than the end of the 2006-2007 school year. <b>(Sec. 612(a)(14)(C)(i))</b></p> <p>Adds a compliance statement that compliance with the above requirement by the deadlines established shall mean compliance with Sec. 1119(a)(2) of the ESEA of 1965, with respect to such teachers. <b>(Sec. 612(a)(14)(C)(ii))</b></p> <p>Deletes standard for retraining or hiring of personnel who meet highest requirements in the state. <b>(Current Law – Sec. 612(a)(15)(B)(ii)).</b></p>	<p>CEC supports the standard for ensuring that special education teachers who teach in core academic subjects are highly qualified in those subjects.</p> <p>CEC recommends adding a clear and consistent policy that all special education teachers and related service personnel are highly qualified by a date certain similar to language in ESEA of 1965.</p> <p>CEC supports the standard that all special education teachers be highly qualified and the inclusion of a date certain.</p> <p>CEC recommends adding a standard that all preschool special education, related service personnel and paraprofessionals and assistants also be highly qualified by a date certain similar to language contained in the ESEA of 1965 (NCLB).</p> <p>CEC recommends that the law require the Secretary to reserve 2 percent of total Part B funds and Part C funds for FY 2003 in three professional development priority areas: capacity building for all professionals; mastery of nationally recognized standards by all the states; and mastery of appropriate standards for all administrators. Additional information on this proposal can be</p>

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		<p>Requires LEAs in each state to take measurable steps to recruit, hire, train, and retain highly qualified personnel, but removes current timeline of three years. <b>(Sec. 612(a)(14)(D)).</b></p> <p>Adds a rule of construction that states that “notwithstanding any other individual right of action that a parent or student may maintain under this part, nothing in this subsection shall be construed to create a right of action on behalf of an individual student for the failure of a particular SEA or LEA staff person to be highly qualified or to prevent a parent from filing a complaint about staff qualifications with the SEA as provided for under this part.” <b>(Sec. 612(a)(14)(E))</b></p>	<p>found in <i>Council for Exceptional Children Reauthorization Recommendations</i> at <a href="http://www.cec.sped.org/gov/IDEA_reauth_4-2002.pdf">http://www.cec.sped.org/gov/IDEA_reauth_4-2002.pdf</a></p>

Issue	House Passed Bill	Senate Bill (Committee Passed)	CEC Recommendations
<p><b>Evaluation/Eligibility</b></p> <p>Initial Evaluations (Sec. 614(a)(1))</p>	<p>Adds language allowing the LEA to proceed with an initial evaluation if the parents fail to respond to a request for evaluation, but prohibiting the LEA from providing special education and related services to the child without consent. <b>(Sec. 614 (a)(1)(D))</b></p> <p>Adds language that clarifies the LEA is not required to convene an IEP meeting or develop an IEP for a child if there is an absence of consent for an initial evaluation or services. <b>(Sec. 614 (a)(1)(D))</b></p>	<p>Adds a requirement that the initial evaluation shall occur within 60 days of receiving parental consent for the evaluation, or, if the state has established a timeframe within which the evaluation must be conducted, within that framework. <b>(Sec. 614(a)(1)(C))</b></p> <p>Adds a provision that if a parent does not provide informed consent to the receipt of special education and related services, or the parent fails to respond to a request to provide consent, the LEA shall not be considered to be in violation of the requirement to make available a free appropriate public education to the child for the failure to provide the special education and related services for which the LEA requested such informed consent. <b>(Sec. 614(a)(1)(D)(iii))</b></p>	<p>CEC supports the requirement that the initial evaluation shall occur within 60 days of receiving parental consent or within a state established timeframe.</p> <p>CEC supports the provision that if a parent does not provide informed consent or fails to respond to a request for informed consent for special education and related services, the LEA has not violated the requirement to make FAPE available; however, CEC recommends that if a parent refuses consent for placement, the LEA <u>may</u> continue to pursue placement by utilizing the mediation and due process procedures under section 615 except to extent inconsistent with state law relating to parental consent.</p>

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<p><b>Evaluation/Eligibility</b></p> <p>Reevaluations (Sec. 614(a)(2))</p>	<p>Limits reevaluations to no more than once a year unless the parent and the LEA agree otherwise. <b>(Sec. 614 (a)(2)(B))</b></p> <p>Adds a waiver to the requirement that a reevaluation occur at least every three years, if the parent and the LEA agree that a reevaluation is unnecessary. <b>(Sec. 614(a)(2)(B))</b></p>	<p>Limits reevaluations to no more than once a year unless the parent and the LEA agree otherwise. <b>(Sec. 614 (a)(2)(B))</b></p> <p>Adds a waiver to the requirement that a reevaluation occur at least every three years, if the parent and the LEA agree that a reevaluation is unnecessary. <b>(Sec. 614(a)(2)(B))</b></p> <p>Adds language to the existing requirement that the LEA ensure a reevaluation – if the LEA determines that the educational or related services needs, including improved academic achievement and functional performance of the child, warrant a reevaluation. <b>(Sec. 614(a)(2)(i))</b></p>	<p>CEC recommends amending the IDEA triennial reevaluation requirements to coincide with natural transition points for the child, rather than the arbitrary 3-year reevaluation requirement of current law.</p> <p>Natural transition points are defined as the period that is close in time to the transition of a child with a disability from preschool to elementary grades, from elementary grades to middle or junior high school grades, from middle or junior high school grades to high school grades, and from high school grades to post-school activities, <u>but in no case longer than 3 years.</u></p> <p>CEC supports the additional language that accompanies the requirement that the LEA ensure a reevaluation, including consideration of improved academic achievement and functional performance.</p>

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<p><b>Evaluation/Eligibility</b></p> <p>Academic Evaluation</p>	<p>Adds a requirement that the LEA, in addition to gathering relevant functional and developmental information in conducting an evaluation, will also gather academic information. <b>(Sec. 614(b)(2)(A))</b></p> <p>Adds language clarifying that evaluations and reevaluations should include data on academic achievement and related developmental needs of the child. <b>(Sec. 614(c)(1)(B)(ii))</b></p>	<p>Adds a requirement that the LEA, in addition to gathering relevant functional and developmental information in conducting an evaluation, will also gather academic information. <b>(Sec. 614(b)(2)(A))</b></p>	<p>CEC supports the emphasis on academic achievement for students with disabilities throughout the bill. CEC supports the need to include academic achievement data in the evaluation and reevaluation of students with disabilities but only when balanced with functional and developmental information.</p>
<p><b>Evaluation/Eligibility</b></p> <p>Assessment in the Child’s Native Language <b>(Sec. 614(b)(3)(A))</b></p>	<p>Alters the current language of law stating that assessments be provided in the child’s native language or other mode of communication to a requirement that they be provided in the language and form most likely to yield accurate academic and developmental data unless it is clearly not feasible to do so. <b>(Sec. 614(b)(3)(A)(ii))</b></p>	<p>Changes the requirement that assessments are provided and administered in the child’s native language “unless clearly not feasible,” to requiring LEAs to ensure that assessments are provided and administered to the extent practicable, in the language and form most likely to yield accurate academic, developmental, and functional information <b>(Sec. 614(b)(3)(A)(ii))</b></p>	<p>CEC does not support the proposed language to replace native language and urges retention of the current language of law.</p>

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<p data-bbox="92 139 388 172"><b>Evaluation/Eligibility</b></p> <p data-bbox="92 212 317 318">Determination of Eligibility (Sec. 614(b)(4))</p>	<p data-bbox="476 139 963 574">Adds language to the “Special Rule for Eligibility Determination” provision expanding the identification exemption on the basis of “lack of instruction” to read that a child will not be determined to have a disability if the determinate factor is lack of scientifically based instruction practices and programs that contain the essential components of reading instruction, as defined in ESEA. <b>(Sec. 614(b)(5))</b></p> <p data-bbox="476 615 945 976">Adds a “Sense of Congress” that students who have not been diagnosed by a physician or other person certified by a state health board as having a disability (as defined under the IDEA) should not be classified as children with disabilities for purposes of receiving services under the Act. <b>(Sec. 614(b)(2)).</b></p>	<p data-bbox="991 139 1478 391">Adds language in the “Special Rule for Eligibility Determination” expanding the identification prohibition on the basis of “lack of instruction in reading” to say “lack of scientifically based instruction in reading.” <b>(Sec. 614(b)(5))</b></p>	<p data-bbox="1505 139 1992 537">This provision seeks to ensure that a child is not unduly identified as a child with a disability because of lack of scientifically based reading instruction. CEC supports this provision and its alignment with No Child Left Behind (NCLB). Every child should be provided with the appropriate instruction he or she needs to succeed in the general education environment.</p>

