

UNITED STATES
DEPARTMENT OF EDUCATION



IDEA Reauthorization
NEWS

FOR RELEASE
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**EDUCATION DEPARTMENT SUBMITS PROPOSAL TO REAUTHORIZE
INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA)**

The U.S. Education Department today submitted to Congress a proposal to improve the Individuals with Disabilities Education Act (IDEA) to promote educational excellence for the nation's 5.4 million children with disabilities.

Today's proposal reflects conversations with and comments from over 3,000 parents and educators during the past year on how to improve the law. It marks the first substantial revision to the legislation since Congress enacted P.L. 94-142, the basis of the IDEA, in 1975.

"The IDEA has helped millions of disabled Americans to finish school, go to college, get a job, and make their civic contribution like other working Americans," said Secretary of Education Richard W. Riley. "These amendments build on two decades of research and experience to meet the needs of the classrooms of today. They aim to ensure that students with disabilities are offered challenging materials in classrooms with well-prepared teachers. We want the focus of the IDEA today to be on better teaching and learning -- and not on unnecessary paperwork."

The department based its proposal on six principles: (1) connect the IDEA with state and local education improvement efforts so students with disabilities can benefit from them; (2) improve educational results for students with disabilities through higher expectations and

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meaningful access to the general curriculum, to the maximum extent appropriate; (3) address individual needs in the least restrictive environment for the student; (4) provide families and teachers -- those closest to students -- with the knowledge and training to effectively support students' learning; (5) focus on teaching and learning; and (6) strengthen early intervention to help ensure that every child starts school ready to learn.

Among the changes proposed:

- Increasing parental involvement by requiring regular reporting to parents on their children's progress, by means such as report cards, and by including parents in decisions about their children's placement. Today, many parents of disabled students are not told how their children are doing until the end of the year, and they do not participate in placement decisions.
- Providing parents and teachers with better training on how they can help students with disabilities achieve in school. A national network of parent training centers would be expanded. For teachers, a professional development program would be expanded to help all teachers work more effectively with students with disabilities.
- Providing parents in every state the option of resolving disputes with schools over their children's education through mediation.
- Helping schools to maintain safe and disciplined classrooms by allowing schools to move a student who has brought a firearm or other dangerous weapon to school to an alternative educational setting for up to 45 days.
- Improving school safety by permitting hearing officers to authorize the temporary removal to an alternative setting of a student who is substantially likely to injure himself or others.
- Promoting high expectations and achievement by focusing the individualized education program (IEP) on measurable annual objectives and achievement in the general curriculum, whenever possible, and by including the student's regular teacher in developing the IEP.
- Ensuring accountability for educational results by requiring greater participation of disabled students in state and district assessments and by asking each State to establish goals for the performance of children with disabilities and report on results.

- Reducing paperwork substantially by eliminating unnecessary requirements. For instance, states would no longer have to submit lengthy plans for funding. Rather, they would only have to provide changes from the previous year's submission -- which could be just a few pages.
- Revising the formula for grants to States to distribute new dollars on the basis of population, not the number of children with disabilities served under the program. Current law tends to encourage over-identification of children, particularly minority children, as disabled and to discourage State early intervention and pre-referral activities.
- Increasing the effectiveness and efficiency of Federal resources by replacing the 14 categorical competitive grant programs with five comprehensive, coordinated authorities, with special attention to ensuring that current knowledge reaches teachers, administrators and families.
- Giving states more flexibility in serving infants and toddlers who are at risk of developmental delay within their comprehensive system of early intervention.

Of the 5.4 million children served under IDEA, about 4.8 million are school-age, 500,000 are preschoolers, and about 150,000 are infants and toddlers. Half of those 4.8 million school-age children have learning disabilities -- such as problems with reading and writing. About 9 percent exhibit significant emotional disturbance and only a small number are blind or deaf or have other significant disabilities such as autism or traumatic brain injury.

Congressional authorization for IDEA's discretionary programs and Part H (early intervention for infants and toddlers) expires Sept. 30.

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MAKING A GOOD LAW BETTER:

THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT AMENDMENTS OF 1995

Since enactment of P.L. 94-142, the Education for all Handicapped Children Act of 1975, results for children with disabilities have improved dramatically. Before the enactment of that ground-breaking law, one million children with disabilities were excluded from school altogether, and many were housed in dehumanizing institutions. Today, one of the basic goals of the Individuals with Disabilities Education Act (IDEA) has been largely met -- children with disabilities have access to education. As President Clinton has said, we do not have a person to waste in this country. Without the educational opportunities afforded to children with disabilities through the IDEA, we would continue to have a large segment of our population uneducated and unemployed.

This law has benefited not only disabled children. It has been good for all children. Nondisabled students are learning and playing with children who look, sound, or act different from them; they are learning about responsibility and how to live with members of their community.

As we undertake a review of this legislation, we reaffirm our commitment to the basic purposes of the IDEA and the recognition of the federal role in ensuring that all children with disabilities are provided with the equal educational opportunity that the Constitution guarantees. With this reauthorization, we have the opportunity to take what we have learned over the past twenty years and use it to update and improve this important law.

WHY CHANGE IS NECESSARY

Despite the great progress that has been made, significant challenges remain. Too many students with disabilities are failing courses and dropping out of school. When appropriate interventions are not provided, these students often get in trouble with the law and spend significant time in jail. Enrollment in postsecondary education is still low, and students are leaving school ill prepared for employment and independent living. Children from minority backgrounds and children with limited English proficiency are often inappropriately identified as disabled and placed in special education classrooms with low expectations. In addition, school officials and others complain that the current law is unnecessarily prescriptive, that it focuses too much on paperwork and process, that it imposes unnecessary costs, that it creates barriers to effective discipline, and that it spawns too much litigation.

OUR VISION FOR AN IMPROVED IDEA

Our reauthorization proposal addresses these issues and makes improvements to ensure that the fundamental objectives of the law are achieved, while preserving and maintaining existing rights and protections for children and their families. We based our reauthorization proposal on six key principles that clearly define our mission to improve results for students with disabilities, beginning as early as possible in the child's life.

- (1) Align the IDEA with State and local education reform efforts so students with disabilities can benefit from them.
- (2) Improve results for students with disabilities through higher expectations and meaningful access to the general curriculum, to the maximum extent appropriate.
- (3) Address individual needs in the least restrictive environment for the student.
- (4) Provide families and teachers -- those closest to students -- with the knowledge and training to effectively support students' learning.
- (5) Focus on teaching and learning.
- (6) Strengthen early intervention to ensure that every child starts school

Aligning the IDEA with State and local education reform efforts so students with disabilities can benefit from them underlies our entire proposal.

We need to stop thinking about "special education" as a separate program and separate place to put students and start thinking about the supports and services children need in whatever setting is the least restrictive -- whether it be the regular classroom, a resource room, a separate classroom, or a separate school. We must promote the transformation of our current categorical education system into a system for all children that meets the individual needs of each child.

We envision an education system that sets higher expectations for all students, gives all students the opportunity to learn to challenging standards, and takes responsibility and is accountable for the success of all children. We envision an education system in which special education is an important asset in overall school improvement efforts that contributes

to the overall resources of the school and enriches the teaching and learning that takes place for all children. The strategies we describe below are critical to the development of a system that meets this vision.

Our second principle is that IDEA must focus on improving results for students with disabilities through higher expectations and meaningful access to the general curriculum, to the maximum extent appropriate.

We know that most children work harder and do better when more is expected of them. Disabled students are no different. When we have high expectations for students with disabilities, most can achieve to challenging standards, and all can achieve more than society has historically expected.

One strategy for increasing expectations and access to the general curriculum is improving the individualized education program (IEP). Our proposal would refocus the IEP process on educational results and include requirements that make more sense. For example:

- o The new IEP would include meaningful annual objectives for the student and focus on enabling the child to participate and achieve in the general curriculum.
- o Parents would be informed of their children's progress, by means such as report cards, with the same frequency used to inform parents of nondisabled children.
- o The IEP procedures would be revised to require the participation of at least one regular education teacher in the IEP meeting, and provide for earlier transition planning to help ensure that each student completes secondary school prepared for employment or postsecondary education and independent living.

A related strategy for promoting high expectations and access to the general curriculum is the inclusion of students with disabilities in State and districtwide assessments. While civil rights laws already prohibit the discriminatory exclusion of students with disabilities from participation in assessments, some States exclude more than 90 percent of all students with disabilities from those assessments. Of course, a small number of students with significant cognitive disabilities cannot appropriately be included in general State and districtwide assessments. States and districts would conduct alternate assessments for these few students.

Our long-range strategy is that each State would use assessment results and other data it collects on students, such as drop-out rates, to assess and report on its progress towards meeting goals the State would establish for the performance of children with disabilities. We believe that when States assess students with disabilities and report to the public on the results, they will focus more on ensuring that students with disabilities receive the help they need to participate and achieve in the general curriculum and meet the challenging standards established for all students.

The third principle underlying our proposal is addressing individual needs in the least restrictive environment appropriate for the student.

A central purpose of the IDEA is to ensure that each child receives an effective and individualized education that addresses the child's particular needs in the least restrictive environment. Today, children are often identified and served according to the disability category within which they are labeled rather than according to what they need to achieve their full potential. Several critical changes will help defeat this unfortunate categorization.

Our first strategy is to ensure that federal and state requirements and funding systems do not create disincentives for appropriate placements and services.

- o We propose that the federal funding formula be changed to allocate to States all new funding above their fiscal year 1995 grants on the basis of the total number of children in the State, not just children with disabilities. This change in the formula would remove disincentives for States to undertake improvements such as the increased provision of early intervention services, and would remove incentives for States to over-identify students as disabled.
- o We also propose that any State that bases State aid on the type of settings in which children are served demonstrate that its funding formula does not result in placements that violate IDEA's least restrictive environment requirement.

Our second strategy is to promote better ways of identifying and serving students. Under the current IDEA, students must be identified as being in one of 13 specific disability categories to be served. This fosters an undesirable categorical approach to evaluating, labeling, placing, and serving children.

- o We propose to use a new eligibility definition which, together with changes in reporting requirements, would encourage States to move toward less categorical approaches, while permitting States to retain their current eligibility criteria if they choose to do so.
- o Evaluation procedures would also be streamlined so that what is educationally relevant is not lost and resources can be better devoted to helping students. Currently, States are required to conduct extensive evaluations and reevaluations that are costly and of limited utility in making decisions regarding a student's particular educational needs. Under our proposal, agencies would be required to convene an evaluation team every three years to consider the need for additional data, but they would no longer have to conduct tests to re-determine whether the child has a disability unless the agency or parent believes it is necessary. Our proposal would increase the focus of evaluations and reevaluations on instructionally relevant information and whether modifications are necessary to achieve the IEP objectives for the child.

Our fourth principle is that families and teachers must have the knowledge and training to effectively support student learning.

We must provide families and teachers -- those closest to students -- with the knowledge and training to effectively support students' learning.

There are 14 categorical programs in the IDEA, and over the past 19 years much good work has been done in each of them. However, despite some real successes, we believe that these programs need significant reform. Having developed separately over the years to address specific issues, the 14 programs are fragmented and too narrowly focused. We envision a streamlined, comprehensive, and coordinated approach for the discretionary programs that will be more effective in improving results for children with disabilities, while also making more effective use of resources.

- o Our proposal would replace the 14 current programs with five flexible authorities. This action would reduce duplication and fragmentation, while fostering collaborative, coordinated efforts across disciplines. The programs would concentrate on developing meaningful and timely information on improving results for students with disabilities and then putting that information into the hands of those who need it: States, school districts, educators, and parents.
- o To ensure that issues concerning the special needs of children with low-incidence disabilities, such as deaf-blindness, continue to be adequately addressed, there would be a minimum "floor" for discretionary spending across the new discretionary authorities to meet the needs of these children.

Family involvement is at the heart of the IDEA. Our proposal will more fully involve parents in decisions about where and how their child is educated. For example:

- o Our proposal would require parents to be involved in the decision regarding the child's educational placement. Currently, parents are entitled to participate in the IEP meeting in which decisions are made about the services to be provided, but they are not entitled to participate in placement decisions, and are, therefore, often excluded.
- o Detailed notice to families of their rights is another critical safeguard, yet families currently receive duplicative notices with excessive and confusing information. Our proposal would streamline the notice requirements while ensuring that families would receive all the necessary information whenever they need it.
- o We also want to reduce unnecessary lawsuits that create emotional and financial burdens for parents and school districts. While the right of parents to "due process" hearings to resolve disputes is central to the implementation of the law, recourse to these hearings should be a last resort when less adversarial methods have failed. In States that have mediation in place, parents and school districts report that mediation

not only helped them to clarify and resolve their particular disagreement, but that it also helped them to work together better and avoid future conflicts. Our proposal would require that mediation be made available as an option to all parents to resolve disputes.

Support for families and teachers also means assistance in addressing the health and other needs of students. Many children with disabilities have significant health or social needs. And, some children who are not yet identified as disabled can avoid needing special education if their problems are caught early. School shouldn't have to do this alone.

- o Our proposal would give States and districts the flexibility to use some of their IDEA funds to help support the development of State or districtwide systems for coordinating education, health, mental health, and social services.

