

FOIA MARKER

**This is not a textual record. This is used as an
administrative marker by the William J. Clinton
Presidential Library Staff.**

Collection/Record Group: Clinton Presidential Records

Subgroup/Office of Origin: Domestic Policy Council

Series/Staff Member: Diana Fortuna

Subseries:

OA/ID Number: 12028

FolderID:

Folder Title:

IDEA [Individuals with Disabilities Education Act] Meeting 3/27

Stack:

S

Row:

97

Section:

3

Shelf:

1

Position:

1

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
--------------------------	---------------	------	-------------

001. list	Monday meeting; RE: Personally Identifiable Information [partial] (1 page)	03/27/1995	b(6)
-----------	--	------------	------

COLLECTION:

Clinton Presidential Records
Domestic Policy Council
Diana Fortuna
OA/Box Number: 12028

FOLDER TITLE:

IDEA [Individuals with Disabilities Education Act] Meeting 3/27

2007-0143-F

db4502

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

3/27

619: OMB → to get rid of B-5 set-aside

educ wants 619 sep line-item

will re-emerge in re-authoring

no gain - just loss

some want to fold into head start

- this is different

- want access to head start

TIMING:

Want bill to OMB in April

to Congress in May

Pat Morrissey → 5/2 or 5/9

Get Memos from Theelle (Pat M)

Kentucky: Preston Lewis
- summary for CHRE
- Julie (KY) - Schools

IDEA
Rehab - consolidate

wee - hearings on local side to state oppos to

rehab being blockgranted in

Joint briefing to educ - panel to show IDEA value - educ

- not tear apart →

→ parents have been very active - Justin Dart
Harkin: Silverstein

→ case / stories / anecdotal info

(Pat - from action B-4 Thompson)

(Frist, Judy H. CHR) - mtg

Sally Lovejoy VIE

PA - Greenwood - parent

CONTROVERSIAL ISSUES: - inappropriateness of using special to remove children - esp for minority children

discipline → options → call Bobbie S.

- where does child want to be?

- Sm group → intervention? training

- Consolida of discretionary programs

- has been less control than thought

ROLL OUT:

we don't know what we'll do - bill - hearing over

roll out there is help (not

(memo to Riley from Mike Smith)

pre-met
July on
wed?



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

White House Office of Domestic Policy
IDEA Reauthorization
Meeting Agenda

I. Update on IDEA activities

- A. Timing of the bill**
- B. Controversial issues**
- C. Roll-out strategies**



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE UNDER SECRETARY

600 Independence Avenue, SW
FOB-10, Rm 5164
Washington, DC 20202-8100

Telephone Number: (202) 401-3389

Fax Number: (202) 401-3095

FAX COVER SHEET

TO: Elizabeth CohenFAX: 456-7028FROM: J. W. H. T. H.NUMBER OF PAGES TO FOLLOW, INCLUDING COVER SHEET: 7

IF YOU DID NOT RECEIVE THE COMPLETE TRANSMISSION, PLEASE CALL
(202) 401-3389.

MESSAGE:

For 3¹⁵ meeting

IDEA Reauthorization: Discipline of Children with Disabilities

Background

School safety is a significant public concern. Increasingly, educators and others are concerned about the effect of Federal procedural safeguards for children with disabilities on the ability of schools to maintain a safe and orderly environment, and that the IDEA requirements can result in inconsistent treatment of disabled and non-disabled students for the same acts of misconduct.

At the same time, the limitations on discipline in the IDEA are based on a recognition that historically students with disabilities, particularly those with behavioral components, have been improperly excluded from school or provided an inappropriate education. Students with disabilities such as autism, Tourette's syndrome or cerebral palsy may be perceived by teachers as threatening even if they objectively do not pose a risk to themselves or other students. The protections against discipline of students with disabilities are critical to parents of students with disabilities.

Moreover, there is a fair amount of confusion about the current law governing discipline of students with disabilities and the circumstances under which discipline -- including suspension or expulsion -- is permissible. We are issuing guidance on discipline which will help clarify much of the current confusion.