Issue	House Passed Bill	Senate Bill (Committee Passed)	CEC Recommendations
<p data-bbox="92 138 388 170"><b>Evaluation/Eligibility</b></p> <p data-bbox="92 211 325 284">Specific Learning Disability</p>	<p data-bbox="476 138 955 609">Adds language that states LEAs, when determining whether a child has a specific learning disability, are not required to take into consideration whether the child has a severe discrepancy between achievement and intellectual ability in oral expression, listening comprehension, written expression, basic reading skill, reading comprehension, mathematical calculation, or mathematical reasoning. <b>(Sec. 614(b)(6)(A))</b></p> <p data-bbox="476 649 955 901">Adds a provision that allows LEAs to use a process that determines if a child responds to scientific, research-based intervention when determining whether a child has a specific learning disability. <b>(Sec. 614(b)(6)(B))</b></p>	<p data-bbox="991 138 1470 609">Adds language that states LEAs, when determining whether a child has a specific learning disability, are not required to take into consideration whether the child has a severe discrepancy between achievement and intellectual ability in oral expression, listening comprehension, written expression, basic reading skill, reading comprehension, mathematical calculation, or mathematical reasoning. <b>(Sec. 614(b)(6)(A))</b></p> <p data-bbox="991 649 1470 901">Adds a provision that allows LEAs to use a process that determines if a child responds to scientific, research-based intervention when determining whether a child has a specific learning disability. <b>(Sec. 614(b)(6)(B))</b></p>	<p data-bbox="1505 138 1984 901">CEC recognizes that the use of the aptitude-achievement discrepancy model continues to be a controversial component in the identification of LD and shares those concerns. However, there are no research-based alternatives that have been sufficiently validated at this time. CEC recommends that the Secretary establish a priority through the Part D research authority and sufficient funds be allocated to validate psychometric, non- psychometric and “response-to-treatment” methods of identification. Particular attention should be given to the fidelity of the response-to-treatment method on a large scale and its impact on disproportional representation of children from culturally and linguistically diverse backgrounds.</p> <p data-bbox="1505 941 1984 1453">CEC supports the early identification of children who need special education and related services. However, CEC is concerned that the proposed application of special education eligibility criteria including those for learning disability may unintentionally delay provision of special education and related services for children and youth who require such services. Therefore, CEC recommends provisions be included in the “prereferral services” process that ensures a child’s timely referral.</p>

Issue	House Passed Bill	Senate Bill (Committee Passed)	CEC Recommendations
			<p>CEC recommends clarifying language in the ESEA of 1965 to ensure that effective “prereferral services” are in place in general education as an integral part of the total educational process to safeguard against inappropriate referral, unnecessary testing, and misclassification in special education. Such efforts should maximize the involvement of all family, school, and community resources to provide effective intervention strategies early to address students’ learning needs. These efforts should occur prior to referral to special education.</p> <p>CEC recommends that LEAs be required to keep data on “prereferral services” and the burden for data collection be the responsibility of general education in order not to increase the paperwork burden on the special education system.</p>

Issue	House Passed Bill	Senate Bill (Committee Passed)	CEC Recommendations
<p><b>Evaluation/Eligibility</b></p> <p>Evaluations Before Change in Eligibility (Sec. 614(c)(5))</p>	<p>Adds a new qualifier that the LEA will evaluate a child with a disability prior to graduation, and before determining that the child is no longer a child with a disability, only in instances where the IEP team is not in agreement regarding the change in eligibility. <b>(Sec. 614(c)(5))</b></p>	<p>An exception is made to the requirement that a child shall be evaluated before determining that the child is no longer a child with a disability if termination of a child's eligibility is due to graduation from secondary school with a regular diploma or the child has exceeded the age eligibility for a free appropriate public education. <b>(Sec. 614(c)(5)(B)(i))</b></p> <p>When eligibility terminates in the above manner, the LEA shall provide the child with a summary of the child's academic achievement and functional performance, which shall include any further recommendations on how to assist the child in meeting the child's postsecondary goals. <b>(Sec. 614(c)(5)(B)(ii))</b></p>	<p>CEC finds these to be reasonable stipulations.</p>

Issue	House Passed Bill	Senate Bill (Committee Passed)	CEC Recommendations
<p><b>Individualized Education Program (IEP)</b></p> <p>Content of IEP (Sec. 614(d)(1)(A))</p>	<p>Replaces “educational performance” with academic achievement in statement of present levels. <b>(Sec. 614(d)(1)(A)(i)(I))</b></p> <p>Deletes the requirements for benchmarks or short-term objectives at the beginning of the 2005-2006 school year, except in the case of children with disabilities who take alternate assessments aligned to alternate achievement standards. <b>(Current Law – Sec. 614(d)(1)(A)(ii))</b></p> <p>Adds the phrase “based on peer-reviewed research to the extent practicable” to statement of special education and related services and supplementary aids and services. <b>(Current Law – Sec. 614(d)(1)(A)(i)(III))</b></p> <p>Adds the phrases “appropriate accommodations” and “to measure the academic achievement of the child” to statement of state or district-wide assessments. <b>(Sec. 614(d)(1)(A)(i)(v)(aa))</b></p>	<p>Replaces “educational performance” with academic achievement and functional performance in statement of present levels. <b>(Sec. 614(d)(1)(A)(i)(I))</b></p> <p>Deletes the terms benchmarks and short-term objectives in the IEP. <b>(Current Law- Sec. 614(d)(1)(A)(ii))</b></p> <p>Adds including academic and functional goals to measurable annual goals. <b>(Sec. 614(d)(1)(A)(i)(I))</b></p> <p>Revises current language on reporting to parents stating how the student’s progress toward the annual goals will be measured, including through the use of quarterly or other periodic reports, concurrent with the issuance of report cards, that delineate the progress the child is making toward meeting the annual goals. <b>(Sec. 614(d)(1)(A)(i)(III))</b></p> <p>Revises accommodations in assessments to require a statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on state and district-wide assessments. <b>(Sec. 614(d)(1)(A)(i)(VI))</b></p>	<p>CEC supports the following:</p> <ul style="list-style-type: none"> <li>• Deleting benchmarks and short-term objectives;</li> <li>• No additional information is required in a child’s IEP beyond what is explicitly stated in the statute; and</li> <li>• Revision of section on accommodations in assessments and alternate assessments to conform with ESEA of 1965 (NCLB).</li> </ul>

Issue	House Passed Bill	Senate Bill (Committee Passed)	CEC Recommendations
	<p>Deletes the phrase “the extent to which that progress is sufficient to enable the child to achieve the goal by the end of the year” in the statement on regularly informing parents of their child’s progress. <b>(Current Law – Sec. 614(d)(1)(A)(viii)(II)(bb))</b></p> <p>Includes a rule of construction that no additional information need be included in the child’s IEP beyond what is explicitly required in this section of the law addressing the IEP. <b>(Sec. 614(d)(1)(A)(ii))</b></p>	<p>Includes a rule of construction that no additional information need be included in the child’s IEP beyond what is explicitly required in this section of the law addressing the IEP. <b>(Sec. 614(d)(1)(A)(ii))</b></p> <p>Rewords language on alternate assessments: if the IEP team determines that the child shall take an alternate assessment on a particular state or district-wide assessment of student achievement, a statement of why the child cannot participate in the regular assessment and why the particular alternate assessment selected is appropriate for the child. <b>(Sec. 614(d)(1)(A)(i)(VI))</b></p> <p>Revises transition in the IEP to require that transition factors be included not later than the first IEP to be in effect when the child is 14; and to include appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and to include the transition services (including courses of study) needed by the child, including services to be provided by other agencies. <b>(Sec. 614(d)(1)(A)(i)(VIII))</b></p>	<p>CEC supports Senate language that modifies the current requirement for transition components in the IEP by requiring that planning and services be undertaken by 14 years of age, a natural transition point. CEC strongly supports this change. The proposed language eliminates the confusing language about different transition planning requirements for ages 14 and 16, provides clear direction to IEP Teams, and is consistent with the students’ needs. Many students with disabilities who drop out do so before they reach age 16. Transition planning and services must be in place before students make the transition from middle to high school to ensure better outcomes for all youth with disabilities.</p>