Our fifth principle is to increase the focus on teaching and learning.

Over the past 20 years, the IDEA has focused on process without sufficient attention to educational results for children with disabilities. Too often, the fundamental purpose of the law is lost. To achieve the improvements we are seeking, we must maximize the extent to which resources are used for teaching and learning. Our proposals for improving IEPs, eligibility determinations, and evaluations of children will help to redirect considerable resources toward more instructionally relevant activities that support higher achievement for children with disabilities.

We propose several additional changes to reduce requirements that drain resources that could be better used to improve teaching and learning. For example:

- o We propose to reduce unnecessary paperwork for schools, while improving services for students, by allowing schools to use their IDEA funds to pay for special education services in the regular classroom for the purpose of benefitting students with disabilities without having to track whether nondisabled students also benefit.
- o To reduce unnecessary burden, our proposal would eliminate State plans. Current application requirements direct States to document their compliance with various procedures. Currently, to establish their eligibility for funding, States routinely submit to the Department boxes of documents containing copies of all State policies and procedures for special education. Yet, States are not required to plan for improving educational results. Under our proposal, States would merely be required to update documentation kept on file at the Department. Similarly, we would give States the discretion to eliminate applications from school districts as long as appropriate documentation is on file.

- o A new State improvement authority would recognize the key role that the States play in implementing the law and enhance the ability of State agencies to carry out their own plans for program improvement by providing flexible resources based on an IDEA State Improvement Plan. Recognizing that the essential element of school improvement is well-prepared teachers and administrators, the authority would focus substantial attention and funding on teacher preparation. This authority would distribute funds to States on a formula basis and would be an impetus for improving the entire IDEA program by giving States additional resources to undertake the strategies they have identified for meeting their performance goals for children with disabilities.

It is also impossible to teach and learn in an atmosphere of fear. Our proposal addresses the issue of school discipline related to students with disabilities. We believe the changes we are proposing to improve the educational opportunities of students with disabilities and to promote effective practices will help curb potential discipline problems. However, prevention is not always sufficient, and there are times when schools must take steps to address misconduct. For this reason, there should be additional options for schools seeking to ensure safety and discipline.

- o Our proposal would extend the Improving America's Schools Act amendment to the IDEA, which permits schools to immediately remove a child from the classroom for up to 45 days for bringing a gun to school, to other cover other dangerous weapons such as knives.
- o We are also proposing that schools be permitted to go to hearing officers to obtain quick decisions about whether a child is dangerous and may be removed from the classroom. Hearing officers already exist in every State to address special education issues and work closely with schools. This provision would help schools to expedite decisions related to dangerous conduct that does not involve weapons.

Our sixth principle is to strengthen early intervention to help ensure that every child starts school ready to learn.

Support for families also means working with them to address the early intervention needs of their infants and toddlers. While States and communities have made tremendous progress in implementing their early intervention systems for children from birth through age two under Part H of the IDEA, there remain two major challenges: ensuring that all eligible infants and toddlers receive services and supporting the prevention of developmental delays by expanding the inclusion of at-risk infants and toddlers within the Part H comprehensive system of services. To address these challenges, we propose two improvements to Part H.

- o Our proposal would give States greater flexibility in their efforts to serve infants and toddlers at risk of developmental delay. States that choose to serve at-risk children

would be able to provide less than the full array of Part H services as long as they provide service coordination for these children.

- o We also propose to draw on the best expertise in the nation to evaluate the need for and develop an appropriate definition of developmental delay in infants and toddlers in order to help States ensure that all children in need are identified and served.

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These proposals will focus the IDEA more on what happens in the classroom -- on teaching and learning -- and less on procedures. They will also give as much flexibility as possible to local teachers, principals and parents -- without diminishing essential safeguards. Taken together, they will help local communities in their efforts to create safe, disciplined schools that have high expectations for all their students, that have well-prepared teachers, and that will strengthen the involvement of students with disabilities and their families in their children's education.

IMPROVING THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT: A SUMMARY OF THE ADMINISTRATION'S PROPOSAL

The administration's proposal for improving education for children with disabilities under the Individuals with Disabilities Education Act (IDEA) is designed to ensure that the fundamental objective of the law is achieved: that all children with disabilities are provided the equal educational opportunity that the Constitution guarantees. Our proposal is based on six principles that support our mission to improve educational results for children with disabilities.

1. Align the IDEA with State and local education reform efforts so students with disabilities can benefit from them.

- Ensure that the IDEA supports State and local efforts to meet the individual needs of each child with a disability as part of overall efforts to help all children meet challenging standards and make a successful transition to further education and employment.

2. Improve results for students with disabilities through higher expectations and meaningful access to the general curriculum, to the maximum extent possible.

- Enhance participation of children with disabilities in the general curriculum through improvements to the individualized education program (IEP).
- Increase parental involvement by requiring regular reporting to parents on their children's progress, by means such as report cards, and by including parents in decisions about their children's placement.
- Increase involvement of regular education teachers in developing the IEP.
- Focus on improving educational results by providing for the inclusion of children with disabilities in State and district assessments, the development of State performance goals for children with disabilities, and regular reports to the public on progress toward meeting the goals.

3. Address individual needs in the least restrictive environment for the student.

- Make student evaluation and re-evaluation procedures more instructionally relevant and eliminate unnecessary testing.
- Encourage eligibility determinations that focus on each child's educational needs by de-emphasizing the 13 disability categories and eliminating reporting by disability category, while ensuring that all children who are currently eligible are served.
- Discourage over-identification of children and facilitate State early intervention and pre-referral activities by changing the formula for grants to States to distribute new dollars on the basis of population, not the number of children with disabilities served under the program.

- Eliminate disincentives for appropriate placements by requiring States that distribute State funds based on the type of setting in which the child is served to show that their formulas do not result in inappropriate placements.
- Promote appropriate services for minority children who currently encounter over-identification, inappropriate placement in separate classrooms, and low expectations.

4. Provide families and teachers--those closest to students--with the knowledge and training to effectively support students' learning.

- Increase effectiveness and efficiency of federal categorical resources by replacing the 14 categorical competitive grant programs with five comprehensive, coordinated authorities, with special attention to ensuring that current knowledge reaches teachers, administrators, and families.
- Provide flexible resources to States to carry out their own State Improvement Plans designed to improve the performance of students with disabilities through better teacher preparation and other improvement strategies.
- Streamline notice requirements so families receive appropriate information on their rights when they need it.
- Facilitate the resolution of disputes between parents and schools by requiring States to offer mediation to parents.
- Promote coordination of services to meet children's education, health, and social service needs by allowing States and school districts to use a fixed percentage of IDEA funds to develop coordinated services systems.

5. Focus on teaching and learning.

- Eliminate unnecessary paperwork requirements that discourage the use of IDEA resources for services in the regular classroom.
- Reduce paperwork and improve State administration by streamlining requirements for how States and districts apply for funds, and by allowing for more flexible use of administrative funds.
- Enhance the ability of schools to maintain safe and disciplined classrooms by allowing schools to move a student who has brought a firearm or other dangerous weapon to school to an alternative educational setting for up to 45 days and by permitting hearing officers to authorize the temporary removal to an alternative setting of a student who is substantially likely to injure himself or others.

6. Strengthen early intervention to ensure that every child starts school ready to learn.

- Promote the inclusion of children who are at risk of developmental delay in the comprehensive system of early intervention services under Part H by providing States flexibility regarding the services to provide if they choose to serve at-risk children.

INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA)

STATE GRANT PROGRAMS ^{1/}

Grants to States - FY 1995 Funding: \$2,322,915,000
Number of children served ages 3 through 21: 5,466,517 ^{2/}

Preschool Grants - FY 1995 Funding: \$360,265,000
Number of children served ages 3 through 5: 527,789 ^{2/}

Grants for Infants and Families - FY 1995 Funding: \$315,632,000
Number of children served ages 0 through 2: 164,100 ^{2/}

Disability	Number of Children Ages 6 through 21 ^{3/}	Percent of Children with Disabilities	Percent of All Children
Total	4,786,065	100.0%	8.2%
Learning Disabilities	2,444,020	51.1%	4.2%
Speech or Language Impairments	1,009,379	21.1%	1.7%
Mental Retardation	553,992	11.6%	.9%
Serious Emotional Disturbance	414,279	8.7%	.7%
Multiple Disabilities	109,746	2.3%	.2%
Hearing Impairments	64,249	1.3%	.1%
Orthopedic Impairments	56,616	1.2%	.1%
Other Health Impairments	83,279	1.7%	.1%
Visual Impairments	24,935	.5%	.0%
Autism	18,903	.4%	.0%
Deaf-Blindness	1,372	.03%	.0%
Traumatic Brain Injury	5,295	.1%	.0%

Placements	Percent In Placement ^{4/}
Regular Classrooms	71.5%
Separate Classes	23.5%
Separate Facility	5.0%

^{1/} All data presented in this table is derived from the U.S. Department of Education, Office of Special Education Programs, Data Analysis System (DANS) and reflect the most recent data available for each indicator.

^{2/} As of December 1, 1994.

^{3/} As of December 1, 1993.

^{4/} As of December 1, 1992 for children ages 6-21.

Testimony by U.S. Secretary of Education Richard W. Riley
Before the House Committee on Economic and Educational Opportunities Subcommittee on
Early Childhood, Youth and Families

June 20, 1995

Introduction

I would like to begin by commending the committee for convening hearings on this topic. The Individuals with Disabilities Education Act (the IDEA) is a vitally important law that touches the lives of millions of Americans. Your thoughtful leadership in this area is critical to each of them.

I. History of the IDEA -- Opening Up Opportunities, Assuming Responsibilities

As you review the Individuals with Disabilities Education Act, I encourage you to look at both its history and its positive effects. Prior to the enactment of P.L. 94-142 in 1975, federal courts recognized that children with disabilities have a constitutional right to a free appropriate public education. P.L. 94-142 was enacted to assist states and communities in meeting their constitutional obligation to educate children with disabilities.

As you begin your review of the IDEA, please remember that only twenty years ago, more than one million children with disabilities were not receiving any public education. Many of these young Americans were placed in dehumanizing state institutions for the mentally retarded. Today, infants and toddlers with disabilities receive early intervention services that help get them on the right developmental track from the beginning. Children with disabilities go to preschool and to school in their community with their brothers and sisters, play on little league teams, and sing in the church choir. And, when they finish school, they go to work and pay taxes, enjoying the opportunities of this great country, while accepting the responsibilities of citizenship. Disabled students and their families do not want to be shut away and given a watered-down curriculum; they want challenging standards and to be a part of their community. They do not want handouts; they want an opportunity to study and to work so that they can contribute to society. The IDEA has changed the role of government from one of caretaker of dependent individuals to one that opens the door to education and empowers people with disabilities to take up the responsibilities of citizenship.

The fight that parents waged to open the schoolhouse door for their disabled children will be viewed by history as reaffirming the fundamental right of all Americans to be free of discrimination and arbitrary treatment. Equally important, as President Clinton has said, we do not have a person to waste in this country, and without the educational opportunity afforded to children with disabilities through the IDEA, we would continue to have a large segment of our population uneducated and unemployed.

As Americans, we understand that without a high-quality education for all of our citizens, we are a doomed society. As Americans, we should also take pride in the fact that when we become committed to a mission we work hard to accomplish it. We can all feel proud of what this nation has accomplished over the past twenty years in implementing the IDEA. As I meet with parents and teachers of disabled children, I hear about the successes these children are achieving in school.

We can also point to the positive data from our recently completed National Longitudinal Transition Study. Graduation rates are higher. More students with disabilities are going on to college. For instance, the percentage of students with disabilities in the freshman college cohort has tripled since 1978. We also know from the Transition Study that students enrolled in vocational education programs are particularly likely to pursue postsecondary education. Fifty-seven percent of youth with disabilities are competitively employed within five years of leaving school, compared to an employment rate of only 33 percent for older people with disabilities who have not benefitted from the IDEA. In short, the IDEA's guarantee of access to education has greatly increased the opportunities for disabled children and youth to acquire the knowledge and skills necessary to achieve their goals and to participate in society as responsible citizens.

Children whose potential would once have been ignored can now reach their full potential. Judy Heumann, who is sitting next to me today, was one such child. She was not allowed to go to elementary school because she was in a wheelchair. For four long years, she was told to stay at home and was given only three and one half hours of education a week. Today, thanks to her own grit and a strong family, she is an Assistant Secretary of Education -- I can only imagine what she would be doing if she had been permitted to go to school during those years.

Young adults with disabilities who have been beneficiaries of the IDEA are doing great things that few would have envisioned when the law was passed. They have gone on to successful careers alongside their nondisabled peers as engineers, lawyers, and in countless other careers and occupations that would have been shut out for them but for their education under the IDEA.

This law has not only been good for disabled children. It has been good for all children. Nondisabled students are learning about learning and playing with children who look, sound, or act differently from them; they are learning about responsibility and how to live with members of their community. And, in many cases, they are benefitting from having another teacher or aide in the classroom who can help all students.

These successes show that the IDEA has been a fundamentally good law. Today, however, we have the opportunity to take what we have learned over the past twenty years and use it to update and improve the law.