Finally, we believe that some of the concerns about this issue are best addressed through increased attention to teacher training, behavior management strategies, increased parental involvement -- particularly for low-income families -- and other methods of preventing problems before they arise.

An attached addendum includes information on current IDEA requirements, the amendments made to IDEA during the ESEA reauthorization and available data on discipline and children with disabilities.

Position of Key Members

Secretary Riley and Judy Heumann met recently with Senators Harkin and Kennedy to discuss the reauthorization. Both Senators stated that it is critical to protect the basic civil rights protections of the IDEA. They also stressed that we not include any compromise on discipline issues in our bill, but rather reach reasonable compromises after negotiations with Congress and representatives of the education and disability communities. They fear that if our bill contains compromise positions, the end result will go further than we propose.

Reauthorization Issues

There are two critical issues related to discipline that will arise during reauthorization: (1) the "stay put" requirement; and (2) the continuation of services requirement. In addition, we will

briefly mention another issue -- attorney's fees -- which while not related to discipline is also likely to be hotly discussed during reauthorization.

A. Stay-Put Requirement

We believe that an appropriate resolution -- one that would be both sound policy and politically viable -- would be the permanent adoption of the Jeffords amendment (which allows an alternative placement for 45 days when a child brings a weapon to school), coupled with a change in the law to permit an impartial hearing officer to grant injunctive relief for a change in placement (pending the outcome of any other proceedings) when a school district can make the case that a child poses a substantial risk to others.

This would allow districts to place students who bring a firearm to school in alternative settings for 45 days. And, for students who bring other weapons or otherwise pose a substantial risk to others, the district may seek a decision from a hearing officer that an alternative placement is permissible. Currently, schools must seek relief from a court if they have been unable to persuade the child's parents to agree to a change in placement.

While we believe that this is an appropriate resolution, we have a number of questions about how to reach it. Options include:

- (1) Put nothing on discipline in the Administration's bill but publicly announce that we believe it is important to reach agreement on the important issues of safety and discipline through a consensus process. We would then convene key representatives of the education and disability communities and Hill staff and attempt to work towards this compromise; or
- (2) Put a permanent extension of the Jeffords amendment in our proposal and then quietly work with representatives of the education and disability communities and Hill staff to reach consensus on how to treat children who pose a danger but do not bring firearms to school.

B. Continuation of Services

The Department has interpreted the "free appropriate public education" requirement of IDEA to require local agencies to continue to provide educational services to students with disabilities who have been suspended on a long-term basis or expelled from school for behavior that is not a manifestation of their disability. This had been the Department's long-standing policy, first articulated in the Reagan Administration. In practice, this means that while a school district may suspend or expel a student who is served under IDEA, it must continue to provide educational services through home tutoring or other methods. The Department is currently litigating this issue with the State of Virginia. In addition, several other states, including North Carolina, have recently objected to our position. (Note that the Department's Office of

Civil Rights has taken the position, under Section 504, that educational services may cease for students whose misconduct is not a manifestation of their disability during periods of long-term suspension or expulsion.)

It is likely that amendments will be proposed by Members from Virginia or North Carolina during the reauthorization to eliminate the continuation of services requirement.

Questions that should be considered include:

- (1) Should the Administration propose to change the continuation of services requirement in its bill.
- (2) If the Administration makes no proposal but amendments on the issue are proposed, how should we respond?
- (3) What is the risk that defending the current rule will undermine the Administration's credibility with the education community and the general public and, perhaps, lead to more restrictive legislation.
- (4) Given the importance of the current rule to many in the disability community, what is the risk that not defending the current rule will undermine the Administration's credibility with that important constituency.
- (5) How do we ensure that the determination of whether the misconduct is a manifestation of the disability is made in a way that adequately protects children and their families.

C. Attorney's Fees

Current law provides for attorney's fees to parents in due process and court proceedings under the IDEA. Since the attorney's fees provisions were enacted several years ago, school districts have strenuously complained about the costs the requirement is imposing on them. However, advocates believe this provision is essential to level the playing field, since most school districts consult attorneys, and may even have them on staff or on retainer.

