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Education Policy, Practice, and the Importance of OT in Determining Our Role in Education and Early Intervention

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Education policy seems to never stop changing. In 2004, Congress reauthorized the Individuals with Disabilities Education Act (IDEA 2004; Public Law 108-446), making changes in the federal law to bring special education more in line with general education initiatives laid out in the No Child Left Behind Act of 2001 (NCLB; Pubic Law 107-110). In August 2006, the U.S. Department of Education's Office of Special Education Programs released regulations implementing Part B of the 2004 law. As a result, states are now busy revising their special education regulations to bring them into compliance with the new federal regulations. In this sea of policy change, it is essential for occupational therapists and occupational therapy assistants working in schools and early intervention settings to understand the impact of policy on practice and to be able to take advantage of new opportunities created by IDEA 2004 in order to be a more integral part of services to children in both settings.

This article identifies challenges and opportunities stemming from the IDEA Part B regulations and provides details about the future direction of education policy. New IDEA 2004 Part B regulations and the pending reauthorization of NCLB in 2007 make understanding current education policy both challenging and vitally important. The American Occupational Therapy Association (AOTA), in partnership with practitioners in the field, has an opportunity to expand the role of occupational therapy in schools and early intervention settings, but we must do so as a united front, using best practices and making the most of opportunities for participation in planning and implementing new policies and practice guidelines.

IDEA 2004 Law and Regulations

IDEA 2004 and its regulations assist states with the education of children with disabilities and affect occupational therapy practice in schools for students with disabilities from 3 to 21 years of age. Although the law and regulations will change incrementally, they do include significant changes that affect the delivery of occupational therapy in schools and provide interesting new areas of opportunity and potential growth. The law and regula-

tions intend to align IDEA with NCLB more closely, providing additional flexibility and support to parents and emphasizing the use of scientifically researched interventions while continuing to allow all necessary interventions to provide students with disabilities with a free appropriate public education (FAPE). The regulations deliver improved flexibility for parents and individualized education program (IEP) team members; increased accountability for service providers; and additional responsibility for local, state, and federal education agencies.

Changes related to scientifically based and peer-reviewed research, IEPs, early intervening services (EIS), and the use of response to intervention (RtI) as an alternative means of identifying specific learning disabilities have the most potential to directly affect school-based practice. Although many sections of

From the Chairperson

The School System Special Interest Section (SSSIS) Standing Committee identified current practice priorities for term 2006–2009 at the SSSIS meeting in September 2006. Although these priorities are not our only focus, they will be emphasized in upcoming issues of the *SSSIS Quarterly* and programming at the AOTA Annual Conference & Expo. The priorities are psychosocial and emotional growth and development (2006–2007), Early Intervention (2007–2008), and eating and feeding (2008–2009). The Standing Committee will coordinate articles, presentations, and Listserv discussions, always with an emphasis on best practice under the legislative and regulatory requirements of the Individuals with Disabilities Education Act (IDEA).

The Standing Committee welcomes comments; suggestions; recommendations; and as always, assistance to keep occupational therapy practice under IDEA relevant, practical, available, and valued. Committee members are Barbara E. Chandler, Chairperson; Gloria Frolek Clark, Education/Research Liaison; Judith Schoonover, Communications Liaison; and Leslie L. Jackson, *Quarterly* Editor.

Barbara E. Chandler, MOT, OTR/L, FAOTA

the law and regulations have implications for occupational therapy, these issues are discussed here because they are the areas that provide the most opportunities for pediatric occupational therapy practitioners.

Scientific and Peer-Reviewed Research

The term *scientifically based research* (34 C.F.R. § 300.35) is new to IDEA but matches language used in NCLB. It generally means that practitioners should use intervention strategies that have demonstrated results and is analogous to occupational therapy's focus on evidence-based practice. Peer-reviewed research is one example of this emphasis. IEP teams now are expected to base their decisions about the need for special education and related services on peer-reviewed research "to the extent practicable" [IDEA 2004, § 614(d)(1)(A)(i)(IV)] to ensure that school personnel use evidence-based practices. At the same time, the regulations provide flexibility for personnel to use all necessary and appropriate interventions and services that make it possible for children to receive FAPE.