II. The Challenge Before Us -- Improving Results for Students with Disabilities

While there has been great progress, there remain great challenges. When appropriate interventions are not provided, too many students with disabilities drop out of school, have a

high risk of unemployment, and some get in trouble with the law and spend significant time in jail. Enrollment in postsecondary education is still too low. We still need to make sure that all these children grow up with the skills they need to get a job and live independently.

You may be hearing stories about the problems with special education, and we need to address those concerns. But it is important to remember that there are many places where things are working -- and working well. Judy and I have visited schools across the country that are exemplary. We are both struck by the fact that when there is leadership from a superintendent or a principal, schools are creating effective classrooms that improve education for all children.

I saw this when I visited the O'Hearn School in Boston. The principal, Bill Henderson, became blind a number of years ago. When he began to lose his vision, he talked to colleagues to get suggestions about how to modify his work so he could continue. He says that they all told him to go on disability. He didn't agree and today runs O'Hearn as a model school that has effectively included all students with disabilities in regular classes. The parents of both the nondisabled and disabled students are highly involved in the school -- including involvement in a family resource center -- and pleased with their children's education. In fact, this public school, which used to have a low enrollment, now has a waiting list of parents who want their children-- both disabled and nondisabled -- to attend. And the teachers at this school are excited about their work. I was told that, in the beginning, some regular education teachers were anxious about a special education teacher or aide coming into their classroom because they were not used to team-teaching or sharing their classroom. Teachers told me that once the initial anxiety passed, the special education teacher or aide was a valued teaching partner who helped everyone in the classroom.

Visiting excellent schools like the O'Hearn School is one of the most gratifying parts of my job. I encourage you all to visit programs in your districts that families and school administrators believe are working. The challenge here -- as in all areas of education -- is to move beyond limited success in model schools to support improved results for all students across the nation.

III. Who is Served by the IDEA -- Diverse Students with Diverse Needs

Our review of the legislation takes into account the more than 5.4 million diverse children served under the IDEA. About 150,000 are infants and toddlers, 500,000 are preschoolers, and 4.8 million are of school age. The majority of these children do not have visible disabilities -- the majority are not blind, do not use wheelchairs, and are not mentally retarded. In fact, of the 4.8 million school-aged children with disabilities, about half have learning disabilities -- generally problems with reading, writing, and to a lesser degree, mathematics. About 9 percent exhibit significant emotional disturbance. A small number are blind or deaf or have other significant disabilities such as autism or traumatic brain injury. It is important to note that fewer than 12 percent of children served under the IDEA have mental retardation that would prevent them from learning at the same level as other students. (See figure #1.) It is also important to

note that 70 percent of students with disabilities are in the general education classroom for a substantial portion of the school day. (See figure #2.)

IV. What We Have Heard

In the course of preparing our legislative proposal for the IDEA, we have consulted with parents, educators, and many others concerned with improving the education of children with disabilities, including Congressional staff from both sides of the aisle. We asked for public comment in the Federal Register and received over 3,000 responses. During more than a year of consultation, we have heard about the many strengths of the current law -- its focus on individualized approaches, its protection of the rights of children and their families, and its support for innovative approaches to teaching. For example, the IDEA has supported many advances in technology -- such as talking books for blind students, assistive communication devices for children who cannot talk, and television captioning for deaf students -- that help students achieve in ways that have never before been possible.

However, we have also heard from some that the law promotes a separate system with lower standards, that it is unnecessarily prescriptive, that it focuses too much on paperwork, that it creates unnecessary costs, that it creates barriers to effectively disciplining students, and that it spawns too much litigation. We have listened carefully to these concerns and are addressing them. Needed improvements, including streamlining State Plans and school district applications, reducing data reporting requirements, providing more fiscal flexibility, and reducing the unnecessary testing during triennial reevaluations, will be in our proposal and are described in more detail below.

In the 20 years since P.L. 94-142 was enacted, we have learned a great deal about how to improve educational results for children with disabilities and how to intervene early with infants and toddlers to help children to be ready to learn. We now have a chance to improve the law to put into practice what we have learned about effective teaching and learning. This is a particularly opportune time for us to review the IDEA. American education is changing, and exciting improvements are taking place in states and communities around the nation.

The principles we have developed are aimed at allowing special education to be seen as a service that should be integrated into the education reform efforts in each state. We have an opportunity to align the IDEA with these efforts so that children with disabilities can be included in them in their local communities. Special education is an important asset in overall school improvement efforts. Where special education is seen as a "service", not a "place", it contributes to the overall resources of the school and enriches the teaching and learning that takes place for all children. Our proposals will assist these efforts.

V. Principles on Which Our Proposal is Based

We have based our reauthorization proposal on six key principles that clearly define our mission to improve results for students with disabilities. These six principles are:

- (1) Align the IDEA with state and local education improvement efforts so students with disabilities can benefit from them.
- (2) Improve results for students with disabilities through higher expectations and meaningful access to the general curriculum, to the maximum extent appropriate.
- (3) Address individual needs in the least restrictive environment for the student.
- (4) Provide families and teachers -- those closest to students -- with the knowledge and training to effectively support students' learning.
- (5) Focus on teaching and learning.
- (6) Strengthen early intervention to help ensure that every child starts school ready to learn.

I know that as you undertake the task of reviewing the IDEA, many different approaches and proposals will be raised. As you consider them, I hope that you will judge them against these principles.

In developing our proposals based on these principles, we have had extensive consultations with others. We have heard tremendous agreement that the changes we will be proposing are good for children, good for families, and good for schools. While not everyone agrees with every single proposal we are putting forward, all agree that the issues we are raising are the right ones and merit serious attention and healthy debate.

As we all know, disability affects the lives of people regardless of party affiliation. This is one reason why there historically have been bipartisan efforts to develop and implement effective laws such as the Individuals with Disabilities Education Act. We all realize that we cannot afford to waste any human resource. It is my hope that we will continue this bipartisan approach as we move forward to reauthorize the IDEA.

VI. Structure of the Current Law

The IDEA has several distinct programs. The main program of grants to states, authorized under Part B, will provide approximately \$2.3 billion this fiscal year to states and school districts to help support the education of children with disabilities. Part B also includes a specific authority to provide additional support for the education of pre-school children with disabilities, which is funded in fiscal year 1995 at \$360 million. The newest program in IDEA is Part H, which was created in 1986. Part H assists States in providing early intervention services to infants and toddlers with disabilities and their families. The program, which is designed to provide for coordinated efforts by a variety of state agencies, is currently funded at about \$315 million.

We propose to maintain this current three-pronged structure for serving infants and toddlers, pre-schoolers, and school-aged children.

The IDEA also contains 14 categorical program authorities -- each of which was created over the years to address a specific need identified by the field at that time. These programs, currently funded at a total of \$250 million, would be replaced by 5 new authorities focused on improving educational results for children with disabilities.

VII. Our Proposal

1. Align the IDEA with state and local education improvement efforts so students with disabilities can benefit from them

Our first principle -- aligning the IDEA with state and local education improvement efforts so that students with disabilities can benefit from them -- underlies our entire proposal. In the past few years, I have visited many schools around the nation. When I go to schools, I rarely know whether the children I meet are being served under the IDEA -- except in the cases where children have visible disabilities. This is to be expected -- as mentioned above, our newest data tells us that 70 percent of students with disabilities are in the general education classroom for a substantial portion of the school day and that, with appropriate supports, most can succeed there.

This means that we must stop thinking about "special education" as a separate program and a separate place to put students and start thinking about "special education" as the supports and services children need in whatever setting is the least restrictive -- whether it be the regular classroom, a resource room, a separate classroom, or a separate school. Clearly, some of the lessons we have learned in working with students with disabilities -- how to identify learning problems early, how to teach reading to children who have trouble grasping letters or sounds, how to use technology to enhance learning, and how to teach children to take control over their behavior in the classroom -- can benefit all students. As states and communities move forward with school improvement efforts, children with disabilities should not be left behind. Each of our proposals, described below, will support transforming our current categorical education system into a system for all children that meets the individual needs of each child.

2. Improve results for students with disabilities through higher expectations and meaningful access to the general curriculum, to the maximum extent appropriate

Our second principle is to improve results for students with disabilities through higher expectations and access to the general curriculum. We know that most children work harder and do better when more is expected of them -- whether it be in the classroom, doing their homework, or doing the dishes. Disabled students are no different. When we have high expectations for students with disabilities, most can achieve to challenging standards -- and all can achieve more than society has historically expected. However, not all schools presently

have high expectations for these students, and not all schools take responsibility for the academic progress of disabled students.

Our proposal will have several related strategies for promoting high expectations and accountability for educational results. The first is that students with disabilities should be included in state and district-wide assessments and the results should be publicly reported. While civil rights laws already prohibit the discriminatory exclusion of students with disabilities from participation in assessments, some states exclude over 90 percent of all students with disabilities from assessments, and few states report publicly on how students with disabilities are achieving. Of course, a small number of students with significant cognitive disabilities cannot appropriately be included in general State and district-wide assessments. States and districts would provide alternative assessments -- such as portfolio assessments -- for these few students. This is already happening in States like Kentucky -- which is including all students with disabilities in its state assessment system. Kentucky is finding less than 3 percent of students with disabilities cannot participate in the general state assessments -- and is providing these students with alternative assessments.

We believe that when schools assess students with disabilities and report on the results, they will focus more on improving results for students with disabilities and providing access to the general curriculum. In addition, States would be asked to use this information on the performance of children with disabilities to establish strategies for achieving educational progress in State Improvement Plans that we have proposed. Our second strategy for increasing expectations and access to the general curriculum is improving the IEP. The individualized education program -- known as an IEP -- is central to the education of students with disabilities. Each year, a team consisting of teachers, parents, and administrators develops an individualized plan for each child's education.

Our proposal would create an improved IEP process focused on educational results. The new IEP would include meaningful annual objectives for the student. Unless the IEP indicates otherwise, it would focus on access to the general curriculum, in which children with disabilities would have the opportunity to meet the same challenging standards as other students. And the new IEP process would do more to include parents in helping their children succeed. Today, parents of disabled students often are not told how their children are progressing in school until the end of the year -- when they may hear that the student has not progressed far. Surprisingly, many parents do not even receive regular report cards. Our proposal will ensure that IEP requirements make sense -- such as a proposal that parents be informed of their children's progress, by means such as report cards, with the same frequency used to inform parents on the progress of their nondisabled children.

3. Address individual needs in the least restrictive environment for the student

A central purpose of the IDEA -- and the third principle underlying our proposal -- is to ensure an effective and individualized education to address each child's unique needs in the least restrictive environment. Our proposals will help to increase incentives for appropriate

identification of children with disabilities and ensure that special education is a valued service for all children who are identified, including African-American children, children with limited English proficiency, and other minority children who have encountered overidentification, inappropriate placement in separate classrooms, as well as low expectations.

Our first strategy is to promote better ways of identifying and serving students. Under the current IDEA, students must be identified as being in one of thirteen specific disability categories to be served. This fosters a categorical approach to evaluating, labeling, placing, and serving children. However, we know from research and experience that these categories do not give us accurate information about an individual student's educational needs. To know what a student needs to be able to learn, we need to look closely at that specific child -- not just the child's label. And the current approach of putting a categorical label on children has little educational meaning or benefit, especially at the level of the interaction between a teacher and a student. This is why we will propose a new eligibility definition. The new definition, together with changes in reporting requirements, would encourage states to move forward toward less categorical approaches, while permitting states that wish to retain their current eligibility criteria to do so. Under this new definition, children who are eligible under the current criteria would remain eligible.

Just as important to promoting individual -- not categorical -- education is improving student evaluations. These evaluations are important for identifying and educating children with disabilities. However, far too often, these evaluations consist of a battery of standardized tests that are unrelated to the student's instruction. And they require resources -- an average of \$2,000 and hours of a school psychologist's time per evaluation -- that could be better used for direct services to children. Even students with clearly permanent disabilities such as deafness or blindness are subjected every three years to a battery of tests to determine whether they remain disabled. We propose streamlining evaluation procedures so that what is educationally relevant is not lost, but resources can be better devoted to helping students.

Our third strategy is to ensure that federal and state requirements and funding systems do not create disincentives for appropriate placements and services. We will propose to reduce unnecessary paperwork for schools, while improving services for students, by allowing schools to use their IDEA funds to pay for special education services in the regular classroom for the purpose of benefitting students with disabilities without having to track the costs of any incidental benefits to nondisabled students. This will help schools have classrooms in which the regular teachers are assisted by aides and special education teachers who can focus on helping the disabled children -- but who can also work with nondisabled children and catch learning or behavior problems early.

We will also propose that the federal funding formula be changed to allocate to states all new funding above their fiscal year 1995 grants based on the total number of children in the state. This change in the formula would remove disincentives for States to undertake improvements such as the increased provision of early intervention services that may result in fewer children being served in special education. Some states, including Pennsylvania and Vermont, have

already begun such improvements, and our goal is to encourage that kind of effort. The change would also remove incentives for States to over-identify students as disabled.