Issue	House Passed Bill	Senate Bill (Committee Passed)	CEC Recommendations
<p><b>Individualized Education Program (IEP)</b></p> <p>IEP Team (Sec. 614(d)(1)(B))</p>	<p>Adds disclaimers on the participation of regular education teachers in IEP meetings, including aspects of content in the IEP relative to participating in regular education, and number of regular education teachers required to attend a meeting. <b>(Sec. 614(d)(1)(B)(ii))</b></p> <p>Replaces the word “as” with the word “if” regarding a regular education teacher being a member of the IEP team. <b>(Sec. 614(d)(3)(C))</b></p> <p>Adds provision for parent and LEA to jointly excuse any member from attending an IEP meeting. <b>(Sec. 614(d)(3)(D))</b></p>	<p>Adds a provision that a member of the IEP team shall not be required to attend an IEP meeting, in whole or in part, if that member, the parent and the LEA agree that the member’s attendance is not necessary because no modification to the member’s area of the curriculum or related services is being modified or discussed in the meeting. <b>(Sec. 614(d)(1)(C)(i))</b></p> <p>Adds a further stipulation that a member of the IEP team may be excused from attending an IEP meeting, in whole or in part, when the meeting involves a modification to or discussion of the member’s area of the curriculum or related services if that member, the parent and the LEA consent to the excusal and the member submits input into the development of the IEP prior to the meeting. <b>(Sec. 614(d)(1)(C)(ii))</b></p> <p>Adds stipulation that a regular education teacher of the child, as a member of the IEP team, shall, consistent with paragraph (1)(C), participate in the review and revision of the IEP of the child. <b>(Sec. 614(d)(4)(B))</b></p>	<p>CEC has concerns about the addition of disclaimers on the participation of the regular education teachers and other members of the team in IEP meetings. As we move towards the provision in IDEA ’97 of “accessing the general curriculum” and the provision contained in the ESEA of 1965 it is critical for the general education teacher to participate in the IEP meeting whether the task is developing, reviewing, or revising the IEP of the child.</p> <p>CEC has concerns about the addition of the provisions for parent and LEA to jointly excuse any member from attending an IEP meeting. CEC is concerned that to document this process we may increase the burden of paperwork and this provision could lead to another process that may become litigious.</p>

Issue	House Passed Bill	Senate Bill (Committee Passed)	CEC Recommendations
<p data-bbox="92 139 447 207"><b>Individualized Education Program (IEP)</b></p> <p data-bbox="92 248 411 354">Consideration of Special Factors (Sec. 614(d)(3)(B))</p>	<p data-bbox="476 139 947 318">Adds the phrase “the academic and developmental needs of the child” to those factors an IEP team must consider in developing an IEP. <b>(Sec. 614(d)(3)(A)(ii))</b></p>	<p data-bbox="991 139 1461 318">Adds to the considerations required by the IEP team in developing of the IEP “the academic, developmental, and functional needs of the child.” <b>(Sec. 614(d)(3)(A)(iv))</b></p> <p data-bbox="991 358 1480 610">In the case of a child whose behavior impedes the child’s learning or that of others, requires that the IEP team “provide” (current language- “consider, when appropriate”) for positive behavioral interventions and supports. <b>(Sec. 614(d)(3)(B)(i))</b></p> <p data-bbox="991 686 1459 1049">In the case of a child who is blind or visually impaired, language is added requiring the IEP team to consider, when appropriate, instructional services related to functional performance skills, orientation and mobility, and skills in the use of assistive technology devices, including low vision devices. <b>(Sec. 614(d)(3)(B)(iii)(II))</b></p>	<p data-bbox="1505 139 1969 240">CEC supports changes to section addressing special considerations in the development of the IEP.</p>

Issue	House Passed Bill	Senate Bill (Committee Passed)	CEC Recommendations
<p data-bbox="92 138 447 207"><b>Individualized Education Program (IEP)</b></p> <p data-bbox="92 284 346 354">Review/Revision (Sec. 614(d)(4)(A))</p>	<p data-bbox="476 138 959 316">Adds provision for parent and LEA to make changes in IEP without holding a meeting and without all members involved. <b>(Sec. 614(d)(3)(E) and (G))</b></p> <p data-bbox="476 360 942 462">Adds provision that encourages the consolidation of IEP meetings. <b>(Sec. 614(d)(3)(F))</b></p> <p data-bbox="476 506 942 685">Adds alternative means for conducting IEP and placement meetings in Section 614 and Section 615 such as video-conferences and conference calls. <b>(Sec. 614(f))</b></p>	<p data-bbox="989 138 1472 462">Adds a provision that, in making changes to the IEP after the annual IEP meeting for a school year, the parent and the LEA may agree not to convene an IEP meeting for the purposes of making such changes and instead may develop a written document to amend or modify the current IEP. <b>(Sec. 614(d)(3)(D))</b></p> <p data-bbox="989 506 1451 685">Adds a provision that the LEA shall encourage the consolidation of reevaluations of a child with IEP team meetings for the child. <b>(Sec. 614(d)(3)(E))</b></p> <p data-bbox="989 729 1463 1015">Adds a stipulation that, when conducting IEP team meetings and placement meetings in Section 614, the parent and the LEA may agree to use alternative means of meeting participation, such as video conferences and conference calls. <b>(Sec. 614(f))</b></p>	<p data-bbox="1501 138 1984 500">While we appreciate the motivation behind allowing the parent and the LEA to agree not to convene an IEP meeting after the annual IEP meeting for the school year when making amendments or modifications to the IEP, CEC is again concerned about the unintended consequences of additional paperwork and further promotion of litigation.</p> <p data-bbox="1501 544 1984 829">CEC has concerns about the addition of provisions for parent and LEA to make changes in IEP without holding a meeting and without all members involved. CEC is concerned an unintended consequence will be additional paperwork and another potentially litigious provision.</p> <p data-bbox="1501 873 1984 1122">CEC needs further clarification on the provision in the House Bill that adds a provision that encourages the consolidation of IEP meetings. CEC does not understand the intent of this provision and needs further clarification.</p> <p data-bbox="1501 1166 1984 1485">CEC supports the Senate addition of a stipulation that the LEA shall encourage the consolidation of reevaluations of a child with IEP team meetings for the child; CEC supports alternative means for conducting IEP and placement meetings as videoconferences and conference calls.</p>

Issue	House Passed Bill	Senate Bill (Committee Passed)	CEC Recommendations
<p><b>Individualized Education Program (IEP)</b></p> <p>Multi-Year IEP</p>	<p>Adds extensive procedures for the development of a “multi-year” IEP at the option of the parent, including “streamlined” and “comprehensive” reviews at each of a child’s natural transition points. <b>(Sec. 614(d)(5))</b></p>	<p>Adds extensive procedures for the development of a three-year IEP which may be offered to a student with a disability who has reached the age of 18 and which is designed to serve the student during the student’s final 3-year transition period. <b>(Sec. 614(d)(5))</b></p>	<p>CEC supports the House concept of a “multi-year” IEP. CEC recommends that the Secretary establish a process for piloting development of a 3-year IEP.</p> <p>CEC appreciates the design offered in the Senate bill for a three-year IEP for students who have reached the age of 18 and which focuses on the student’s transition period. However, CEC recommends that the Secretary be authorized to establish a process for piloting development of a 3-year IEP across the age-range of children and youth with disabilities. CEC recommends granting authority to IEP Teams participating in this pilot, with the consent of the parents of a child with a disability:</p> <ul style="list-style-type: none"> <li>▪ To develop a 3-year IEP (in lieu of an annual IEP) for each child or youth with a disability, with IEP goals coinciding with natural transition points for the child or youth, including measurable <i>annual</i> goals for measuring progress (taking the place of short-term objectives) that are tied to the general education curriculum content standards as well as other annual goals, such as life skills, self-advocacy, social skills, desired post-school outcomes, and other</li> </ul>