Prior to the November election, the Republicans put forward a set of amendments to IDEA to be considered for reauthorization. Included was an amendment to the attorney fees provision which would have permitted courts to reduce attorney fees paid to parents if the parents had not made a good faith effort to resolve the dispute with the school district. (Current law already permits a court to reduce attorneys fees if the parent unnecessarily protracted the proceedings.)

We have considered this proposal and others concerning limitations of attorney's fees. We have concerns about these proposals for two primary reasons: (1) they may have the effect of

limiting access of low-income parents to due process; and (2) since IDEA is considered a civil rights law and its attorney's fees provisions are similar to those of other civil rights law, any changes to the attorney's fees provisions in IDEA could be seen as a first step in diminishing entitlement to fees in other civil rights areas.

However, we also recognize that if we make no proposals on attorney's fees, it is fairly likely that some restrictions will be enacted. Thus, we are considering an alternative proposal that would, we believe, be a reasonable political compromise and also encourage "family-friendly" dispute resolution and ensure access of low-income families to the dispute resolution process.

As you know, we already intend to propose that every state be required to put in place a system for mediation in which parents would always be given the choice to mediate disputes under IDEA (parents would, at any time, have the option to have a due process hearing instead).

In order to make mediation most effective, and, at the same time, address the attorney's fee issue, we could propose that no attorneys and attorney's fees be permitted in mediation. Neither parents nor school districts would be permitted to consult with attorneys during the mediation process. (Alternatively, States could have the option of whether to permit attorneys and attorney's fees.) This would allow a low-cost, "de-lawyered" method for parents and school districts to resolve disputes, without tampering with the law's current attorney's fees provisions.

ADDENDUM

Current IDEA Requirements

The Supreme Court has interpreted IDEA to prohibit schools from unilaterally removing a student with a disability from school for more than 10 school days for misconduct. If a school wants to remove a dangerous student for more than 10 school days, the school must first convene a group of persons knowledgeable about the student to determine whether the misconduct was related to the student's disability. If the group determines that the conduct was not related, the school may institute normal disciplinary measures (e.g., suspension or expulsion) unless the parents decide to challenge the determination and request a due process hearing. In that case, the student must "stay put" in the current placement until due process is concluded.

Similarly, the "stay put" requirement restricts the ability of the school to change the placement of a student whose misconduct has been determined to be a manifestation of the disability if the student's parents disagree with the change in placement and initiate a due process hearing. If school officials believe that a student is so dangerous that permitting him to remain in his current placement would endanger the student or others, and have been unable to persuade the parents to agree to a change in placement, they may go to court for relief.

In addition, the Department has interpreted IDEA to require local agencies to continue to provide educational services to students with disabilities who have been suspended on a long-term basis or expelled from school for behavior that is not a manifestation of their disability.

Recent Congressional Action

During the reauthorization of the Elementary and Secondary Education Act, Congress considered two amendments to IDEA to modify the "stay put" requirement. Senator Gorton (R-WA) offered an amendment that would give the LEA the authority to place a child who has brought a weapon to school or demonstrated "life threatening" behavior in an alternative educational setting for up to 90 days. This amendment was supported by 60 Senators and some education groups (e.g., AFT, School Boards Association, National Association of Elementary and Secondary School Principals, American Association of School Administrators).

Subsequent to the passage of this amendment, Senator Jeffords offered an alternative amendment, which was endorsed by Senators Kennedy and Harkin and adopted by the Senate, which authorized the LEA to place a child who has brought a weapon to school in an alternative educational setting for 90 days during the pendency of proceedings to change the IEP or placement of the child. The Jeffords amendment was supported by the Chiefs, the national PTA, the National Association of State Directors of Special Education, and the State Boards of Education, as well as the major disability advocacy organizations (e.g., the Council for Exceptional Children and the Consortium for Citizens with Disabilities.)

The conferees agreed to modified version of the Jeffords amendment which amended IDEA to permit LEAs to place a child who has brought a weapon to school in an alternative educational setting for 45 days. (The Department is interpreting the amendment to mean that the alternative placement is permissible for 45 days or until resolution of a due process proceeding, whichever ever is later.) "Weapon" is defined as a "firearm" consistent with the definition in the Gun-Free Schools Act and would not include, for example, rifles that the owner intends to be used for sporting, recreational, or cultural purposes. The Jeffords amendment expires with the enactment of legislation reauthorizing IDEA.