4. Provide families and teachers -- those closest to students -- with the knowledge and training to effectively support students' learning

Our fourth principle is that families and teachers must have the knowledge and training to effectively support student learning. This requires strong working relationships between families and schools. Family involvement is at the heart of the IDEA, and we propose several actions to strengthen that important aspect. For example, our proposal will include involving parents more fully in decisions on where their child is educated, and will keep parents informed of students' progress in attaining measurable annual objectives.

We also want to reduce unnecessary lawsuits that create emotional and financial burdens for parents and school districts. While the right of parents to "due process" hearings to resolve disputes is central to the implementation of the law, recourse to these hearings should be a last resort when less adversarial methods have failed. A substantial number of states have created successful mediation systems to resolve family-school disputes quickly and effectively. Parents and school districts that engage in mediation report that mediation not only helped them to clarify and resolve their particular disagreement, but that it also helped them to work together better and avoid future conflicts.

That's good news in my opinion, because building trust through better communication is so essential to making the IDEA work for the child and the school. California, for example, had 993 requests for mediation from 1991-1992. Only 14 percent of these cases went on to hearings. Massachusetts reports similar results as well. In 1992, only 15 percent of mediations went to hearings.

Mediation can also reduce the costs to school districts which is also an important objective. California estimates that the cost of successful mediation is only 13 percent of the cost of the due process system. Based on the first two years of its mediation process, the Texas Education agency estimated that the use of mediation in special education saved \$5 million.

When the Justice Center of Atlanta, nationally known for its expertise in mediation, studied the special education mediation program in Georgia, it asked parents and schools who had participated in mediation whether they would recommend mediation to others. Eighty-five percent of the parents and 99 percent of the schools said "yes." While the many benefits of mediation are clear, a number of states do not offer mediation to parents. We propose, therefore, that mediation be available as an option to all parents for dispute resolution.

All of these proposals concern the state grants programs under Part B. Reforming the IDEA categorical programs is also essential if schools and families are to have the knowledge and skills they need to be able to improve results for children with disabilities.

There are 14 categorical competitive grant programs in the IDEA, and over the past 19 years there has been much good work done in each of them. However, despite some real successes, we believe that these programs need significant reform. Having developed separately over the years to address specific issues, the 14 programs are fragmented and too narrowly focused. Many activities are limited to particular disability categories or age ranges in ways that no longer make sense. Moreover, administering the numerous discretionary programs requires significant staff at all levels of government. As we work to make government smaller and more efficient, there will be fewer staff to administer these programs -- making effective administration problematic.

We envision a streamlined, comprehensive, and coordinated approach for these programs that will be more effective in improving results for children with disabilities while also making effective use of resources. To achieve this, we propose replacing the 14 current programs with five flexible authorities. To ensure that issues concerning the special needs of children with low-incidence disabilities, such as deaf-blindness, continue to be adequately addressed, there would be a minimum "floor" for discretionary spending across these new authorities to meet the needs of these children.

A new State Improvement authority would recognize the key role that the states play in implementing the law and enhance the ability of state agencies to carry out their own plans for program improvement by providing flexible resources based on an IDEA State Improvement Plan. Each state would develop a State Improvement Plan, with broad-based participation, that describes its strategies for implementing new efforts to improve results for students with disabilities -- including how it will ensure a supply of prepared teachers and how it will assist local communities in improving their schools. This flexibility would be in return for increased accountability for results for students with disabilities. Asking States to focus on improving outcomes by addressing systemic problems in their plans -- and giving States resources to address problems -- would create a continuous improvement "feedback" loop that would be a significant step in our efforts to improve implementation of the IDEA.

The proposed Professional Development authority would make a significant investment in improving teacher preparation. Research shows that improved teacher preparation is critical to improve the quality of teaching and student results. We need to prepare teachers to work in the classroom of today. We need teachers who can work with both disabled and nondisabled students, teachers who can teach both the basics and challenging academic material, teachers who can identify reading problems early and work with children before they get too far behind, teachers who have the skills to help troubled children learn how to take responsibility for their behaviors and to resolve conflicts through words, not fighting. Continuing education for teachers is an important piece of achieving this goal. However, nothing can take the place of new teachers taught by faculty who understand how to teach children with different learning needs. Nothing can take the place of classroom experience in schools that are excited about working with all students. Our proposal will be designed to help reduce the barriers that currently exist between special education and general education professionals -- in our schools of education, in state certification requirements, and in our public schools.

The third authority, Research to Practice, would be at the hub of our efforts to use knowledge to improve results for children with disabilities. This authority would include not only activities to develop knowledge, but also activities to ensure that this knowledge reaches teachers, parents, administrators, policy-makers, and others working with children with disabilities. These activities would be carried out in accordance with a comprehensive plan we would develop to coordinate program activities to systematically move research into practice.

The fourth authority would build on the current authority for a national network of parent training centers that can assist parents in gaining the knowledge and skills they need to help their children meet their full potential.

The final authority, Technology Development and Educational Media Services, would promote the use of advanced technologies for students with disabilities as well as support captioning and similar activities.

5. Focus on teaching and learning

Another aspect of focusing on teaching and learning concerns the twin issues of safety and discipline. As we strive to focus on teaching and learning, we must recognize that over the past twenty years, the implementation of the IDEA has focused on process without sufficient attention to educational results for children with disabilities. Too often the fundamental purpose of the law is lost.

It will be difficult to achieve the significant improvements we propose without accompanying flexibility for educators and changes in how states and locals focus their attention and use their resources. The IDEA must maximize flexibility and the extent to which special education resources are devoted to teaching and learning.

Our proposal for evaluation of children alone could allow states to save millions now spent on tests that do not contribute to educational improvement and free up the time of school psychologists to help students, families, and teachers. The proposals I have described for improving IEPs, reducing state and local application requirements, providing more flexibility in the use of funds, and requiring that mediation be available will also help to significantly reduce paperwork and focus energy and resources on activities with clear educational benefits.

Today's schools are facing new challenges. Our communities are undergoing changes that are bringing additional pressures into the classroom. Twenty years ago, children fought with their fists; today, they use guns. We must have schools that are havens of order and safety for all of our children. This is a paramount concern for so many parents and I share that concern as well.

Because this is an important issue, Judy and I have had a number of meetings with many of the major education groups and the disability community to explore how we might best ensure safe

and disciplined schools for all students. I believe that these conversations have been productive, and we plan to continue them.

As the Congress works its way through this difficult issue, we want to share with you what we know on the subject and continue our discussions. The issue of discipline is a deeply emotional issue for all sides. People feel frustrated and levels of trust that have been worn away need to be rebuilt.

I have been at some of these meetings and I have the utmost respect for the sincerity and depth of commitment shown by the school officials and the disability community. These are all good people and they believe strongly in their points of views and that is how it should be.

But our task is different. We need to be as reasoned as possible in searching for an effective balance that ensures the safety of all children while protecting the established rights of children with disabilities. Balance is the key word and I suspect that the best proposal may not be entirely satisfactory to either school officials or the disability community.

As you know, during the reauthorization of the Elementary and Secondary Education Act last year, the IDEA was amended so that if a child with a disability brings a gun to school, the school can immediately remove the child from the classroom and put him or her in an alternative placement for 45 days. We believe that this is a sensible and very much needed provision and should be extended to other weapons such as knives.

Second, the Department issued extensive guidance in April to schools on the issue of disciplining students with disabilities. There is a fair amount of misinformation in schools around the country about what disciplinary actions are permissible that needs to be put to rest. The last thing we want is for teachers and principals to feel frustrated about a situation and feel that they have no real recourse.

There is a great deal that a school can do to address misconduct -- from temporary suspensions to alternative placements to long-term expulsions when the child's misconduct is not a manifestation of his or her disability. We want principals to feel secure in taking disciplinary actions in the knowledge that they are well within the guidelines and we want the parents of disabled children to understand these guidelines as well. Good information and a clear understanding of what can be done builds trust on all sides.

Now, prevention is always the best approach to discipline problems -- whether the child is disabled or nondisabled. There are many schools that have learned how to prevent violent and disruptive behavior: early identification of learning problems, consistent rules, teaching how to resolve conflicts peacefully, are all elements of safe and disciplined schools. Effective behavioral management techniques are also being used in some schools to prevent discipline problems and teach children with emotional disabilities to take responsibility for their behavior.

We also know that student misconduct is sometimes caused when the student does not receive the necessary supports and services, such as specialized instruction, so he can understand the classroom materials, or an aide in the classroom to help him work at his own pace. A focus on prevention can keep children in school and off the streets, out of the juvenile justice system, and in the workforce as self-reliant adults.

Based on the meetings Judy and I have held, as well as our consultation with many others, we have developed two proposals that will permit schools to address discipline problems more expeditiously while still protecting the rights of children with disabilities and their families.

First, as I mentioned earlier, we believe the rule adopted last year, which allows a school to immediately remove a disabled child from the classroom and put him or her in an alternative placement for 45 days for bringing a gun to school, should be extended to include knives, and other weapons as well. This makes good sense.

A second proposal relates to process. When a child poses a substantial danger to others, even without a weapon, school officials need to be able to remove a child from a classroom quickly. Currently, if the child's parent objects to the removal, the child must stay in his or her current placement until the dispute is resolved, unless the school district goes to court and obtains a temporary restraining order permitting it to remove the child.

We have learned that some school administrators and teachers find it difficult to go to court. Therefore, we believe that schools should have the additional option to go to local hearing officers -- officials who already exist in every state to address special education issues -- to obtain a quick decision about whether a child is dangerous and should be removed from the classroom.

I believe that these two proposals are balanced and fair, and will help to create safer schools. Coupled with our new guidance on discipline and the expansion of mediation into other states, they may help to frame and create the new balance we are seeking. We emphasize the value of mediation in addressing discipline problems because the obstacles to changing a child's placement under current law arise only when the parent and the school disagree about an appropriate placement.

These new provisions clearly do not address all the concerns that you will hear -- and we plan to continue our meetings with the education and disability communities as we search for solutions to these difficult issues. We want to share with you what we know and what we are learning and work with the Congress during this process to come to grips with this issue.

As I said before, we need to develop a reasoned and balanced approach on a very emotional issue. Much of our success will depend on our collective ability to build up some new levels of trust among all the parties involved.

I want to be very direct in saying that we need to keep our focus on what is important. A school that is safe for all children, including the child with a disability, is necessary for children to learn. The key here is balance, making sure all children are safe without chipping away at the integrity of the established rights of children with disabilities, that have, over the course of time, done so much good for the entire community.

6. Strengthen early intervention to help ensure that every child starts school ready to learn.

Early intervention means working with infants and toddlers and their families as soon as a disability is identified or suspected. By starting early, problems resulting from the disability can be alleviated and additional problems can be prevented.

A critical element of the IDEA is the Infants and Toddlers with Disabilities Program (referred to as Part H). Part H was enacted nearly 10 years ago to help States better meet the needs of infants and toddlers with disabilities, or at risk of developmental delay, and their families. Early intervention has clear benefits for families and for children. For example, a mother from Idaho recently told us about her son who, as a toddler, fell into a canal and almost drowned -- an accident that could happen to any of our children. As a result, he has physical and mental disabilities. Within two weeks of the accident, an early intervention center began giving therapy to the child and training to the family. After 6 to 8 weeks, this child, who had been close to death, could sleep for short periods on a regular basis and attend to his mother's voice. The mother learned how to do therapy at home and encourage her son's social development so that he would be able to achieve his full potential. Research shows that early intervention such as this can lead to better results in later school years.

The Part H program provides states with an opportunity to expand and improve early intervention services to families through an interagency state system of services for children with disabilities from birth through age 2 and their families. In a typical state, more than half a dozen state agencies participate in the financing and delivery of early intervention services under the Part H umbrella. At a time when we all want more comprehensive and better coordinated services for families with less duplication and overlap, the Part H program is a program that can help provide the infrastructure to make a system work.

Part H is a relatively young program, which has just recently been fully implemented in the majority of states. While states and communities have made tremendous progress in implementing their early intervention systems, there remain two major challenges: ensuring that all eligible infants and toddlers receive services, and supporting prevention of developmental delays by expanding the inclusion of at-risk infants and toddlers within the Part H comprehensive system of services. To address these challenges, we will propose to draw on the best expertise in the nation to identify an appropriate definition of developmental delay in infants and toddlers in order to help states ensure that all children in need are identified and served. We will also propose greater flexibility for states in their efforts to identify and serve infants and toddlers at

risk of developmental delay. We believe that these proposals will improve services to infants and toddlers and their families, while also increasing state flexibility in the administration of the program.

Conclusion

These proposals will help local communities in their efforts to create safe, disciplined schools that have high expectations for all their students, that have well prepared teachers, and that will strengthen the involvement of students with disabilities and their families in their children's education. We look forward to working with you as we all strive to improve the IDEA in order to improve results for children with disabilities.

E D U C A T I O N

Tales Out of School

Fueled mostly by anecdotal evidence, a battle is raging in Congress over proposed revisions of a two-decades-old program to guarantee educational opportunity for disabled youngsters.

BY ROCHELLE L. STANFIELD

Picture a disabled student in public school: Do you see a sweet little 9-year-old girl in her diminutive wheelchair who just wants to attend regular classes with her friends? Or do you visualize a hulking, emotionally disturbed 17-year-old terrorizing his high school with a knife?