Issue	House Passed Bill	Senate Bill (Committee Passed)	CEC Recommendations
			<p>goals deemed appropriate for the child or youth by the IEP team;</p> <ul style="list-style-type: none"> <li>▪ To comprehensively review and revise the IEP consistent with current law, but at natural transition points for the child (rather than annually);</li> <li>▪ Education and related services are needed to enable the child to meet the measurable annual goals set out in the IEP;</li> <li>▪ Consistent with IDEA’s current performance reporting requirements, (1) regularly inform the parents of a child with a disability of the extent to which their child is progressing towards meeting the goals of the IEP (<u>including measurable annual goals and 3-year IEP goals coinciding with natural transition points for the child</u>); and (2) inform the parent of the extent to which that progress is sufficient to enable the child to achieve the measurable annual goals by the end of the school year, as well as the 3-year IEP goals coinciding with natural transition points for the child;</li> <li>▪ If the child <u>is making sufficient progress</u> toward meeting <u>each</u> of the</li> </ul>

Issue	House Passed Bill	Senate Bill (Committee Passed)	CEC Recommendations
			<p>measurable annual goals of the IEP by the end of the school year and such progress continues to be deemed sufficient to enable the child to attain the 3-year annual IEP goals coinciding with natural transition points for the child, the IEP Team would not be required to conduct a comprehensive annual review and revision of the IEP. Instead the IEP Team would conduct a streamlined annual IEP review process in intervening years between natural transition points (<u>at which time the comprehensive review would be required</u>), unless the child's parents or teacher called for a more comprehensive review and revision of the IEP; and</p> <ul style="list-style-type: none"> <li>▪ If the child <u>is not making sufficient progress</u> toward attaining <u>each</u> of the measurable annual goals (which must be documented in the performance reports to parents and provided to parents at least quarterly) this lack of adequate progress would <u>automatically trigger</u> an IEP review meeting, which is not required under current law. The trigger would occur</li> </ul>

Issue	House Passed Bill	Senate Bill (Committee Passed)	CEC Recommendations
			<p>when a child’s documented performance is insufficient to ensure he or she will attain one or more annual goals, rather than waiting for the scheduled annual IEP review, in order to determine whether any additions or modifications to the annual IEP goals, special education and related services, or a change in placement is needed.</p> <p>Information related to the effectiveness of the pilot process in enhancing longer term educational planning, positive outcomes for children with disabilities, promoting collaboration between IEP team members, and ensuring satisfaction of family members should be reported in the Annual Report to Congress, along with any specific recommendations for broader implementation.</p>

Issue	House Passed Bill	Senate Bill (Committee Passed)	CEC Recommendations
<p><b>Procedural Safeguards</b></p> <p>Notice Requirements (Sec. 615(c) and (d))</p>	<p>Deletes a description of any other options that the agency considered and the reasons why those options were rejected. <b>(Current Law – Sec. 615(c)(3)).</b></p> <p>Deletes a description of any other factors that are relevant to the agency’s proposal or refusal. <b>(Current Law – Sec. 615(c)(5)).</b></p> <p>Adds the following times when a parent must be given a copy of the procedural safeguards notice: [upon parental request [for evaluation]; annually, at the beginning of the school year; and upon written request of a parent. <b>(Sec. 615(d)(1))</b></p> <p>Deletes the following times when a parent must be given a copy of the procedural safeguards notice: upon each notification of an IEP meeting; reevaluation of the child; and upon registration of a complaint. <b>(Current Law – Sec. 615(d)(1))</b></p> <p>Replaces the words “a full explanation” with “a description” of the content in the procedural safeguards notice provided to parents. <b>(Sec. 615(d)(2))</b></p> <p>Adds early dispute resolution and voluntary binding arbitration to the content in a procedural safeguards notice. <b>(Sec. 615(d)(2)(I))</b></p>	<p>Adds procedures for determining the sufficiency of the due process complaint notice by a hearing officer; a 20-day timeline for notifying a hearing officer of any concerns regarding the due process complaint notice; and a 5-day timeline for the hearing officer to respond to the adequacy of the due process complaint notice. <b>(Sec. 615(c)(2))</b></p> <p>Clarifies that a parent shall be given a copy of their procedural safeguards only one time a year except that a copy shall also be provided: upon initial referral or parental request for evaluation; upon registration of a complaint; and upon request of a parent. <b>(Sec. 615(d)(1))</b></p> <p>Adds time periods for filing complaints including civil actions to contents of procedural safeguards notice. <b>(Sec. 615(d)(2)(E) and (L))</b></p> <p>If the public agency makes such option available, adds the provision that a parent may elect to receive notices under Sec. 615 by email. <b>(Sec. 615(n))</b></p>	<p>CEC supports the procedures for verifying the sufficiency of the due process complaint notice <b>(Senate)</b></p> <p>CEC supports clarification of when parents must receive a copy of their procedural safeguard and specifying the time periods for filing a complaint and civil action. <b>(Senate)</b></p> <p>CEC supports deleting current language in prior notice regarding a description of other options and other factors. These add to the paperwork burden. <b>(House)</b></p> <p>CEC recommends that parents must be given a copy of the procedural safeguards notice only upon initial referral for special education evaluation, upon registration of a complaint, or as otherwise requested by a parent. <b>(House)</b></p> <p>CEC recommends retaining “a full explanation” of the content in the procedural safeguards notice provided to parents. <b>(House)</b></p>

Issue	House Passed Bill	Senate Bill (Committee Passed)	CEC Recommendations
<p><b>Procedural Safeguards</b></p> <p>Mediation and Other Pre-Hearing Dispute Resolution Procedures (Sec. 615(e))</p>	<p>Expands the availability of mediation to include matters arising prior to the filing of a complaint. <b>(Sec. 615(e)(1)(A)).</b></p> <p>Adds voluntary binding arbitration. <b>(Sec. 615(b)(5)).</b></p> <p>Replaces the words “to require” with “to offer” parents who choose not to use mediation to meet with a disinterested third party. <b>(Sec. 615(e)(1)(B)(ii)).</b></p> <p>Adds extensive procedures for the establishment and implementation of a process for resolving disputes through voluntary binding arbitration in lieu of a due process hearing. <b>(Sec. 615(e)(2)).</b></p> <p>Adds procedures for conducting a “resolution session” prior to a due process hearing including timelines and definition of meeting. <b>(Sec. 615(f)(1)(B)).</b></p>	<p>Expands the availability of mediation to include matters arising prior to the filing of a complaint. <b>(Sec. 615(e)(1)(A)).</b></p> <p>Replaces the words “to require” with “to offer” parents and schools who choose not to use mediation to meet with a disinterested third party. <b>(Sec. 615(e)(2)(B)).</b></p> <p>Adds an “opportunity to resolve complaint” prior to an impartial due process hearing that includes: convening a meeting by LEA with parent and IEP team including presence of attorneys within 15 days; waiving meeting or agree to mediation; conducting a due process hearing if issue(s) not resolved; and developing a written settlement agreement. <b>(Sec. 615(f)(1)(B)).</b></p> <p>Adds a provision that a written mediation agreement is enforceable in any state court of competent jurisdiction or in a district court of the United States. <b>(Sec. 615(e)(2)(F)).</b></p> <p>Adds a provision that prohibits the awarding of attorney’s fees or related costs for meetings held under the subsection entitled “opportunity to resolve complaints”. <b>(Sec. 615(i)(3)(D)(iii)).</b></p>	<p>CEC supports the change in mediation that expands its usage. <b>(Senate and House)</b></p> <p>CEC recommends deleting “opportunity to resolve complaint” prior to the opportunity for an impartial due process hearing. This provision could deny or delay a parent’s right to a hearing. Furthermore, there is nothing in current statute that would prohibit an LEA from establishing informal procedures that would accomplish the same purpose as these meetings as long as they were consistent with due process hearing procedures. <b>(Senate)</b></p> <p>CEC supports prohibition on the awarding of attorney’s fees/costs for meeting’s held under “opportunity to resolve complaints”. <b>(Senate)</b></p> <p>CEC recommends deleting voluntary binding arbitration in the House bill and instead expand the use of mediation. <b>(House)</b></p> <p>CEC recommends deleting voluntary binding arbitration and requiring mediation. Adding one more formal process for dispute resolution will overload the system. Furthermore, it denies both parties a right to a due process hearing and is silent on the right to appeal a final decision. <b>(House)</b></p>