The scientific and peer-reviewed research language has important implications for occupational therapy practitioners, researchers, and leaders. It is essential that practitioners keep up to date on research and best practices so that their interventions are the most effective available; further they must document the efficacy of their services regularly. As policymakers move toward mandating evidence-based programs and services, it is increasingly important that occupational therapy continues to improve its evidence base related to education and early intervention services. Although scientifically based and peer-reviewed research are not requirements per se, the intent is clear, and the need for evidence-based interventions and outcomes data is growing.

IEPs

The IDEA regulations attempt to empower parents and clarify lines of communication among the members of the IEP team. One important change is related to IEP meeting attendance. IDEA 2004 specifies that members of the IEP team whose area of special education or related services will be discussed or modified may be "excused" from the meeting, in writing, by the parent and district representative [§614(d)(1)(C)]. If excused, the member must submit written input to the team before the meeting for consideration during the IEP development. The regulations add that this requirement applies only to formal members of the IEP team. This designation is variable from agency to

agency regarding occupational therapists and other related services personnel; therefore, to ensure compliance with the new requirement, each occupational therapist is responsible for checking his or her status and whether he or she has been officially excused from the meeting. Although there is no hard-and-fast rule about when a related service provider is a formal team member, a common standard is whether occupational therapy is identified in the IEP specific goals and objectives. The point is that if the team will be discussing or modifying occupational therapy services, the therapists must, by law and regulation, either attend the meeting or be explicitly excused from the meeting, in writing, by both the parent and the district (AOTA, 2006).

This new provision will be challenging for occupational therapists and schools alike, especially for those therapists who work in multiple schools or districts or in rural areas. At the same time, it improves therapists' ability to participate at IEP team meetings and help influence the IEP. The occupational therapist is the best professional to evaluate, develop goals, and implement services for students in need of occupational therapy. Attendance at IEP meetings, when possible, improves other team members' and parents' understanding of our services and makes the occupational therapist a more integral part of the team. Having related service providers participate more frequently in IEP meetings, while presenting logistical challenges for therapists and the district, will provide a great opportunity for occupational therapy to become more engaged in the process of identifying needed services and supports and interacting with other team members to maximize our role. Regardless of excusal or inability to attend a meeting, there remains an ethical obligation to advocate on behalf of the child in the IEP process and to ensure his or her occupational therapy needs are being met in an appropriate manner to the maximum extent possible.

RtI and EIS

In IDEA, RtI is an alternative form of evaluation for the identification of specific learning disabilities, but the concept and the implications are far broader than special education identification alone. RtI has the potential to expand the reach of occupational therapy in the areas of staff development and general education.

Generally speaking, RtI is a systematic method of providing additional levels of support to general education students who are struggling academically and at risk for school failure. Often, RtI is described as a three-tiered or four-tiered system that provides increasingly targeted interventions and closely monitors how students respond. The first tier is universal, school-wide services, programs, and supports targeted to all students and school professionals and could include general staff development activities to improve practice. Occupational therapists certainly could play a role in this tier. The second tier is provided to groups of students who are continuing to struggle and includes interventions such as group tutoring or literacy programs conducted a couple of times per week. The third tier typically is individualized instruction and supports, where the potential for occupational therapy involvement is considerable. At each step of the process, data are collected to determine whether the intervention is working and to inform decisions about the student's ongoing instruction and intervention needs. Under an RtI process, a child would only be eligible for special

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education based on a demonstrated lack of response to the interventions.

EIS, on the other hand, can be considered the fuel that drives RtI. The concept is the same: To help struggling students sooner rather than later. IDEA allows districts to use a portion of their special education funding to provide EIS. Therapists should not confuse early *intervening* services (supports for school-aged general education children) with early *intervention* services for infants and toddlers with disabilities (a traditional area in which occupational therapy has been a primary service under IDEA Part C). EIS are the programs, services, and supports used in the tiered RtI system. Related service providers are mentioned in the regulations as one of the groups eligible to provide these services. It is important for occupational therapy practitioners to be aware of the opportunities in this area and work with their school administrators to ensure that their expertise is used in developing and implementing both EIS and RtI initiatives.