Available Data

The Department has contracted with Research Triangle Institute to ascertain the availability of data on the incidence of misconduct among students with disabilities and the suspension and expulsion of such students. To date the contractor has contacted 25 States and a number of LEAs. While the study is on-going, preliminary data shows that although most States appear to have some data on the number of suspensions and expulsions, most of the States do not have data on the extent to which children with disabilities were disciplined or incidents of misconduct.

In those States that do collect data on children with disabilities, the data may reveal the extent to which children with disabilities are disciplined, but provides little insight into the extent to which children with disabilities engaged in misconduct for which they may or may not have been disciplined. For example, Ohio data indicates that 83 students with disabilities were expelled for violence or weapons-related misconduct in school year 1992-93--about 9 percent of the total number expelled. The data does not indicate the number of students with disabilities who engaged in the same behavior but who were not expelled because of a determination that the behavior was a manifestation of their disability.

Data from 480 schools in Kansas on the incidence of violence reveals the importance of looking beyond the data on disciplinary actions. In school year 1992-93 special education students accounted for 5 percent of the suspensions and 12 percent of the expulsions in Kansas, but for 20 percent of the violence against other students.

To: Secretary Riley
Deputy Secretary Kunin

From: Mike Smith
Judy Heumann

Date: March 25, 1995

Re: IDEA Reauthorization: IEP

In many ways, the IEP is the centerpiece of the IDEA. It serves two main functions: (1) as an instructional tool developed by parents and teachers that lays out expectations for the child and the instructional services the child; and (2) as a "contract" that articulates the school district's legally actionable obligations to provide services. The IEP is also, at the school and classroom level, the biggest source of paperwork in a program that is often criticized for excessive paperwork.

In developing proposals for improving the IEP, we have grappled with three critical questions: (1) how can the IEP be made more relevant to teaching and learning; (2) to what extent can the IEP process promote better compliance with the IDEA; and (3) how can unnecessary paperwork burdens be reduced. *(4) How can help to remove the intense stigma*

Attached is our proposal for revisions of the IEP requirements, as well as a copy of the current IDEA requirements for your comparison.

The proposal differs from current law in the following ways:

It eliminates:

- o The requirement that the IEP contain short-term objectives for every instructional goal in the IEP.

It adds:

- o A focus on access to the general curriculum and high standards.
New requirements include: (1) a statement in the IEP of the student's achievement in relation to the general curriculum; and (2) a statement in the IEP of whether the student will be included in the state or district assessments, and if not, why not and how the student will be assessed.
- o A focus on inclusion in the regular education environment and ensuring necessary aids and supports for successful inclusion.
New requirements include: (1) a statement of what accommodations and services are necessary for participation in extra-curricular and non-academic activities (current law refers only to classroom activities); (2) a statement of what supports will be provided to the child's teacher; and (3) a justification for any removal of the child from the

regular education environment, including extra-curricular or non-academic activities (current law prohibits removal unless it is appropriate -- but does not require an individualized, written justification for removal).

- o A focus on regular reporting to parents on progress toward meaningful annual objectives replacing behaviorist short-term objectives in the IEP.
New requirement is: regular reporting to the parents on the student's progress toward the annual objectives and the extent to which that progress is sufficient to enable the child to achieve the objectives, at least as often as to parents of non-disabled children, by means such as report cards. This requirement, to some extent, replaces short-term objectives.
- o A focus on working with regular education teachers.
New requirement is: at least one regular education teacher must participate in the IEP meeting if the student is or may be participating in the regular education environment, and, whenever appropriate, such child.
- o A focus on needs of LEP students.
New requirement is: when the student is limited english proficient, the IEP team must consider the language needs of the child.
- o A focus on earlier transition planning.
New requirement is: transition planning begins at age 14 (rather than the current requirement that it begin at age 16).