Issue	House Passed Bill	Senate Bill (Committee Passed)	CEC Recommendations
			<p>CEC recommends deleting “resolution session” prior to the opportunity for an impartial due process hearing. This provision could deny or delay a parent’s right to a hearing. Furthermore, there is nothing in current statute that would prohibit an LEA from establishing informal procedures that would accomplish the same purpose as a resolution sessions as long as they were consisted with due process hearing procedures. <b>(House)</b></p>

Issue	House Passed Bill	Senate Bill (Committee Passed)	CEC Recommendations
<p><b>Procedural Safeguards</b></p> <p>Impartial Due Process Hearing (Sec.615(f))</p>	<p>Adds reference to contact information for homeless children when filing written notice for a due process hearing. <b>(Sec. 615)(b)(7)(A)(ii)</b></p> <p>Adds a provision that a parent or attorney representing a child may not have a due process hearing until they provide written notice to the LEA or SEA, as appropriate. <b>(Sec. 615)(b)(7)(B)</b></p> <p>Deletes the provision that due process hearings could be conducted by the LEA as determined by state law or the SEA. <b>(Current Law – Sec. 615(f)(1)).</b></p> <p>Adds criteria to selection of hearing officer to state that an individual can't have “a personal or professional interest that would conflict with his or her objectivity in the hearing.” <b>(Sec. 615(f)(3)(A)(ii)).</b></p> <p>Adds provision restricting either parties’ ability to raise issues at a due process hearing that have not been raised in the compliant, discussed in a resolution session, or properly disclosed unless agreed to by both parties. <b>(Sec. 615(f)(3)(B)).</b></p>	<p>Adds reference to contact information for homeless children when filing written notice for a due process hearing. <b>(Sec. 615)(b)(7)(A)(ii)</b></p> <p>Adds a requirement that a party (e.g., parent or LEA) or party’s attorney may not have a due process hearing until a notice is filed that meets the content requirements in current law. <b>(Sec. 615)(b)(7)(B))</b></p> <p>Clarifies that either party (e.g., parent or LEA) may file a request for a due process hearing and requires the party filing the request to provide notice (due process complaint notice) to the other party and forward a copy to the SEA. <b>(Sec. 615)(b)(6) and (7)(A))</b></p> <p>Adds a requirement that the LEA shall send a prior written notice in response to a parent’s due process complaint notice, if the LEA has not already done so, regarding the subject matter in the parent’s complaint notice. <b>(Sec. 615)(b)(8))</b></p> <p>Adds criteria for selecting hearing officer that addresses impartiality and minimum knowledge base for conducting hearing including ability to write decision. <b>(Sec. 615(f)(3)(A)).</b></p> <p>Adds provision regarding issues</p>	<p>CEC supports the filing of a due process complaint notice on the part of either party. <b>(Senate)</b></p> <p>CEC supports the time limitation for filing a civil action. <b>(Senate)</b></p> <p>CEC supports a one-year statute of limitations for filing a complaint. <b>(House)</b></p> <p>CEC recommends deleting the provision that denies a parent a due process hearing until they provide written notice to the LEA or SEA <b>(House)</b></p> <p>CEC recommends deleting provisions restricting either party’s ability to raise issues in a due process hearing not part of the original complaint of directing hearing officers to make decisions based on whether or not a child received FAPE. These issues are already addressed by hearing officers through current administrative procedures. <b>(House)</b></p> <p>CEC recommends retaining the option to appeal a hearing officer’s decision to the SEA. The inadvertent consequences of eliminating the appeal is that the SEA could increase civil actions. <b>(House)</b></p> <p>CEC recommends deleting representation of non-attorney</p>

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	<p>Deletes appeal to SEA if hearing conducted by LEA. <b>(Current Law – Sec. 615(g)).</b></p> <p>Adds the right to be represented by non-attorney advocates in a due process hearing. <b>(Sec. 615(g)(1)).</b></p> <p>Deletes the transmission of hearing decisions to the state advisory panel for special education LEA. <b>(Current Law – Sec. 615(h)(4)).</b></p> <p>Redesignates “administrative procedures” as Section 615(h); deletes all references to appeals at state level; and revises procedures for determining the amount of attorneys’ fees by designating that the fee is set by the Governor or other appropriate state official. <b>(Sec. 615 (h)).</b></p> <p>Adds a one-year statute of limitation for filing a complaint. <b>(Sec. 615 (b)(6)(B))</b></p>	<p>allowed to be raised at hearing not contained in notice unless other party agrees. <b>(Sec. 615(f)(3)(B)).</b></p> <p>Adds a construction clause that allows a parent to file a separate due process complaint on an issue not contained in original complaint. <b>(Sec. 615(f)(3)(C)).</b></p> <p>Adds a 90-day time limitation from the date of the hearing officer decision to file a civil action unless the state has an explicit time limitation. <b>(Sec. 615(i)(2)(B)).</b></p> <p>Adds a two-year statute of limitations on requesting an impartial due process hearing unless the state has an explicit time limitation, including criteria that negates the timeframe if parent was prevented from requesting hearing. <b>(Sec. 615(f)(3)(D)and(E)).</b></p> <p>Adds criteria for a decision made by a hearing officer that: addresses substantive grounds for determining FAPE; procedural issues that denied a child FAPE; and the enforceability of the decision in state or district court. <b>(Sec. 615(f)(3)(F)).</b></p> <p>Adds a construction clause that notwithstanding this section (Sec. 615(f)) a parent has the right to file a complaint with the SEA. <b>(Sec. 615(f)(3)(G)).</b></p>	<p>advocates if the intent is to replace attorneys in a due process hearing. This may be inconsistent with multiple state laws resulting in a denial of attorneys’ fees. <b>(House)</b></p> <p>CEC recommends retaining the provision that hearing decisions be transmitted to the state advisory panel for special education. <b>(House)</b></p>

Issue	House Passed Bill	Senate Bill (Committee Passed)	CEC Recommendations
<p><b>Discipline</b></p> <p>Authority of School Personnel (Sec. 616(k)(1))</p>	<p>Adds the terminology “who violates a code of student conduct” under authority of school personnel for a change of placement for not more than 10 school days. <b>(Sec. 615(k)(1)(A)).</b></p> <p>Deletes provision of services and modifications, continued participation in general curriculum (although in another setting), and addressing behavior so that it does not recur for a change in placement for not more than 10 school days. <b>Current Law – Sec. 615(k)(3)(B)).</b></p> <p>Deletes references to weapons and drugs under authority of school personnel for a change of placement for not more than 45 school days and replaces with “who violates a code of student conduct policy.” <b>(Current Law – Sec. 615(k)(1)(A)(ii)).</b></p> <p>Adds exception to 45 school days time limit which states that “...except that the change in placement may last beyond 45 school days if required by state law or regulation for the violation in question, to ensure the safety and appropriate educational atmosphere in the schools under the jurisdiction of the LEA. <b>(Sec. 615(j)(1)(B)).</b></p> <p>Adds a further “Sense of Congress” that students with behavioral</p>	<p>Adds the terminology “who violates a code of student conduct” under authority of school personnel for a change of placement for not more than 10 school days. <b>(Sec. 615(k)(1)(A)).</b></p> <p>Adds a subsection entitled “Special Circumstances” that addresses the authority of school personnel to remove a student to an interim alternative educational setting (IAES) for not more than 45 school days who has committed serious bodily injury upon another person. <b>(Sec. 615(k)(1)(D)). Senate</b></p> <p>Adds authority of school personnel to remove a student to an IAES for not more than 45 school days for drugs, weapons, or serious bodily injury “without regard to whether the behavior is determined to be a manifestation of the child’s disability.” <b>(Sec. 615(k)(1)(D)(2)).</b></p>	<p>CEC strongly opposes the proposed provisions in Section 615(j)) in HR 1350. <b>(House)</b></p> <p>CEC recommends increasing funding under the Part D Support Programs for the provision of appropriate research, personnel preparation, technical assistance, and other supports and services to institutions of higher education, state and local educational agencies, educational personnel, and parents to facilitate implementation of the current IDEA discipline policy.</p> <p>CEC opposes cessation of educational services and supports for <u>any</u> student. No child should be denied appropriate educational services. CEC supports the use of comprehensive family-centered approaches to address the individual social, emotional, behavioral, and educational needs of students who demonstrate challenging behaviors in schools. As such, CEC recommends establishing a single discipline standard for all students by amending ESEA to require continued alternative educational services for all students who are suspended or expelled from school.</p> <p>CEC supports language that requires interagency agreements among state agencies with authority over the</p>