Do you think of a blind student who merely needs lessons in Braille to prepare for college and a profession? A mentally retarded child who requires a lot of extra help from a harried teacher with too many other students? Or a disruptive kid who sings and drums on the desk and runs around the classroom for no reason at all?

Is the picture one of your son, niece, student or client? Or of a poster child, a news photo of protesters in wheelchairs, Forrest Gump or Peter in the award-winning 1992 television documentary *Educating Peter*?

These contrasting images dominate the discussion as Congress reexamines the federal law on educating disabled children for the first time since the statute was passed in 1975. The picture that prevails is likely to determine the kind and quality of schooling provided in the future for these students, who make up 11 per cent of the public school population.

Overhaul of the Individuals With Disabilities Education Act—parts of which expire on Sept. 30—is tailor-made for policy decision by anecdote. The facts and figures are sparse and conflicting; the horror stories are stark and vivid. And the interest groups are well organized, disciplined and loaded with heart-tuggers or spine-chillers, depending on their legislative goal.

In the past, organizations representing the disabled could count on their substantial political clout in Congress. "Politicians are terrified of them—that they'll trot out people in wheelchairs," a lobbyist for an education organization said enviously. "It's very easy for a Member to feel virtuous by voting for their issues."

But times have changed on Capitol

Hill and so has the portrayal of the disabled. To many in Congress these days, the disabled are just another undeserving interest group with outstretched hands.

"It is a real visceral issue," a congressional aide acknowledged. Surprisingly, the tradition of bipartisanship on this issue so far has held fast in both congressional chambers. Whether that spirit will continue as the measure gets out of committee and onto the House and Senate floors this fall, however, is an open question.

The law spells out rules to be followed by states and local school districts in delivering "special education" to the nation's five million disabled students. To help pay for the extra cost of schooling these children, the program set up by the law now provides \$2.3 billion a year, the second-largest federal grant for elementary and secondary schools after the \$6.7 billion a year for compensatory education of poor youngsters.

Money is the real root of the dispute. It now costs, on average, double the normal amount to educate a disabled child; and exemplary special-education programs require several times the regular per pupil expenditures. Federal aid provides only 7 per cent of the extra cost.

But financial considerations are coated with a thick layer of fear and distrust on the part of everyone associated with the issue.

The debate has come to a head over what sounds like a minor detail: how schools discipline misbehaving disabled students. But the issue of discipline is the concrete manifestation of a volatile combination of inadequate funds and the disparate fears of the opponents.

The law forbids schools from expelling disabled students and permits suspension for only 10 days. Under a provision adopted last year, a special-education student who brings a gun to school may be removed from that school but must be placed in an alternative school that offers specialized services for the disabled. For any other offense, disabled students must be allowed to stay in their original school unless parents and the school officials

agree on an alternative assignment—or a court makes the decision.

Advocacy groups for the disabled—which disagree on a lot of other things—insist on that provision because they fear that the schools will use broadened disciplinary powers to get rid of students who are difficult or expensive to educate.

"Nobody wants kids with guns and knives in school," said Justine Maloney, legislative affairs chairwoman of the Learning Disabilities Association of America, a national network of concerned parents. But designating students as dangerous or disruptive "has been used in the past so many times to expel kids with disabilities, particularly kids with learning disabilities," she added.

In addition, parents maintain, much of the bad behavior of disabled students is the fault of the schools and teachers who don't know how to deal with them.

Regular school educators have a diametrically opposite view. Prohibiting the expulsion of disabled students in contradiction of school district policies requiring it for nondisabled students, they contend, reinforces bad behavior in disabled students, creates an unfair division between regular and special-education students and reduces the school atmosphere to unruly, unsafe chaos.

The movement in recent years to place as many disabled students as possible in regular schools has only exacerbated the problem, to their way of thinking. "It has, we believe, resulted in a growth and expansion of discipline problems that are caused by a dual standard," said Beth Bader, assistant director of the educational issues department at the American Federation of Teachers (AFT).

Teachers fear the placement of troubled, disabled students in their classes because most teachers have neither the training themselves nor the experienced aides and specialists to help them cope with such children. (It's estimated that nearly 70 per cent of disabled students suffer from emotional problems, mental retardation or other learning disabilities.)

School boards and administrators fear that if they try to discipline disabled students, the parents will take them to court.

The law enables parents who win in such cases to be reimbursed for their attorneys' fees by the school district. School officials say that is a big deterrent to them.

So a lion-and-lamb coalition of teachers, principals, school boards and superintendents who rarely agree on educational issues is demanding much greater discretion in dealing with disabled students. The Education Department has proposed a compromise that satisfies neither side but may just be the option Congress adopts.



United Cerebral Palsy Association's national director John D. Kemp
He says disabled students' rights must be weighed against program costs.

A lot of other issues that feed into the debate over special education also pose cost questions and provoke fear and mistrust: disagreements over the best setting in which to educate disabled children, teacher training and who pays for it and congressional micromanagement of a state and local function.

"I start to hear messages about, 'we're just a burden' and 'his is just too costly,' and I really get worried," said John D. Kemp, national director of the United Cerebral Palsy Association in Washington, who is a quadriplegic from birth. "We think that just purely basing arguments on cost effectiveness is ignoring the constitutional arguments of our rights to be full citizens in this country."

CLAIMING THE HIGH GROUND

In the battle over federal rules on discipline in special education, each side climbs all over the other to claim the high

moral ground. Advocates for the disabled insist that they are the guardians of civil rights of the most vulnerable students. Educators respond that they are protecting the safety and learning environment of all students.

"The discipline issue, unlike any other issue in special ed, involves other children," said Michael A. Resnick, associate executive director of the National School Boards Association. "What the public is going to see and react to is these [disabled] kids coming to school and putting other kids in danger or terrorizing the classroom."

"Rhetoric like that concerns me because it is so out of proportion to the reality," said Jamie Ruppman, a specialist on autism who has consulted for both parents and school systems in Virginia. "We have very few of these mythical youngsters."

"You know, if we removed every one of our five million [disabled] children from the public schools of America, you would still be sitting here talking about discipline and disruption," she continued. "The problem isn't our kids and you know it isn't."

The debate has come full circle in the past two decades. Congress initially intruded the federal government into the special-education issue

in 1975 because it determined that state and local authorities were ducking responsibility. Federal lawmakers found "that the arbitrary use of discipline by school officials was the major strategy used to exclude, segregate and deny services to disabled children," recalled Sen. Tom Harkin of Iowa, ranking Democrat on the Senate Labor and Human Resources Subcommittee on Disability Policy, at a hearing on discipline in July.

But this time around, a move is afoot in Congress to give power back to local school officials to exclude disabled students under certain circumstances. And, as the debate unfolds, each side is relying heavily on anecdotes to make its point.

E. Don Brown, a high school principal from Hurst, Texas, for example, told one horror story after another in testimony on behalf of the National Association of Secondary School Principals: the emotionally and behaviorally disturbed 17-year-old who assaulted a fellow student with a

starter pistol; the youngster who hit a staff member in the head with a rock; the 14-year-old who threatened to kill a teacher.

Brown's testimony contained no statistics detailing the frequency of such incidents or the proportion of disabled youngsters who get into trouble. That's probably because there are no reliable studies to back up the contentions of either side. "If they had [a lot of cases of violence], they would collect data on it," said Kathleen B. Boundy, co-director of the Center for Law and Education in Boston, a legal advocate for the disabled. "My feeling is the instances are pretty rare."

But when such incidents occur, they tend to make a big splash in the local media and cause an uproar among parents of nondisabled students that resonates on Capitol Hill. The reverberations have been bipartisan.

The latest furor began last year when Congress was voting to extend the special-education law for a year. Sen. Slade Gorton, R-Wash., proposed an amendment to increase from 10 days to 90 days the period that school officials can remove disabled students who bring weapons to school or who exhibit dangerous behavior. The Senate accepted the amendment by a 60-40 vote.

Then, Sen. James M. Jeffords, R-Vt., offered another amendment to tone down the Gorton provision by limiting its applicability to students with guns and the temporary removal to 45 days. The Senate passed the amendment unanimously and it became part of the law.

Now Gorton wants to revive his proposal and expand it to enable school officials to remove disabled students who are merely disruptive. The coalition of education organizations supports him. "Disruptive behavior is as injurious to the educational program of kids as dangerous behavior is to their safety," the AFT's Bader said.

The Education Department has come up with a compromise. It proposes expanding the Jeffords provision to cover not only students with guns, but also those with knives and other weapons. Instead of having to go to court to remove a student against the parents' wishes, school officials could take the case to an administrative hearing officer.

"I believe the policy we have advanced is a solid policy that will allow children to learn in a safe environment and will not allow disabled children to be discriminated against," Judith E. Heumann, assistant Education secretary for special education and rehabilitative services, said in an interview.

Confined to a wheelchair herself, Heumann is an outspoken advocate for the

disabled. "I believe very strongly that the job of elected representatives and the job of people like myself is to assure that no children in this country are denied appropriate opportunity because of bias," she continued.

Nonetheless, interest groups for the disabled adamantly oppose the Education Department's approach because they believe it weakens the special-education law. If a child is really dangerous, most parents would agree to an alternative placement, they argue. If the parents don't, a judge will. Stronger disciplinary

Facts and figures are sparse and conflicting horror stories plentiful in debate over education of disabled children.

provisions would just let teachers off the hook without solving discipline problems.

Bonnie Fell, a Skokie, Ill., mother of four disabled children, used the experience of her son Dan to make this point at the Senate hearing in July. The boy, who suffers from learning and behavioral disabilities, couldn't sit still in class and would fight with his classmates. So, for years, the school would simply suspend him—reinforcing his bad behavior. Dan "quickly realized that if he wanted to go home, all he would have to do is misbehave and Mom would come get him," she said.

The summer before fourth grade, Dan was sent to summer school. Instead of going to class, he and some friends would go around vandalizing property. "My husband and I felt overwhelmed with the thought of having a 9-year-old juvenile delinquent as a son," Fell said.

But the story has a happy ending. The Fells transferred Dan to another school district that had a good special-education program for disabled children. Now 16 years old, Dan makes the honor roll, has been nominated for the Congressional Youth Leadership Council and represented Illinois at a national wrestling tournament.

In opening that hearing, Sen. Bill Frist, R-Tenn., the subcommittee chairman, asked whether the current policy on discipline is understood and followed. If so, he

asked, does it work? And if not, how should it be strengthened? "These are important questions, reasonable questions," he went on. "I do not believe that we need to abridge civil rights to get answers."

THE BOTTOM LINE

Just as finances figure prominently in the question of maintaining discipline, the subject of money lurks behind practically every issue in the debate over educating disabled children.

"A lot of it does come down to money," Resnick of the school boards association said. "School districts have a finite amount of money to provide education for 44 million children, of whom only 5 million participate in special education."

"We are committed to providing services to children and guaranteeing their rights," he continued. "But we want to do it under assumptions that wouldn't cost as much money."

Ever since the law was passed in 1975, state and local officials have pointed to special education as an unfunded—or, more accurately, "underfunded"—federal mandate. (The statute permits Congress to pay as much as 40 per cent of the excess cost of educating special students, but it has never funded up more than 12.5 per cent.) Advocates for the disabled, not surprisingly, dispute that contention. "The law was based on class action lawsuits," explained Christopher Burton, director of governmental activities for the United Cerebral Palsy Association. "This is really an equal protection issue, and the states would have to do it anyway. The federal government was saying, essentially: We're going to help you do this thing that you are responsible for doing."

As they do in their other arguments over special education, the various sides employ anecdotes rather than statistics in their debate over dollars, probably because here, too, the data are elusive. Resnick figured school systems spend an extra \$30 billion a year on disabled students, but conceded that this was just a guess.

Last year, the New York City school system said that it spent an average of \$5,000 per regular student and \$23,700 for each disabled student in a special all-day program. It didn't calculate the extra costs associated with teaching a disabled child in a regular classroom. That kind of placement—a variation on the practice of mainstreaming—is the most controversial. One child with cerebral palsy, Alba Somoza, received extensive home and school services to enable her to participate in a regular class. Her education cost the city \$100,000 a year. The Somoza case

became a media sensation in the Big Apple but shed very little light on the true scope of the problem.

Whether to assign a disabled child to a regular classroom is an emotional as well as financial issue, and one on which neither the organizations that represent the disabled nor those that represent the educators agree, even among themselves.

The law requires school districts to educate disabled students with nondisabled students to the maximum extent "appropriate." The trick, of course, is defining appropriate. That is supposed to happen on a case-by-case basis.

When a child is determined to need special-education services, school officials, specialists and parents get together to design an "individualized education program," spelling out what the child can be expected to learn and the most appropriate setting to achieve that learning. The setting can be a special school; a self-contained special classroom within a regular school; a regular classroom; or a regular classroom with time spent in something called a "resource room"—a room staffed by a special-education teacher who provides individualized help, whether for reading or math or behavior.

The Education Department estimates that 36 per cent of special-education students spend most of their day in a regular classroom and 24 per cent in a special classroom. Most of the rest divide their day between the regular classroom and the resource room.

When the law was passed originally, the highest priority was simply to provide an education for disabled children. An estimated one million disabled children attended no school at all in the early 1970s. The law has solved that problem. Now many advocates for the disabled want to increase regular-classroom attendance for disabled children.