Although there are many important changes in IDEA 2004 and the Part B regulations, the issues discussed here are the most relevant to school-based occupational therapy, and each provides action items for occupational therapists and occupational therapy assistants. It is each practitioner's responsibility to be knowledgeable about the way policy affects practice and to understand that practice and advocacy in the field can, in fact, affect policy. Looking forward, practitioners' active engagement on broad educational initiatives will become increasingly important.

Outlook for 2007 and Beyond

In January 2007, the 110th Congress began its work under democratic leadership for the first time in more than 12 years. With the change of party control in both the U.S. House of Representatives and the Senate, there will likely be significant policy changes in the area of education and early intervention. During 2007, Congress is expected to address reauthorization of NCLB, Head Start, the Developmental Disabilities Act (DD Act, Public Law 106-402) and several other pieces of legislation affecting early learning and education. Although broad-ranging overhauls and elimination of current policy are not expected, the change in congressional leadership is expected to result in policy changes that reflect the new majority's philosophy.

With the advent of EIS, the reauthorization of NCLB will affect occupational therapy even more. AOTA will work closely with Capitol Hill staff on both sides of the aisle to ensure that occupational therapy's interests are represented; participation of practitioners in the advocacy process is vital. Large philosophical issues could be addressed during reauthorization, including the possibility of folding IDEA into NCLB, which would mean that special education law would be rolled into the larger general education legislation. Such an action could have significant consequences, both positive and negative, for general and special education, related services, and occupational therapy in general. The idea has some credibility because RtI is a general education initiative and the ongoing work of aligning IDEA with NCLB. On the other hand, disability rights advocates are concerned that such a step would remove the IDEA civil rights foundation and change its emphasis to education policy exclusively. This issue is not a prominent one at this time, but it reflects the scope of changes that could be discussed in the coming year.

Action also is expected that could affect early intervention services through legislation reauthorizing Head Start and the DD Act. Among the issues in this area are transition from early intervention services to preschool and school-based services. Legislation addressing changes to the Child Care and Development Block Grant and the Pre-K Now initiative that would mandate federally funded pre-kindergarten potentially could affect providers and children under the current system. Changes to these programs also will affect the interests of occupational therapy.

The 110th Congress will have an ambitious education agenda, with opportunities to change policy in settings from early intervention to higher education. AOTA will remain actively engaged both independently and in coalition with other education advocates to ensure that any changes are made after input from AOTA and disability rights advocates. In that effort, your help as practitioners is vitally important. Remaining attentive to policy developments and educating yourselves on the issues so that you can be effective advocates for your profession and your clients will be essential to moving AOTA's legislative agenda forward in these areas. The next couple of years will provide opportunities for AOTA to advance the profession through legislative and regulatory initiatives, but the Association cannot do it alone. Members must engage in best practices, become advocates for our clients if not ourselves, and be keenly aware of where opportunities and pitfalls related to both policy and practice lie. It is a brave new day on Capitol Hill, but that only means that we have even more work to do.

Action Items

After reading this article, it should be clear that action on your part is needed to define the role of occupational therapy. Although the ways to build personal knowledge, get involved, and take action are many, following are steps all practitioners should take to become effective advocates for occupational therapy in schools and early intervention settings:

1. *Know* and use your full scope of practice.
2. Reach out to your supervisor and administrators in your districts and tell them that you want to be involved in planning the way they will implement RtI initiatives. Suggest how you can help with staff development trainings, small group interventions, and individualized assessments.
3. Read articles on evidence-based practice in your area and know what the literature says about the occupational therapy interventions you use. These can be found in *The American Journal of Occupational Therapy* and other peer-reviewed journals. Specific resources, such as the CD-ROM, *The New IDEA: An Occupational Therapy Toolkit* (Jackson, 2006), and *The New IDEA: Summary of the Individuals with Disabilities Education Improvement Act* (AOTA, 2006) should be reviewed.
4. Log on to AOTA's Web site (www.aota.org) and read information on the Issues and Advocacy page, particularly in the IDEA Information Center. Also check the Legislative Action Center for late-breaking developments on Capitol Hill so that you can engage in the policy debates regarding your area of practice.
5. Be aware that *your* practice and engagement on policy issues will determine the role of occupational therapy more than any other factor. ■

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