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	<p>problems who have not been diagnosed by a physician or other person certified by a state health board as having a disability should be subject to the regular school disciplinary code. <b>(Sec. 614(b)(2)).</b></p>		<p>direction and expenditure of federal and state funds under IDEA, ESEA, Juvenile Justice, and other relevant authorities, to ensure continued alternative educational services (including the full continuum of services as provided for under IDEA) for <u>any</u> student who is long-term suspended or expelled from school.</p> <p>CEC supports the Senate bill’s attempts to strike a critical balance between the protections of a free, appropriate public education (FAPE) and maintaining the disciplinary options of schools. Allowing schools to remove students with disabilities to an interim alternative educational placement for weapons, drugs, or committing serious bodily injury provides schools the authority they need to maintain a learning climate that is safe and free of serious disruption. <b>(Senate)</b></p> <p>Part of the express purpose of these amendments is to bring IDEA more into line with No Child Left Behind. One of the most important tenets of NCLB is that schools use only those interventions that are grounded in rigorous research findings. From that standpoint, it is highly surprising that this latest revision continues to identify suspension as an appropriate disciplinary measure (Sec. 615(k)(1)(A)). Although out-of-</p>

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			<p>school suspension is widely used in schools, there is no evidence that it can in any way “ensure the safety and appropriate education atmosphere in the schools.” Indeed, our best available knowledge indicates that out-of-school suspension is associated with decreased test scores in reading, writing, and mathematics, increases in rates of future misbehavior, less effective school climate, increased rates of school dropout, and extensive racial disparities in punishment. In order to maintain consistency with the NCLB mandate of evidence-based interventions for all students, we would thus suggest replacing the term suspension in this section with “other disciplinary measures that have shown to be effective in reducing school disruption or enhancing school climate.” <b>(Senate)</b></p>

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<p><b>Discipline</b></p> <p>Authority of Hearing Officers (Sec. 615(K)(2))</p>	<p>Deletes authority of hearing officer to order a change of placement when maintaining the placement of the child is “substantially likely to result in injury to the child or to others.” <b>(Current Law – Sec. 615(k)(2)).</b></p>	<p>Deletes three of the criteria to be used by a hearing officer when considering placing a student in an IAES, for not more than 45 school days, if current placement is substantially likely to result in injury to the child or to others, this includes: considering appropriateness of child’s current placement; considering public agency’s efforts to minimize risk of harm and using supplemental aids/services; and, appropriateness of IAES. <b>(Current Law – Sec. 615(k)(2)(B)(C) and (D)).</b></p> <p>Deletes “Current Placement” provisions under placement during appeals that address change of placement after expiration of IAES including pendency. <b>(Current Law – Sec. 615(k)(7)(B) and (C)).</b></p> <p>Adds 20 school day time limit for conducting expedited hearings. <b>(Sec. 615(k)(4)(B)).</b></p>	<p>CEC supports the Senate bill’s provisions regarding hearing officer authority (Sec. 615(k)(3)(B)(ii)) and the discipline of those students not previously eligible for special education (Sec. 615(k)(5)(B)). By retaining those provisions, schools are provided with more options for school discipline, to help keep schools safe for all students. <b>(Senate)</b></p>

Issue	House Passed Bill	Senate Bill (Committee Passed)	CEC Recommendations
<p><b>Discipline</b></p> <p>Behavioral Assessments and Behavior Intervention Plans (Sec. 615(k)(1)(B))</p>	<p>Deletes requirement for conducting a “functional behavioral assessment” and developing a “behavioral intervention plan.” <b>(Current Law – Sec. 615(k)(1)(B)).</b></p>	<p>Deletes the word “Functional” from the phrase “Functional Behavioral Assessment” and deletes the specific requirement to develop a “Behavioral Intervention Plan” but references receiving behavioral intervention services in accordance with the IEP. <b>(Current Law – Sec. 615(k)(1)(B) and Sec. 615(k)(1)(F)(ii))</b></p>	<p>CEC also strongly supports the emphasis on positive behavioral supports, and placing the planning process for positive behavioral supports within the context of development of the Individualized Educational Plan (Sec. 614(d)(3)(B)(i)). This will ensure that positive behavioral supports are one part of the services that must be continued when students with disabilities are removed to an interim alternative educational placement (Sec. 615(k)(1)(E)(ii)). <b>(Senate)</b></p> <p>CEC recommends that the term “Functional” be inserted before “Behavioral Assessments.” <b>(Senate)</b></p>

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<p><b>Discipline</b></p> <p>Manifestation Determination (Sec. 615(k)(4) and (5))</p>	<p>Deletes references to “manifestation determination” and “determination that behavior was not manifestation of disability.” <b>(Current Law – Sec. 615(k)(4) and (5)).</b></p> <p>Deletes references to “manifestation determination,” “expedited” hearing, and “hearing officer review “of manifestation determination under “parent appeal procedures.” <b>(Current Law – Sec. 615(k)(6)).</b></p> <p>Deletes references to manifestation determination under “placement during appeals” and the pendancy procedures including expedited hearings for addressing any proposed change of placement after the time provided for the disciplinary action has expired. <b>(Current Law – Sec. 615(k)(7)(B)and(C)).</b></p>	<p>Deletes two of the determining factors when conducting a review for “manifestation determination” that address a child’s ability to understand the impact, consequences of the behavior, and control the behavior and adds language that in making manifestation determinations, the IEP team must determine if “the conduct in question resulted from the failure to implement the IEP or to implement behavioral interventions as required by Sec. 614(d)(3)(B)(i).” <b>(Current Law – Sec. 615(k)(4)(C)(ii)(II) and (III)). and Sec. 615(k)((1)(C)(i)(II))</b></p> <p>Deletes the requirement under manifestation determination that the special education and disciplinary records of the child are transmitted for consideration by the person(s) making the final determination regarding the disciplinary action. <b>(Current Law – Sec. 615(k)(5)(B)).</b></p>	<p>CEC supports the Senate version which indicates that in making manifestation determinations, the IEP team must determine if “the conduct in question resulted from the failure to implement the IEP or to implement behavioral interventions as required by Sec. 614(d)(3)(B)(i).” In addition, CEC supports the removal of specific guidelines for the manifestation determination from the language in this bill, since those might best be left to the implementing regulations and guidance from the Office of Special Education Programs. <b>(Senate)</b></p>

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<p><b>Discipline</b></p> <p>Protections for Children Not Yet Eligible (Sec. 615(k)(8))</p>	<p>Adds under “protections for children not yet eligible for special education and related services/basis of knowledge” the phrase “...before the behavior that precipitates the disciplinary action occurred” and that expressed concerns by school staff be in writing <b>(Sec. 615(j)(5)(B))</b>.</p> <p>Deletes under “protections for children not yet eligible for special education and related services/basis of knowledge” the criteria that “the behavior or performance of the child demonstrates the need to such services <b>(Current Law – Sec. 615(k)(8)(B))</b>.</p>	<p>Revises language under “basis of knowledge” for children not yet eligible for special education and related services where “child has engaged in a pattern of behavior that should have alerted personnel”. <b>(Sec.615(k)(5)(B)(iv))</b>.</p> <p>Adds “exception” under “basis of knowledge” for children not yet eligible for special education and related services when parent refuses to have child evaluated. <b>(Sec. 615(k)(5)(C))</b>.</p>	
<p><b>Discipline</b></p> <p>Definitions (Sec. 615(k)(10))</p>	<p>Deletes the definition of “controlled substance,” “illegal drugs,” “substantial evidence,” and “weapon.” <b>(Current Law – Sec. 615(k)(10))</b>.</p>	<p>Deletes the definition of “substantial evidence.” <b>(Current Law – Sec. 615(k)(10)(C))</b>.</p> <p>Adds the definition of “serious bodily injury”. <b>(Sec. 615(k)(7)(C))</b>.</p>	