"As a disabled child, I was excluded from the educational system," assistant secretary Heumann said. "So I personally very clearly understand that you can be put in an educational environment where you can be learning academically but are not learning socially."

Heumann grew up in New York City.

Because she was in a wheelchair, she wasn't allowed to attend school at all until fourth grade in 1956. Then she attended special classes for the disabled in the basement of a regular school an hour and a half away from home. The only contact she and her disabled classmates had with the other children in the school was when the nondisabled children were permitted to push the wheelchairs from the bus into school and help the disabled children off with their coats.

"I know very clearly what that meant to me and to the other disabled children,"



Assistant secretary of Education Judith E. Heumann
Excluded students "can be learning academically," but not socially.

Heumann recalled recently. "We felt inferior and they felt everywhere from superior to charitable, but they didn't feel that we were their peers."

No more than 30 per cent of children in special education are physically disabled, but assigning them to a regular classroom can be very expensive because they may require special equipment or the classroom itself may have to be physically modified. Once these students are accommodated, however, they often can learn right alongside their peers.

The story is very different for the overwhelming majority of special-education students who are learning-disabled, mentally retarded or suffering from serious emotional disturbances. At a minimum, they require special teaching techniques that most teachers don't know. They may also need a teacher's aide to sit beside them in the class to help them learn and to monitor their behavior. Few aides are specifically trained to handle these chil-

dren—trained aides are more expensive—yet, training can make all the difference.

The case of Mark Hartmann, which created a splash in Washington's news media last year, illustrates the point. Mark has autism. He can't speak or write, and when he gets upset, he flaps his hands and makes little noises. Mark attended kindergarten and first grade in Lombard, Ill., where an experienced special-education teacher helped him fit in with his classmates.

In 1993, the Hartmann family moved to the Washington area. Mark, then 8 years old, started second grade at Ashburn Elementary School in Loudoun County, Va. The school reduced the teacher's class load and hired an aide to help Mark.

"She was a mom from the community," said autism specialist Ruppman, who consulted on the case. "She was a nice lady, but she had never worked with a child with disabilities before."

Mark's behavior deteriorated, and the class became a shambles. School officials decided to transfer him to a special class for autistic children. The Hartmanns disagreed. The case went to court, and the school system won.

Instead of allowing the transfer, however, Mark's mother moved

to Blacksburg, Va., which has a national reputation for including disabled children in regular classes. Mark attends a regular school with individual help from a trained professional.

"He's doing very well," Ruppman said, "so the story has a wonderful ending."

But the ending of the story for a majority of the nation's five million disabled children remains in doubt. Although the special-education program has taken a relatively light hit in the budget so far, Congress is cutting back on federal education dollars, including crucial aid for training teachers. Instead of taking up the slack, most states and local school districts are doing the same.

Meanwhile, in their campaign against violence, some school officials are looking to crack down on disruptive youngsters even if they are designated disabled. As the battle heats up in Congress, both sides are sharpening their anecdotes.

104TH CONGRESS
1st Session

HOUSE OF REPRESENTATIVES

REPORT
104-406

NATIONAL DEFENSE AUTHORIZATION ACT
FOR FISCAL YEAR 1996

CONFERENCE REPORT

TO ACCOMPANY

H.R. 1530



DECEMBER 13, 1995.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1995

21-422

STATEMENT OF MANAGERS
Title V, Subtitle F

810

Limitations on reductions in medical personnel (sec. 564)

The Senate amendment contained a provision (sec. 556) that would amend section 711 of the National Defense Authorization Act for Fiscal Year 1991, section 718 of the National Defense Authorization Act for Fiscal Years 1992 and 1993, and section 518 of the National Defense Authorization Act for Fiscal Year 1993 to modify the limitations on reductions in medical personnel.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

Sense of Congress concerning personnel tempo rates (sec. 565)

The House bill contained a provision (sec. 525) that would express the sense of Congress that the Secretary of Defense should continue to improve the Department's personnel tempo management techniques so that all personnel can expect a reasonable personnel tempo rate.

The Senate amendment contained no similar provision.

The Senate recedes.

Separation benefits during force reduction for officers of the commissioned corps of National Oceanic and Atmospheric Administration (sec. 566)

The House bill contained a provision (sec. 566) that would, at the discretion of the Secretary of Commerce, authorize for officers of the Commissioned Corps of the National Oceanic and Atmospheric Administration, the separation benefits available to the other uniformed services.

The Senate amendment contained no similar provision.

The Senate recedes.

Discharge of members of the armed forces who have the HIV-1 virus (sec. 567)

The House bill contained a provision (sec. 561) that would require the Secretary of Defense to separate or retire service members who are identified as HIV-positive.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would provide the discharged member with an entitlement to medical and dental care within the Military Health Care System, to the same extent and under the same conditions as a military retiree.

Revision and codification of Military Family Act and Military Child Care Act (sec. 568)

The House bill contained a provision (sec. 560) that would codify in title 10, United States Code, updated provisions of The Military Family Act of 1985 (title VII, Public Law 99-145), and The Military Child Care Act of 1989 (title XV, Public Law 101-189), which were instrumental in focusing Department of Defense attention on the needs of military families and on the importance of effective child care programs.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would eliminate a reporting requirement.

Determination of will (sec. 569)

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officer corps of the National Oceanic and Atmospheric Administration"; and

(2) in subsection (a), by striking out "including changes in those rules made after the effective date of this Act" in the matter preceding paragraph (1) and inserting in lieu thereof "as those provisions are in effect from time to time".

(c) TEMPORARY EARLY RETIREMENT AUTHORITY.—Section 4403 (other than subsection (f)) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2702; 10 U.S.C. 1293 note) shall apply to the commissioned officer corps of the National Oceanic and Atmospheric Administration in the same manner and to the same extent as that section applies to the Department of Defense. The Secretary of Commerce shall implement the provisions of that section with respect to such commissioned officer corps and shall apply the provisions of that section to the provisions of the Coast and Geodetic Survey Commissioned Officers' Act of 1948 relating to the retirement of members of such commissioned officer corps.

(d) EFFECTIVE DATE.—This section shall apply only to members of the commissioned officer corps of the National Oceanic and Atmospheric Administration who are separated after September 30, 1995.

SEC. 567. DISCHARGE OF MEMBERS OF THE ARMED FORCES WHO HAVE THE HIV-1 VIRUS.

(a) IN GENERAL.—(1) Section 1177 of title 10, United States Code, is amended to read as follows:

"§1177. Members infected with HIV-1 virus: mandatory discharge or retirement

"(a) MANDATORY SEPARATION.—A member of the armed forces who is HIV-positive shall be separated. Such separation shall be made on a date determined by the Secretary concerned, which shall be as soon as practicable after the date on which the determination is made that the member is HIV-positive and not later than the last day of the sixth month beginning after such date.

"(b) FORM OF SEPARATION.—If a member to be separated under this section is eligible to retire under any provision of law or to be transferred to the Fleet Reserve or Fleet Marine Corps Reserve, the member shall be so retired or so transferred. Otherwise, the member shall be discharged. The characterization of the service of the member shall be determined without regard to the determination that the member is HIV-positive.

"(c) DEFERRAL OF SEPARATION FOR MEMBERS IN 18-YEAR RETIREMENT SANCTUARY.—In the case of a member to be discharged under this section who on the date on which the member is to be discharged is within two years of qualifying for retirement under any provision of law, or of qualifying for transfer to the Fleet Reserve or Fleet Marine Corps Reserve under section 6330 of this title, the member may, as determined by the Secretary concerned, be retained on active duty until the member is qualified for retirement or transfer to the Fleet Reserve or Fleet Marine Corps Reserve, as the case may be, and then be so retired or transferred, unless the member is sooner retired or discharged under any other provision of law.

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"(d) SEPARATION TO BE CONSIDERED INVOLUNTARY.—A separation under this section shall be considered to be an involuntary separation for purposes of any other provision of law.

"(e) ENTITLEMENT TO HEALTH CARE.—A member separated under this section shall be entitled to medical and dental care under chapter 55 of this title to the same extent and under the same conditions as a person who is entitled to such care under section 1074(b) of this title. 30 day

"(f) COUNSELING ABOUT AVAILABLE MEDICAL CARE.—A member to be separated under this section shall be provided information, in writing, before such separation of the available medical care (through the Department of Veterans Affairs and otherwise) to treat the member's condition. Such information shall include identification of specific medical locations near the member's home of record or point of discharge at which the member may seek necessary medical care.

"(g) HIV-POSITIVE MEMBERS.—A member shall be considered to be HIV-positive for purposes of this section if there is serologic evidence that the member is infected with the virus known as Human Immunodeficiency Virus-1 (HIV-1), the virus most commonly associated with the acquired immune deficiency syndrome (AIDS) in the United States. Such serologic evidence shall be considered to exist if there is a reactive result given by an enzyme-linked immunosorbent assay (ELISA) serologic test that is confirmed by a reactive and diagnostic immunoelectrophoresis test (Western blot) on two separate samples. Any such serologic test must be one that is approved by the Food and Drug Administration."

(2) The item relating to such section in the table of sections at the beginning of chapter 59 of such title is amended to read as follows:

"1177. Members infected with HIV-1 virus: mandatory discharge or retirement."

(b) EFFECTIVE DATE.—Section 1177 of title 10, United States Code, as amended by subsection (a), applies with respect to members of the Armed Forces determined to be HIV-positive before, on, or after the date of the enactment of this Act. In the case of a member of the Armed Forces determined to be HIV-positive before such date, the deadline for separation of the member under subsection (a) of such section, as so amended, shall be determined from the date of the enactment of this Act (rather than from the date of such determination).

SEC. 568. REVISION AND CODIFICATION OF MILITARY FAMILY ACT AND MILITARY CHILD CARE ACT.

(a) IN GENERAL.—(1) Subtitle A of title 10, United States Code, is amended by inserting after chapter 87 the following new chapter:

"CHAPTER 88—MILITARY FAMILY PROGRAMS AND MILITARY CHILD CARE

Subchapter	Sec.
I. Military Family Programs	1781
II. Military Child Care	1791

"SUBCHAPTER I—MILITARY FAMILY PROGRAMS

- "Sec.
 "1781. Office of Family Policy.
 "1782. Surveys of military families.
 "1783. Family members serving on advisory committees.

THE WHITE HOUSE
Office of the Press Secretary

For Immediate Release

February 9, 1996

February 9, 1996

MEMORANDUM FOR THE SECRETARY OF DEFENSE
THE SECRETARY OF TRANSPORTATION
THE SECRETARY OF VETERANS AFFAIRS

SUBJECT: Benefits for Military Personnel Involuntarily
Separated from the Armed Services as a Result
of HIV

The National Defense Authorization Act for Fiscal Year 1996 (S. 1124) contains a provision I strongly oppose, which requires the discharge of all military personnel living with the Human Immunodeficiency Virus (HIV), regardless of whether there is any medical necessity for such discharge. This provision is clearly discriminatory and wholly unwarranted. It is also highly punitive. Service members discharged pursuant to this provision would not receive the benefits to which they would otherwise be entitled had they continued to serve until it became medically necessary for them to retire.

Consequently, I will give my full support to legislative efforts to repeal this provision.

In the meantime, I am committed to ensuring full benefits to these service members and their families to ameliorate the unfair burden this legislation will place on them. I am therefore directing you, in consultation with the Office of Management and Budget and such other agencies as may be appropriate, to take all necessary steps, consistent with applicable law, to ensure that these service members and their families receive the full benefits they are entitled to, including, among other things, disability retirement pay, health care coverage for their families, and transition benefits such as vocational education.

This memorandum is for the internal management of the executive branch and does not create any right or benefit, substantive or procedural, enforceable by any party against the United States, its agencies or instrumentalities, its officers or employees, or any person.

WILLIAM J. CLINTON

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NEWS RELEASE

OFFICE OF ASSISTANT SECRETARY OF DEFENSE
(PUBLIC AFFAIRS)

WASHINGTON, D.C. - 20301

PLEASE NOTE DATE

IMMEDIATE RELEASE

February 9, 1996

No. 070-96

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(public/industry)

**Joint Statement by Secretary of Defense William J. Perry and
Chairman of the Joint Chiefs of Staff, General John M. Shalikashvili**

Section 567 of S.1124, the National Defense Authorization Act for Fiscal Year 1996, requires the separation from the armed forces of any member who is HIV-positive.

This provision will require the discharge of over 1000 service members who, although they have tested HIV-positive, are currently deemed fit to perform their duties. While non-deployable, they join other service members in that category.

To discharge all of these service members arbitrarily as section 567 mandates would be both unwarranted and unwise.

Section 567 is unnecessary as a matter of sound military policy because there is already in place a physical evaluation system to determine the fitness for duty of HIV-positive personnel.

Discharging service members deemed fit for duty would waste the government's investment in the training of these individuals and be disruptive to the military programs in which they play an integral role.

There are service members who suffer from diseases that make them non-deployable, but who are still permitted to serve their country so long as they meet uniform retention standards. Decisions on their retention are made on an individual basis in accordance with current regulations. Section 567 singles out those members who are HIV-positive and requires discharge regardless of their ability to perform. This violates a standard traditionally used by the services for retention and thus undermines a fair policy of evaluating retention on medical and service issues on an individual basis.

