

# International Reading Association



Legislative Action Team  
Legislative Update

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Legislative Workshop

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## Overview

The September Legislative Report contains information on a wide range of issues. Covered issues include the key issue of funding, information on how reading was impacted by the recently enacted Higher Education Act, and information on the passage of the revised Americans with Disabilities Act and a report on the recently created National Technical Council.

## Funding

The Congress, while working on the finance bailout bill, passed and sent to the president a massive continuing resolution bill that rolled together 12 appropriations bills to fund the government for FY 2009 from October 1<sup>st</sup> to March 6<sup>th</sup>. While the Congress did deal with a Pell Grant shortfall, almost everything else was left at last year's levels. This means that the increases proposed during the summer for Title I Part A and IDEA were not realized. Equally, the zeroing out of Reading First was not enacted either. However, the money for many K-12 education programs are forward funded, which means the money being talked about now will not be sent to the schools until July 1<sup>st</sup>. Thus the new Congress and new president will have to set the spending levels early next year.

In addition, a supplemental stimulus package that included money for school construction failed to be enacted. The \$ 700 billion bailout package will also have an impact on education funding. During the Sunday September 28, 2008 edition of Meet the Press, the chief strategist for Senator Obama said that if elected the new president would be looking for programs that failed and cut them, and he cited the president's reading program.

## Reading and the new ADA

On September 11, 2008 Congress passed the ADA Amendments Act ([S.3406](#)) which greatly expands the number of individuals covered by the Americans with Disabilities Act (ADA). The ADA Amendments Act suggests changes for Section 504 of the Rehabilitation Act of 1973 which prohibits discrimination for individuals with disabilities by organizations, such as schools, that receive federal funding. President Bush is expected sign the law and the Act will go into effect January 1, 2009.

There is a small group of students with health or cognitive problems who might be covered by Section 504 protections, but are not eligible under IDEA. Examples of pupils who might need a “504 plan” are students with diabetes who need accommodations to maintain proper blood-sugar levels, or students with ADHD who may need more time to complete tests.

[S.3406](#) protects the rights of children to be eligible under 504, just as adults would be under the ADA. [The](#) Act includes provisions to protect schools against inappropriate disability claims. [S.3406](#) will not cause schools to face any major changes in determining IDEA eligibility. Two main factors play into eligibility. First, is there a physical or mental impairment? Second, does that physical or mental impairment substantially limit one or more major life activities? While the regulations provide no definition of a “substantial limitation”, the LEAs are to define the phrase and may look to the ADA for guidance.

Some of the significant changes under The ADA Amendments Act include:

- The Act expands the definition of “**major life activities**” to **specifically include** such things as standing, lifting, bending, **reading** and concentrating, along with performing manual tasks, thinking, working, caring for oneself, seeing, hearing, eating, sleeping, walking, speaking, breathing, learning, and communicating.
- Under the Act, an individual will be considered disabled if the individual is **substantially limited** in a major life activity in his unmedicated state even though the limitations may be corrected by medication.
- An individual may also now be disabled even if the individual’s impairment or condition does not currently substantially limit a major life activity. Under the Act, an impairment that is episodic or in remission will be considered a disability if, when active, it would substantially limit a major life activity.

### What Should Educators Do?

Schools will need to re evaluate the manner in which they determine whether a student qualifies for an accommodation or other protections under the ADA. Students who may not have been disabled under the prior law may now have protections afforded by the ADA. Under the ADA, schools must reasonably accommodate and provide modifications for their students with disabilities. Under the ADA Amendments, disability discrimination claims will now likely hinge on whether a particular duty is an essential function and whether the organization has offered a reasonable accommodation, instead of whether an individual is disabled.

The issue comes down to what it means to be "substantially limited" in the activity of reading and if the education profession will offer a way of creating standards that would then be applicable to this issue. Response to Intervention is one strategy that can help to distinguish children who are unable to read because they have a disability from those who have simply received poor instruction. The bill will prompt schools to pay more attention to reading and create an opportunity for reading professionals to create a better understanding of what students need.

### **The National Technical Advisory Council**

The National Technical Advisory Council has been formed by the U.S. Department of Education to advise on state standards, assessments and accountability systems. The Council will offer expert advice on such things as the use and applicability of minimum subgroup sizes for proficiency calculations, confidence intervals and the principles necessary for ensuring that performance indexes are consistent with the Title I statute and regulations. The 16 member group includes psychometricians, researchers, and past-and-present state education agency officials.