Issue	House Passed Bill	Senate Bill (Committee Passed)	CEC Recommendations
<p><b>Monitoring and Enforcement</b></p> <p>General Focus (Sec 616)</p>	<p>Adds new federal monitoring activities with a particular focus on improving educational results for all children with disabilities, while ensuring compliance with program requirements. <b>(Sec. 616(a)).</b></p>	<p>Adds a new section on Federal and State monitoring activities indicating the Secretary shall monitor IDEA through:</p> <ul style="list-style-type: none"> <li>• Oversight of the States’ exercise of general supervision, and</li> <li>• The system of indicators described in these new provisions.<b>(Sec. 616(a)(1)(A)).</b></li> </ul> <p>Adds language that the primary focus of Federal and State monitoring shall be on “improving educational results and functional outcomes for all children with disabilities, while ensuring compliance with program requirements, with particular emphasis on those requirements that are most likely related to improving educational results for children with disabilities.” <b>(Sec. 616(a)(2)).</b></p> <p>Adds Federal and State monitoring priorities:</p> <ul style="list-style-type: none"> <li>• Provision of FAPE in the LRE;</li> <li>• Provision of transition services for students leaving school;</li> <li>• States exercise of general supervisory authority, including the use of complaint resolution and mediation; and</li> </ul> <p>Overrepresentation of racial and ethnic groups to the extent this is the result of inappropriate policies, procedures and practices. <b>(Sec. 616(a)(3)).</b></p>	<p>CEC supports the Federal monitoring focus on improving educational and functional results for children with disabilities including the provision of transition services while ensuring compliance with program requirements particularly those that are most likely related to improving those results.</p> <p>However, CEC notes that under current IDEA proposals, States, local school districts and local Part C agencies continue to be accountable through the due process and administrative compliant systems for all requirements contained in the Part B and Part C regulations.</p> <p>In addition, CEC recommends that language consistent with Part C be added to the Senate provisions as this section of IDEA applies to Part C (e.g. use of terms such as natural environments, lead agency, and the addition of Part C indicators).</p>

Issue	House Passed Bill	Senate Bill (Committee Passed)	CEC Recommendations
<p data-bbox="92 139 310 204"><b>Monitoring and Enforcement</b></p> <p data-bbox="92 248 375 280">Indicators of Progress</p>	<p data-bbox="472 139 953 277">Adds required indicators of States' progress on improving educational results for children with disabilities that address information and data on:</p> <ul data-bbox="493 326 961 802" style="list-style-type: none"> <li data-bbox="493 326 961 428">• Achievement results on State or district assessments including use of accommodations;</li> <li data-bbox="493 440 961 505">• Achievement results on State or district alternate assessments;</li> <li data-bbox="493 516 961 651">• Comparisons of graduation rates between children with disabilities and nondisabled children; and</li> <li data-bbox="493 662 961 802">• Comparisons of drop out rates between children with disabilities and nondisabled children. <b>(Sec. 616(b)(1)).</b></li> </ul> <p data-bbox="472 846 961 984">Adds language that the Secretary may also give priority to the following permissive areas for federal Part B monitoring:</p> <ul data-bbox="493 1032 961 1463" style="list-style-type: none"> <li data-bbox="493 1032 961 1349">• Provision of appropriate educational services in the LRE, including access to general curriculum with accommodations, addressing behavior that impedes learning, and participation/performance on state and local assessments including alternate assessments;</li> <li data-bbox="493 1360 961 1463">• Secondary transition, including planning while in school and preparation for post-secondary</li> </ul>	<p data-bbox="987 139 1478 277">Requires use of a Federal system of required indicators of States' progress in improving performance. Indicators must include:</p> <ul data-bbox="1008 289 1478 537" style="list-style-type: none"> <li data-bbox="1008 289 1478 464">• Performance of children with disabilities on assessments, including alternate assessments, dropout rates, and graduation rates; and</li> <li data-bbox="1008 475 1478 537">• Such performance as compared to all children. <b>(Sec. 616(b)).</b></li> </ul>	

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	<p>education, employment, and adult life; and</p> <ul style="list-style-type: none"> <li>• A State’s exercise of its general supervisory authority, including effective monitoring, and use of complaint resolution, mediation, and voluntary binding arbitration. <b>(Sec. 616(b)(2)(A)).</b></li> </ul> <p>Adds language that the Secretary may also give priority to the following permissive areas for federal Part C monitoring:</p> <ul style="list-style-type: none"> <li>• Child Find and Public Awareness including the provision of culturally relevant material to inform and promote referral;</li> <li>• Provision of early intervention services in natural environments and evaluation/assessment to identify child and family needs related to enhancing the development of the child;</li> <li>• Effective early childhood transition to services under Part B; and</li> <li>• A State’s exercise of its general supervisory authority, including effective monitoring, and use of complaint resolution, implementation of mediation, and voluntary binding</li> </ul>		

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	<p>arbitration and coordination of parent and child protections. <b>(Sec. 616(b)(2)(B)).</b></p> <p>Adds a provision that allows the Secretary to develop additional priorities for federal monitoring under Part B or Part C with at least a 30-day public comment period. These additional priorities are not enforceable until 1 year after publication as a final rule in the Federal Register. <b>(Sec. 616(c)).</b></p>		

Issue	House Passed Bill	Senate Bill (Committee Passed)	CEC Recommendations
<p><b>Monitoring and Enforcement</b></p> <p>Use of Data</p>	<p>Adds required review by the Secretary of the States’ data collection and analyses capacity to ensure that data and information are collected, analyzed and accurately reported to the Secretary. This may include the provision of federal technical assistance to states on these matters. <b>(Sec. 616(b)(3)).</b></p>	<p>Adds required review by the Secretary of the States’ data collection and analyses capacity to ensure that data and information are collected, analyzed and accurately reported to the Secretary. This includes the provision of federal technical assistance to states on these matters. <b>(Sec. 616(b)(3)).</b></p>	
<p><b>Monitoring and Enforcement</b></p> <p>Enforcement</p>	<p>Adds a section on compliance which outlines federal procedures to be used when states are determined to be:</p> <ul style="list-style-type: none"> <li>• <b><i>Not making satisfactory</i></b> progress in improving educational results – Federal action can include provision of technical assistance to the state, directed use of state funds for technical assistance and withholding of some state set-aside funds;</li> <li>• <b><i>In substantial noncompliance</i></b> with IDEA – Federal action can include a one year corrective action plan, a three year compliance agreement, identification as a high risk grantee, imposition of special conditions, recovery of funds and/or withholding of payments;</li> <li>• <b><i>In continued noncompliance</i></b> with IDEA - Federal action may include any of the above</li> </ul>	<p>Adds a new provision for Federal enforcement of IDEA and new requirements for States to monitor and enforce provisions of IDEA. <b>(Sec. 616(a)(1)(B)and(C)).</b></p> <p>Adds a requirement that within one year of enactment of the reauthorization, each State must have in place a compliance plan including benchmarks to measure progress in priority areas and strategies to achieve these benchmarks. These plans must be approved by the Secretary. <b>(Sec. 616(b)(2)(C)).</b></p> <p>Adds a new section on compliance and enforcement which outlines Federal procedures to be used when states are determined to be:</p> <ul style="list-style-type: none"> <li>• <b><i>Not making satisfactory</i></b> progress in improving educational results – Federal action can include provision of technical assistance to the state, directed use of state funds for</li> </ul>	