- END -

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

February 10, 1996

STATEMENT BY THE PRESIDENT

Today I have signed into law S. 1124, the "National Defense Authorization Act for Fiscal Year 1996." This Act authorizes appropriations for Department of Defense military activities, including military construction, and defense activities of the Department of Energy. It also provides, extends, or amends various authorities relating to national defense programs and activities.

I vetoed the original version of this legislation, H.R. 1530, on December 28, 1995. Since that time, the Congress has addressed my three central national security concerns about the earlier bill. First, the Congress deleted the provisions requiring deployment by 2003 of a costly missile defense system designed to defend against a long-range missile threat, which our intelligence community does not foresee in the next decade. Such a course of action would have prevented us from deploying the best possible technology if a real threat were to emerge at a later time. Moreover, implementation of the system called for in H.R. 1530 would probably have been inconsistent with the Anti-Ballistic Missile Treaty.

Second, the Congress deleted the requirement that the President submit a supplemental appropriations request within a defined time period after commencement of certain contingency and other operations, such as the ongoing military operations in Bosnia. The Act does, however, continue to contain unwarranted restrictions on the manner in which such operations may be funded.

Third, the Congress deleted the restriction on the President's authority to make and implement decisions relating to the operational or tactical control of elements of the U.S. armed forces, a restriction which clearly infringed on the President's constitutional authority as Commander in Chief.

The Act also includes a number of provisions of great importance to our national defense and to the men and women in our armed forces, authorizing critical defense programs to be continued and new ones to be initiated. The Act authorizes the full 2.4% increase in pay and allowances for our military personnel. It authorizes the Military Housing Privatization Initiative, which provides new authority to acquire and improve military housing and supporting facilities through the use of private expertise and capital. It authorizes necessary military construction and NATO infrastructure programs. It continues the Department of Energy's science-based Stockpile Stewardship program. It provides for the sale of the Elk Hills Naval Petroleum Reserve.

The Act also contains the Administration's proposal to allow the United States to extradite indicted war criminals and provide evidence directly to the International War Crimes Tribunals for the Former Yugoslavia and Rwanda -- a provision that should encourage others to cooperate fully with the War Crimes Tribunal.

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(OVER)

And, this legislation makes important strides in the area of procurement reform, which will help produce a better-equipped military for less money. The legislation gives agencies enhanced authority and flexibility in their use of computers and telecommunications, while insisting on accountability. Consistent with the Administration's efforts under the National Performance Review to create a government that works better and costs less, the Act encourages agencies to adopt the best practices of successful companies in the private sector. And the Act includes measures to facilitate the purchase of commercially-available goods and services, to streamline and clarify procurement integrity laws, and to substantially improve the process for resolving bid protests for information technology.

All of these measures are important to the effective and efficient operation of our armed forces. I regret, however, that this legislation continues to contain a number of provisions, identified in my earlier veto message, that will adversely affect the Defense Department's ability to carry out its national defense mission.

First, I am strongly opposed, as is the Department of Defense, to the provision requiring the discharge of military personnel living with the Human Immunodeficiency Virus (HIV), where such discharge is not required by any medical, public health, or military purpose. This provision is blatantly discriminatory and highly punitive to service members and their families. People living with HIV can and do lead full and productive lives, provide for their families, and contribute to the well-being of our Nation. The men and women affected by this provision are ready, willing and able to serve their country with honor and should be allowed to continue to do so.

Therefore, I strongly support the current efforts in the Congress to repeal this provision before a single service member is discharged from the armed forces.

Moreover, the Secretary of Defense and the Chairman of the Joint Chiefs of Staff have advised me that the arbitrary discharge of these men and women would be both unwarranted and unwise; that such discharge is unnecessary as a matter of sound military policy; and that discharging service members deemed fit for duty would waste the Government's investment in the training of these people and would be disruptive to the military programs in which they play an integral role.

I agree.

Consequently, I have concluded that this discriminatory provision is unconstitutional. Specifically, it violates equal protection by requiring the discharge of qualified service members living with HIV who are medically able to serve, without furthering any legitimate governmental purpose. As President Franklin D. Roosevelt said in 1943, explaining his decision to sign an important appropriations bill notwithstanding the fact that it contained a provision that infringed upon individual rights, "I cannot . . . yield without placing on record my view that this provision is not only unwise and discriminatory, but unconstitutional."

In accordance with my constitutional determination, the Attorney General will decline to defend this provision. Instead, the Attorney General will inform the House and Senate of this determination so that they may, if they wish, present to the courts their argument that the provision should be sustained.

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Authorization Bill

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officer corps of the National Oceanic and Atmospheric Administration"; and

(2) in subsection (a), by striking out "including changes in those rules made after the effective date of this Act" in the matter preceding paragraph (1) and inserting in lieu thereof "as those provisions are in effect from time to time".

(c) **TEMPORARY EARLY RETIREMENT AUTHORITY.**—Section 4403 (other than subsection (f)) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2702; 10 U.S.C. 1293 note) shall apply to the commissioned officer corps of the National Oceanic and Atmospheric Administration in the same manner and to the same extent as that section applies to the Department of Defense. The Secretary of Commerce shall implement the provisions of that section with respect to such commissioned officer corps and shall apply the provisions of that section to the provisions of the Coast and Geodetic Survey Commissioned Officers' Act of 1948 relating to the retirement of members of such commissioned officer corps.

(d) **EFFECTIVE DATE.**—This section shall apply only to members of the commissioned officer corps of the National Oceanic and Atmospheric Administration who are separated after September 30, 1995.

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"(a) **MANDATORY SEPARATION.**—A member of the armed forces who is HIV-positive shall be separated. Such separation shall be made on a date determined by the Secretary concerned, which shall be as soon as practicable after the date on which the determination is made that the member is HIV-positive and not later than the last day of the sixth month beginning after such date.

"(b) **FORM OF SEPARATION.**—If a member to be separated under this section is eligible to retire under any provision of law or to be transferred to the Fleet Reserve or Fleet Marine Corps Reserve, the member shall be so retired or so transferred. Otherwise, the member shall be discharged. The characterization of the service of the member shall be determined without regard to the determination that the member is HIV-positive.

"(c) **DEFERRAL OF SEPARATION FOR MEMBERS IN 18-YEAR RETIREMENT SANCTUARY.**—In the case of a member to be discharged under this section who on the date on which the member is to be discharged is within two years of qualifying for retirement under any provision of law, or of qualifying for transfer to the Fleet Reserve or Fleet Marine Corps Reserve under section 6330 of this title, the member may, as determined by the Secretary concerned, be retained on active duty until the member is qualified for retirement or transfer to the Fleet Reserve or Fleet Marine Corps Reserve, as the case may be, and then be so retired or transferred, unless the member is sooner retired or discharged under any other provision of law.

151

"(d) **SEPARATION TO BE CONSIDERED INVOLUNTARY.**—A separation under this section shall be considered to be an involuntary separation for purposes of any other provision of law.

"(e) **ENTITLEMENT TO HEALTH CARE.**—A member separated under this section shall be entitled to medical and dental care under chapter 55 of this title to the same extent and under the same conditions as a person who is entitled to such care under section 1074(b) of this title.

"(f) **COUNSELING ABOUT AVAILABLE MEDICAL CARE.**—A member to be separated under this section shall be provided information, in writing, before such separation of the available medical care (through the Department of Veterans Affairs and otherwise) to treat the member's condition. Such information shall include identification of specific medical locations near the member's home of record or point of discharge at which the member may seek necessary medical care.

"(g) **HIV-POSITIVE MEMBERS.**—A member shall be considered to be HIV-positive for purposes of this section if there is serologic evidence that the member is infected with the virus known as Human Immunodeficiency Virus-1 (HIV-1), the virus most commonly associated with the acquired immune deficiency syndrome (AIDS) in the United States. Such serologic evidence shall be considered to exist if there is a reactive result given by an enzyme-linked immunosorbent assay (ELISA) serologic test that is confirmed by a reactive and diagnostic immunoelectrophoresis test (Western blot) on two separate samples. Any such serologic test must be one that is approved by the Food and Drug Administration."

(2) The item relating to such section in the table of sections at the beginning of chapter 59 of such title is amended to read as follows:

"1177. Members infected with HIV-1 virus: mandatory discharge or retirement."

(b) **EFFECTIVE DATE.**—Section 1177 of title 10, United States Code, as amended by subsection (a), applies with respect to members of the Armed Forces determined to be HIV-positive before, on, or after the date of the enactment of this Act. In the case of a member of the Armed Forces determined to be HIV-positive before such date, the deadline for separation of the member under subsection (a) of such section, as so amended, shall be determined from the date of the enactment of this Act (rather than from the date of such determination).

SEC. 568. REVISION AND CODIFICATION OF MILITARY FAMILY ACT AND MILITARY CHILD CARE ACT.

(a) **IN GENERAL.**—(1) Subtitle A of title 10, United States Code, is amended by inserting after chapter 87 the following new chapter:

"CHAPTER 88—MILITARY FAMILY PROGRAMS AND MILITARY CHILD CARE

Subchapter	Sec.
I. Military Family Programs	1781
II. Military Child Care	1781

"SUBCHAPTER I—MILITARY FAMILY PROGRAMS

Sec.
"1781. Office of Family Policy.
"1782. Surveys of military families.
"1783. Family members serving on advisory committees.

H 14418

CONGRESSIONAL RECORD—HOUSE

December 13, 1995

SEC. 582. SEPARATION IN CASES INVOLVING EXTENDED CONFINEMENT.

(a) **SEPARATION.**—(1)(A) Chapter 59 of title 10, United States Code, is amended by inserting after section 1168 the following new section:

"§1167. Members under confinement by sentence of court-martial: separation after six months confinement

"Except as otherwise provided in regulations prescribed by the Secretary of Defense, a member sentenced by a court-martial to a period of confinement for more than six months may be separated from the member's armed force at any time after the sentence to confinement has become final under chapter 47 of this title and the person has served in confinement for a period of six months."

(B) The table of sections at the beginning of chapter 59 of such title is amended by inserting after the item relating to section 1166 the following new item:

"1167. Members under confinement by sentence of court-martial: separation after six months confinement."

(2)(A) Chapter 1221 of title 10, United States Code, is amended by adding at the end the following:

"§12687. Reserves under confinement by sentence of court-martial: separation after six months confinement

"Except as otherwise provided in regulations prescribed by the Secretary of Defense, a Reserve sentenced by a court-martial to a period of confinement for more than six months may be separated from that Reserve's armed force at any time after the sentence to confinement has become final under chapter 47 of this title and the Reserve has served in confinement for a period of six months."

(B) The table of sections at the beginning of chapter 1221 of such title is amended by inserting at the end thereof the following new item:

"12687. Reserves under confinement by sentence of court-martial: separation after six months confinement."

(b) **DROP FROM ROLLS.**—(1) Section 1161(b) of title 10, United States Code, is amended by striking out "or (3)" and inserting in lieu thereof "(2) who may be separated under section 1174 of this title by reason of a sentence to confinement adjudged by a court-martial, or (3)".

(2) Section 12684 of such title is amended—

(A) by striking out "or" at the end of paragraph (1);

(B) by redesignating paragraph (2) as paragraph (3); and

(C) by inserting after paragraph (1) the following new paragraph (2):

"(2) who may be separated under section 12687 of this title by reason of a sentence to confinement adjudged by a court-martial, or"

SEC. 584. LIMITATIONS ON REDUCTIONS IN MEDICAL PERSONNEL.

(a) **IN GENERAL.**—(1) Chapter 3 of title 10, United States Code, is amended by inserting after section 129b the following new section:

"§129c. Medical personnel: limitations on reductions

"(a) **LIMITATION ON REDUCTION.**—For any fiscal year, the Secretary of Defense may not make a reduction in the number of medical personnel of the Department of Defense described in subsection (b) unless the Secretary makes a certification for that fiscal year described in subsection (c).

"(b) **COVERED REDUCTIONS.**—Subsection (a) applies to a reduction in the number of medical personnel of the Department of Defense at the end of a fiscal year to a number that is less than—

"(1) 95 percent of the number of such personnel at the end of the immediately preceding fiscal year; or

"(2) 90 percent of the number of such personnel at the end of the third fiscal year preceding the fiscal year.

"(c) **CERTIFICATION.**—A certification referred to in subsection (a) with respect to reductions in medical personnel of the Department of Defense for any fiscal year is a certification by the Secretary of Defense to Congress that—

"(1) the number of medical personnel being reduced is excess to the current and projected needs of the Department of Defense; and

"(2) such reduction will not result in an increase in the cost of health care services provided under the Civilian Health and Medical Program of the Uniformed Services under chapter 55 of this title.

"(d) **POLICY FOR IMPLEMENTING REDUCTIONS.**—Whenever the Secretary of Defense directs that there be a reduction in the total number of military medical personnel of the Department of Defense, the Secretary shall require that the reduction be carried out so as to ensure that the reduction is not exclusively or disproportionately borne by any one of the armed forces and is not exclusively or disproportionately borne by either the active or the reserve components.