Tom Fisher, former Florida state director of testing, will chair the Council. Members will serve staggered terms, ranging from one to three years. The Council will meet twice a year and additional meetings may be called at the request of the Secretary.

The group first met in Washington DC on September 16, 2008. Proceedings from the meeting will be made available to the public on the U.S. Department of Education's Website, [www.ed.gov](http://www.ed.gov).

### **Results of IRA's Advocacy on Literacy Training in the Higher Education Reauthorization: College Opportunity and Affordability Act of 2008 (HR 4137)**

The Higher Education Act was passed on July 29, 2008. While the majority of the bill is on student loans and grants as well as new accountability for institutions of higher education, IRA had a fundamental role in impacting the reading and literacy sections by having very specific language included in the process. The idea of this language was the result of an IRA board committee which drafted a set of legislative recommendations to improve professional development opportunities and programs in reading. Members of the IRA were then able to reinforce the importance of reading pre-service and in-service programs during their congressional visits at the IRA Legislative Workshop.

This advocacy resulted in several key changes in literacy training to provide additional literacy instruction for elementary and secondary teachers, principals and administrators. These changes are included in HEA's Title II - Teacher Quality Enhancement and include:

- establishing reading as a high need area for support,
- expanding the understanding of preparation of reading teachers to include more emphasis on high need students with a well-educated teacher.

## Specific Language in HEA Related To Literacy

### Definitions:

- 1) Early childhood education programs will address the children's cognitive (including language, early literacy) development.
- 2) Literacy coaches will have teaching experience and a master's degree with a concentration in reading and writing education; will have demonstrated proficiency in teaching reading and writing in a content area; will provide professional development related to literacy; and may provide students with reading or writing diagnosis, instruction, and assessment.
- 3) Teacher will have the teaching skills to focus on ...students with low literacy levels,
- 4) Teacher mentoring of new or prospective teachers will include instructional strategies for literacy instruction.

### Teacher Quality Partnership Grants Program:

Teacher Quality Partnership Grants will be awarded to programs that include:

- strategies to meet the needs of students with low literacy level
- successfully employ effective strategies for reading instruction using the essential components of reading instruction;
- an evaluation plan that includes objectives and measures for increasing the percentage of such teachers who teach high-need academic subject areas (such as reading...);

### Literacy Training:

Teacher Quality Partnership Grant Programs must:

- Provide reading instruction for elementary and secondary teachers and literacy coaches;
- Provide evidenced-based reading curricula aligned with State academic content standards and with postsecondary standards for reading and writing;
- Provide training for principals so they understand the teaching of reading, and
- Select mentor teachers who have skills in the essential components of reading instruction and teacher training in literacy instructional strategies across core subject areas.

Allowable use of Funds:

Partnership grant funds may be used to

- upgrade curriculum with high-quality instructional strategies for teaching reading
- develop teacher preparation programs that emphasize the essential components of reading instruction
- address early intervention strategies for students with reading difficulty

Partnership grant funds may be used by community colleges to:

- develop associate's degree programs with an emphasis on the essential components of reading instruction to train pre-service teachers, paraprofessionals, speech-language pathology assistants, and tutors to teach students with reading difficulties
- develop licensure programs for early childhood educators that emphasize the essential components of reading instruction
- address strategies for early screening and early intervention for students with reading difficulty

Next steps

The passage of the literacy training provisions in HEA provides teacher education programs the opportunity to expand their programs for high quality reading education.

The U.S. Department of Education will seek feedback in proposing regulations for the law, including Title II which encompasses the literacy training pieces in the Teacher Quality Partnership Grants and other new grant programs, including Preparing General Education Teachers to Teach Students With Disabilities.

ED will hold hearings around the country to give the public an opportunity to comment. Those interested may also submit written comments to Wendy Macias, U.S. Department of Education, 1900 K Street N.W., Room 8017, Washington, D.C. 20006. Respondents may also e-mail comments to [HEOA@ed.gov](mailto:HEOA@ed.gov). Comments are due Oct. 8.

**Looking ahead...**

The US Department of Education is expected to issue new regulations governing parts of Title I sometime before November 1<sup>st</sup>. These regulations will impact states and how they determine cell sizes for AYP calculations at the local school building, graduation rates, supplemental education services and other issues related to implementation of No Child Left Behind. In addition, with the Congress setting March 6<sup>th</sup> for when a new funding bill will be needed it means that the Congress will have to decide on education spending levels for the upcoming school year.