Issue	House Passed Bill	Senate Bill (Committee Passed)	CEC Recommendations
	<p>actions including a report on this matter to the Congress. <b>(Sec. 616(d)).</b></p>	<p>technical assistance and withholding of a specified range of state set-aside funds and procedures for State response;</p> <ul style="list-style-type: none"> <li>• <b><i>Additional Secretarial Action</i></b> – If, after five years from approval of the State’s compliance plan, it is determined a State has failed to meet benchmarks in the plan and make satisfactory progress in improving educational results for children with disabilities, the Secretary can take 1 or more of 4 actions including: <ul style="list-style-type: none"> <li>❑ Seek to recover funds under GEPA;</li> <li>❑ After meeting notice and hearing procedures, withhold any or all payments to the state under Part B;</li> <li>❑ After meeting notice and hearing procedures, refer the matter for enforcement including referral to the Department of Justice; and</li> <li>❑ Procedures to allow the Secretary, pending hearing outcomes related to withholding payment, to suspend payments or suspend authority to obligate funds. <b>(Sec. 616(c)(1)(2)).</b></li> </ul> </li> </ul> <p>Adds procedures for response when a</p>	

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		<p>State is determined to be in substantial noncompliance or egregious noncompliance. (<b>Sec. 616(c)(2)(C) and (3)</b>).</p> <p>Maintains current IDEA language on “Nature of Withholding”, “Judicial Review” “Divided State Agency Responsibility”, “Review by United States Supreme Court” and “Standard for Review”. (<b>Current Law – Sec. 616(a)and(b)</b>).</p> <p>Adds new language requiring the SEA to monitor and enforce implementation of IDEA, implement a system of monitoring benchmarks in the State’s compliance plan, and require LEAs to monitor and enforce implementation of the Act. This include language that if the SEA determines an LEA is not meeting the requirements of Part B, the SEA may prohibit the LEA from treating funds under 613(a)(2)(C) as “local funds.” (<b>Sec. 616(e)</b>).</p>	

Issue	House Passed Bill	Senate Bill (Committee Passed)	CEC Recommendations
<p><b>Funding</b></p> <p>State-level Activities (Sec.611 (e))</p>	<p>Adds state cost-sharing activity, up to 40 percent of overall state set-aside, to assist LEAs in providing high cost special education and related services through cost or risk sharing funds, consortia, and cooperatives. <b>(Sec. 611(e)(3)).</b></p>	<p>Establishes an elaborate LEA risk pool to assist LEAs in providing high cost special education and related services and for supporting the unanticipated enrollment of children; to be funded by reserving 2 percent of the overall Part B allocation to the state; defines high need child; and prohibits use of the funds to pay costs that would otherwise be reimbursable under Medicaid. <b>(Sec. 611(e)(3)).</b></p>	<p>CEC supports the establishment of a risk pool to assist LEAs in providing high cost special education and related services and to assist in the cost of unanticipated enrollments. <b>(Senate)</b></p> <p>CEC supports the addition of a state cost-sharing activity to assist LEAs in providing high cost special education and related services; however, the 40 percent cap should be removed which would permit states to determine the actual amount of set-aside funds to be used based on an individual state's needs. <b>(House)</b></p>
<p><b>Funding</b></p> <p>Use of Funds</p>	<p>Adds a provision that if an LEA chooses to treat 20 percent of its Part B funds (those funds that exceed the Part B funds received the previous year,) in any fiscal year, as local funds, the LEA must use these funds to provide additional funding under the ESEA of 1965. <b>(Sec. 613(a)(2)(C)(ii)).</b></p> <p>Adds multiple activities that an LEA may use its Part B funds for including prereferral services, high cost education and related services, case management and administration and supplemental educational services for children with disabilities in schools designated for improvement under the ESEA of 1965 (NCLB). <b>(Sec. 613(a)(4)(B)-(E)).</b></p>	<p>Adds a provision that an LEA may treat as local funds not more than 8 percent of the amount of funds it receives in any fiscal year, which must be counted toward the percentage and amount of funds that may be used to provide early intervening educational services. <b>(Sec. 613(a)(2)(C)(iii)(I)).</b></p> <p>Adds a provision that in any year in which there is full funding of Part B of IDEA, an LEA may treat as local funds not more than 40 percent of the funds received, and further stipulates that the LEA shall use an amount of the 40 percent funds that represents 15 percent of the total amount of funds the LEA receives to provide</p>	<p>While CEC has long supported the policy of allowing a certain amount of Part B funds to be treated as local funds along with appropriate educational use of such funds, CEC believes these new 8 percent and 40 percent proposals require proper time for thorough analysis and discussion by stakeholders across the nation, and CEC urges further review and dialogue. <b>(Senate)</b></p> <p>CEC supports the proposal to treat the 20 percent of its Part B funds (those funds that exceed the Part B funds received the previous year,) in any fiscal year, as local funds and must use the funds to provide additional funding under the ESEA of</p>

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		<p>early intervening educational services. <b>(Sec. 613(a)(2)(C)(iii)(I1)).</b> Adds a stipulation that these funds which may be treated as local funds may be used toward meeting the non-federal match under Medicaid. <b>(Sec. 613(a)(2)(C)(iv)).</b></p> <p>Authorizes as permissive uses of funds early intervening services; and the purchase of technology for record keeping, data collection, and related case management activities of teachers and related services personnel providing services described in the IEPs of children. <b>(Sec. 613(a)(4)(A)and(B)).</b></p>	<p>1965. <b>(House)</b></p> <p>CEC supports the permissive use of funds outlined in Sec. 613(a)(4)(B)-(E). <b>(House)</b></p> <p>CEC supports the permissive use of funds contained in Section 613(a)(4). <b>(Senate)</b></p>

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<p><b>Funding</b></p> <p>Prereferral/ Early Intervening Services</p>	<p>Adds “prereferral services” which permits an LEA to use up to 15 percent of its Part B funds for students who have not been identified as needing special education and related services but who need additional academic and behavioral support to succeed in a general education environment. Activities permitted under this subsection include professional development, scientifically based literacy instruction, speech therapy, behavioral evaluations and services and supports, and coordination with ESEA of 1965. <b>(Sec. 613(f)(1)-(5)).</b></p>	<p>Allows the use of up to 15 percent of funds received under Part B <i>less any amount</i> treated as local funds under the permitted amount of supplanting authorized by new subsection (a)(2)(c) to develop and implement comprehensive, coordinated, early intervening educational services for students who have not been identified as needing special education or related services but who require additional academic and behavioral support to succeed in the general education environment. <b>(Sec. 613(f)(1)).</b></p> <p>Declares that nothing so authorized shall be construed to either limit or create a right to a free, appropriate public education for the children so served. <b>(Sec. 613(f)(3)).</b></p> <p>Declares that these funds shall be aligned with activities funded by the ESEA of 1965 (NCLB). <b>(Sec. 613(f)(5)).</b></p>	<p>CEC supports the addition of early intervening educational services for the stated group of students and supports the activities authorized under this section. CEC does not support the use of up to 15 percent of an LEA’s Part B funds for this purpose. CEC recommends that those Part B funds that would now be treated as local funds be utilized for the purpose of this section along with the other related purposes contained in the ESEA of 1965 (NCLB). <b>(Senate)</b></p> <p>CEC recommends that there be a corresponding authorization for early intervening educational services under the ESEA of 1965. <b>(Senate)</b></p> <p>CEC further recommends that matching funds be required under the ESEA of 1965 for early intervening educational services as proposed under this section of the Senate draft bill. <b>(Senate)</b></p> <p>CEC supports the addition of “prereferral services” for the stated group of students. CEC supports the activities permitted under this subsection. CEC does not support the use of up to 15 percent of its Part B funds for this purpose. CEC recommends the use of 20 percent of its Part B funds (those funds that exceed the Part B funds received the</p>

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			<p>previous year,) in any fiscal year, as local funds, the LEA must use these funds to provide additional funding under the ESEA of 1965 (<b>Sec. 613(a)(2)(c)(ii).</b> <b>(House)</b></p> <p>CEC recommends the authorization of “prereferral services” and activities permitted under this subsection under the ESEA of 1965. <b>(House)</b></p> <p>CEC recommends that matching funds be authorized under the ESEA of 1965 for “prereferral services.” <b>(House)</b></p>