"(e) **DEFINITION.**—In this section, the term 'medical personnel' means—

"(1) the members of the armed forces covered by the term 'medical personnel' as defined in section 115a(p)(2) of this title; and

"(2) the civilian personnel of the Department of Defense assigned to military medical facilities."

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 129b the following new item:

"129c. Medical personnel: limitations on reductions."

(b) **SPECIAL TRANSITION RULE FOR FISCAL YEAR 1996.**—For purposes of applying subsection (b)(1) of section 129c of title 10, United States Code, as added by subsection (a), during fiscal year 1996, the number against which the percentage limitation of 95 percent is computed shall be the number of medical personnel of the Department of Defense as of the end of fiscal year 1994 (rather than the number as of the end of fiscal year 1995).

(c) **REPORT ON PLANNED REDUCTIONS.**—(1) Not later than March 1, 1996, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a plan for the reduction of the number of medical personnel of the Department of Defense over the five-year period beginning on October 1, 1996.

(2) The Secretary shall prepare the plan through the Assistant Secretary of Defense having responsibility for health affairs, who shall consult in the preparation of the plan with the Surgeon General of the Army, the Surgeon General of the Navy, and the Surgeon General of the Air Force.

(3) For purposes of this subsection, the term 'medical personnel of the Department of Defense' shall have the meaning given the term 'medical personnel' in section 129c(e) of title 10, United States Code, as added by subsection (a).

(d) **REPEAL OF SUPERSEDED PROVISIONS OF LAW.**—The following provisions of law are repealed:

(1) Section 711 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 115 note).

(2) Subsection (b) of section 718 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190; 10 U.S.C. 115 note).

(3) Section 418 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 10 U.S.C. 1200 note).

SEC. 585. SENSE OF CONGRESS CONCERNING PERSONNEL TEMPO RATES.

(a) **FINDINGS.**—Congress makes the following findings:

(1) Excessively high personnel tempo rates for members of the Armed Forces resulting from high-tempo unit operations degrades unit readiness and morale and eventually can be expected to adversely affect unit retention.

(2) The Armed Forces have begun to develop methods to measure and manage personnel tempo rates.

(3) The Armed Forces have attempted to reduce operations and personnel tempo for heavily tasked units by employing alternative capabilities and reducing tasking requirements.

(b) **SENSE OF CONGRESS.**—The Secretary of Defense should continue to enhance the knowledge within the Armed Forces of personnel tempo and to improve the techniques by which personnel tempo is defined and managed with a view toward establishing and achieving reasonable personnel tempo standards for all personnel, regardless of service, unit, or assignment.

SEC. 586. SEPARATION BENEFITS DURING FORCE REDUCTION FOR OFFICERS OF COMMISSIONED CORPS OF NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.

(a) **SEPARATION BENEFITS.**—Subsection (a) of section 7 of the Act of August 10, 1956 (23 U.S.C. 857a), is amended by adding at the end the following new paragraph:

"(15) Section 1174a, special separation benefits (except that benefits under subsection (b)(2)(B) of such section are subject to the availability of appropriations for such purpose and are provided at the discretion of the Secretary of Commerce)."

(b) **TECHNICAL CORRECTIONS.**—Such section is further amended—

(1) by striking out "Coast and Geodetic Survey" in subsections (a) and (b) and inserting in lieu thereof "commissioned officer corps of the National Oceanic and Atmospheric Administration"; and

(2) in subsection (a), by striking out "including changes in those rules made after the effective date of this Act" in the matter preceding paragraph (1) and inserting in lieu thereof "as those provisions are in effect from time to time".

(c) **TEMPORARY EARLY RETIREMENT AUTHORITY.**—Section 4603 (other than subsection (f)) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2702; 10 U.S.C. 1293 note) shall apply to the commissioned officer corps of the National Oceanic and Atmospheric Administration in the same manner and to the same extent as that section applies to the Department of Defense. The Secretary of Commerce shall implement the provisions of that section with respect to such commissioned officer corps and shall apply the provisions of that section to the provisions of the Coast and Geodetic Survey Commissioned Officers' Act of 1946 relating to the retirement of members of such commissioned officer corps.

(d) **EFFECTIVE DATE.**—This section shall apply only to members of the commissioned officer corps of the National Oceanic and Atmospheric Administration who are separated after September 30, 1995.

SEC. 587. DISCHARGE OF MEMBERS OF THE ARMED FORCES WHO HAVE THE HIV-1 VIRUS.

(a) **IN GENERAL.**—(1) Section 1177 of title 10, United States Code, is amended to read as follows:

"§1177. Members infected with HIV-1 virus: mandatory discharge or retirement

"(a) **MANDATORY SEPARATION.**—A member of the armed forces who is HIV-positive shall be separated. Such separation shall be made on a date determined by the Secretary concerned, which shall be as soon as practicable after the date on which the determination is made that the member is HIV-positive and not later than the last day of the sixth month beginning after such date.

"(b) **FORM OF SEPARATION.**—If a member to be separated under this section is eligible to retire

December 13, 1995

CONGRESSIONAL RECORD—HOUSE

H 14419

under any provision of law or to be transferred to the Fleet Reserve or Fleet Marine Corps Reserve, the member shall be so retired or so transferred. Otherwise, the member shall be discharged. The characterization of the service of the member shall be determined without regard to the determination that the member is HIV-positive.

"(c) DEFERRAL OF SEPARATION FOR MEMBERS IN 10-YEAR RETIREMENT SANCTUARY.—In the case of a member to be discharged under this section who on the date on which the member is to be discharged is within two years of qualifying for retirement under any provision of law, or of qualifying for transfer to the Fleet Reserve or Fleet Marine Corps Reserve under section 6330 of this title, the member may, as determined by the Secretary concerned, be retained on active duty until the member is qualified for retirement or transfer to the Fleet Reserve or Fleet Marine Corps Reserve, as the case may be, and then be so retired or transferred, unless the member is sooner retired or discharged under any other provision of law.

"(d) SEPARATION TO BE CONSIDERED INVOLUNTARY.—A separation under this section shall be considered to be an involuntary separation for purposes of any other provision of law.

"(e) ENTITLEMENT TO HEALTH CARE.—A member separated under this section shall be entitled to medical and dental care under chapter 55 of this title to the same extent and under the same conditions as a person who is entitled to such care under section 1074(b) of this title.

"(f) COUNSELING ABOUT AVAILABLE MEDICAL CARE.—A member to be separated under this section shall be provided information, in writing, before such separation of the available medical care (through the Department of Veterans Affairs and otherwise) to treat the member's condition. Such information shall include identification of specific medical locations near the member's home or record or point of discharge at which the member may seek necessary medical care.

"(g) HIV-POSITIVE MEMBERS.—A member shall be considered to be HIV-positive for purposes of this section if there is serologic evidence that the member is infected with the virus known as Human Immunodeficiency Virus-1 (HIV-1), the virus most commonly associated with the acquired immune deficiency syndrome (AIDS) in the United States. Such serologic evidence shall be considered to exist if there is a reactive result given by an enzyme-linked immunosorbent assay (ELISA) serologic test that is confirmed by a reactive and diagnostic immunoelectrophoresis test (Western blot) on two separate samples. Any such serologic test must be one that is approved by the Food and Drug Administration."

(2) The item relating to such section in the table of sections at the beginning of chapter 59 of such title is amended to read as follows:

"1177. Members infected with HIV-1 virus: mandatory discharge or retirement."

(b) EFFECTIVE DATE.—Section 1177 of title 10, United States Code, as amended by subsection (a), applies with respect to members of the Armed Forces determined to be HIV-positive before, on, or after the date of the enactment of this Act. In the case of a member of the Armed Forces determined to be HIV-positive before such date, the deadline for separation of the member under subsection (a) of such section, as so amended, shall be determined from the date of the enactment of this Act (rather than from the date of such determination).

SEC. 568. REVISION AND CODIFICATION OF MILITARY FAMILY ACT AND MILITARY CHILD CARE ACT.

(a) IN GENERAL.—(1) Subtitle A of title 10, United States Code, is amended by inserting after chapter 87 the following new chapter:

"CHAPTER 88—MILITARY FAMILY PROGRAMS AND MILITARY CHILD CARE

Subchapter	Sec.
"1. Military Family Programs	1781
"12. Military Child Care	1791

"SUBCHAPTER 1—MILITARY FAMILY PROGRAMS

Sec.
"1781. Office of Family Policy.
"1782. Surveys of military families.
"1783. Family members serving on advisory committees.
"1784. Employment opportunities for military spouses.
"1785. Youth sponsorship program.
"1786. Dependent student travel within the United States.
"1787. Reporting of child abuse.

"§1781. Office of Family Policy

"(a) ESTABLISHMENT.—There is in the Office of the Secretary of Defense an Office of Family Policy (hereinafter in this section referred to as the "Office"). The Office shall be under the Assistant Secretary of Defense for Force Management and Personnel.

"(b) DUTIES.—The Office—

"(1) shall coordinate programs and activities of the military departments to the extent that they relate to military families; and

"(2) shall make recommendations to the Secretaries of the military departments with respect to programs and policies regarding military families.

"(c) STAFF.—The Office shall have not less than five professional staff members.

"§1782. Surveys of military families

"(a) AUTHORITY.—The Secretary of Defense may conduct surveys of members of the armed forces on active duty or in an active status, members of the families of such members, and retired members of the armed forces to determine the effectiveness of Federal programs relating to military families and the need for new programs.

"(b) RESPONSES TO BE VOLUNTARY.—Responses to surveys conducted under this section shall be voluntary.

"(c). FEDERAL RECORDKEEPING REQUIREMENTS.—With respect to such surveys, family members of members of the armed forces and reserve and retired members of the armed forces shall be considered to be employees of the United States for purposes of section 3302(3)(A)(i) of title 5.

"§1783. Family members serving on advisory committees

"A committee within the Department of Defense which advises or assists the Department in the performance of any function which affects members of military families and which includes members of military families in its membership shall not be considered an advisory committee under section 3(2) of the Federal Advisory Committee Act (5 U.S.C. App.) solely because of such membership.

"§1784. Employment opportunities for military spouses

"(a) AUTHORITY.—The President shall order such measures as the President considers necessary to increase employment opportunities for spouses of members of the armed forces. Such measures may include—

"(1) excepting, pursuant to section 3302 of title 5, from the competitive service positions in the Department of Defense located outside of the United States to provide employment opportunities for qualified spouses of members of the armed forces in the same geographical area as the permanent duty station of the members; and

"(2) providing preference in hiring for positions in nonappropriated fund activities to qualified spouses of members of the armed forces stationed in the same geographical area as the nonappropriated fund activity for positions in wage grade VA-8 and below and equivalent positions and for positions paid at hourly rates.

"(b) REGULATIONS.—The Secretary of Defense shall prescribe regulations—

"(1) to implement such measures as the President orders under subsection (a);

"(2) to provide preference to qualified spouses of members of the armed forces in hiring for any civilian position in the Department of Defense if the spouse is among persons determined to be best qualified for the position and if the position is located in the same geographical area as the permanent duty station of the member;

"(3) to ensure that notice of any vacant position in the Department of Defense is provided in a manner reasonably designed to reach spouses of members of the armed forces whose permanent duty stations are in the same geographic area as the area in which the position is located; and

"(4) to ensure that the spouse of a member of the armed forces who applies for a vacant position in the Department of Defense shall, to the extent practicable, be considered for any such position located in the same geographic area as the permanent duty station of the member.

"(c) STATUS OF PREFERENCE ELIGIBLES.—Nothing in this section shall be construed to provide a spouse of a member of the armed forces with preference in hiring over an individual who is a preference eligible.

"§1785. Youth sponsorship program

"(a) REQUIREMENT.—The Secretary of Defense shall require that there be at each military installation a youth sponsorship program to facilitate the integration of dependent children of members of the armed forces into new surroundings when moving to that military installation as a result of a parent's permanent change of station.

"(b) DESCRIPTION OF PROGRAMS.—The program at each installation shall provide for involvement of dependent children of members presently stationed at the military installation and shall be directed primarily toward children in their preteen and teenage years.

"§1786. Dependent student travel within the United States

"Funds available to the Department of Defense for the travel and transportation of dependent students of members of the armed forces stationed overseas may be obligated for transportation allowances for travel within or between the contiguous States.

"§1787. Reporting of child abuse

"(a) IN GENERAL.—The Secretary of Defense shall request each State to provide for the reporting to the Secretary of any report the State receives of known or suspected instances of child abuse and neglect in which the person having care of the child is a member of the armed forces (or the spouse of the member).

"(b) DEFINITION.—In this section, the term "child abuse and neglect" has the meaning provided in section 3(1) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5102).

"SUBCHAPTER 12—MILITARY CHILD CARE

"Sec.

"1791. Funding for military child care.

"1792. Child care employees.

"1793. Parent fees.

"1794. Child abuse prevention and safety at facilities.

"1795. Parent partnerships with child development centers.

"1796. Subsidies for family home day care.

"1797. Early childhood education program.

"1798. Definitions.

"§1791. Funding for military child care

"It is the policy of Congress that the amount of appropriated funds available during a fiscal year for operating expenses for military child development centers and programs shall be not less than the amount of child care fee receipts that are estimated to be received by the Department of Defense during that fiscal year.