CRITICAL QUESTIONS

1. To what extent should we add new requirements to the IEP?
2. Should new requirements be added only to the extent that they:
 - (a) are counterbalanced by reductions in other IEP burdens;
 - (b) they reflect preexisting legal requirements (e.g., the justification for removal);
 - (c) they are critical to our overall goals for reauthorization (e.g., inclusion in state assessment)?
3. We are proposing that there be regular progress reports to parents on their child's progress toward the annual objectives rather than documentation in the IEP of short-term objectives or benchmarks of progress which state where the child is expected to be at a given point in the school year. This will be the most politically volatile aspect of our proposal and one that merits your particular consideration.

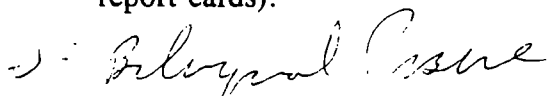
PROPOSED REVISIONS TO IEP 3/24/95

The term "individualized education program" means a written statement for each child with a disability developed in any meeting by a representative of the local educational agency or an intermediate educational unit who shall be qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of students with disabilities and is knowledgeable about the general curriculum, the teacher--including at least one regular education teacher if the student is or may be participating in the regular education environment, and, whenever appropriate, such child. In developing the written statement, the team shall consider the student's strengths and the parents' concerns for enhancing their child's education. In the case of limited English proficient students, the team shall also consider the language needs of the student. The statement shall include--

- A. a statement of the present levels of educational performance of the student, including the student's performance in relation to the general curriculum,
- B. a statement of measurable annual objectives, to the extent that they differ from those in the age appropriate curriculum;
- C. a statement of the special education and related services and supplementary aids and services to be provided to such student (including supports to the student's teacher), and any program modifications necessary to attain the annual objectives or participation in the general curriculum and in extra-curricular and other non-academic activities;
- D. a statement of the extent to which the student will participate in state and district-wide assessments and any modifications of the administration and/or design of the assessment necessary to enable such participation; if the team determines that the student will not participate in any given state or district-wide assessment, a statement of why that assessment is not appropriate for the student and how the student will be assessed;
- E. the projected date for initiation and anticipated frequency and duration of services and modifications described in paragraph (C),
- F. a plan for the student's transition from secondary school beginning at age 14 (or younger, if determined appropriate by the team) and annually thereafter that addresses the student's educational program with respect to the child's progress in the general curriculum, considers courses of study (e.g., participation in advanced placement courses or a vocational education or school to work program) including, when appropriate, a statement of the interagency responsibilities or linkages (or both) before the student leaves the school setting, and, beginning at age 16 (or younger, if determined appropriate by the team), a statement of needed transition services. In the case where a participating agency, other than the educational agency fails to provide agreed upon services, the educational agency shall reconvene the IEP team to identify

alternative strategies to meet the transition objectives;

- G. the extent, if any, the student will be removed from the regular education environment, and a description of the reasons why the student's education cannot be satisfactorily achieved in the regular education environment with supplementary aids and services, teacher training and program modifications; and
- H. a statement of how the parents will be regularly informed of their child's progress toward the measurable annual objectives and the extent to which that progress is sufficient to enable the child to achieve the objectives by the end of the year, at least as often as in regular education (by such means as periodic report cards).


Additional requirements:

The LEA must assure that the IEP shall be reviewed on at least an annual basis to determine whether the annual objectives are being achieved and, if appropriate, revise the IEP to address lack of expected progress.

New Definition:

"Regular education environment" is defined to include extracurricular and nonacademic activities.

DRAFT - NOT OMB APPROVED

HOUSE SUBCOMMITTEE ON POSTSEC ED & LIFE-LONG LEARN

Mr. Chairman and Members of the Committee:

I am Fredric Schroeder, Commissioner of the Rehabilitation Services Administration (RSA) in the Department of Education. I am pleased to be here this morning and to share with you information about the successes of the public vocational rehabilitation (VR) program and the people it serves. I also bring the perspective of a former customer of the program as well as a former state VR agency director.

Vocational Rehabilitation is a 2.3 billion dollar state grants program authorized under Title I of the Rehabilitation Act of 1973 (the Act), as amended. Since its creation 75 years ago, the VR program has been continuously reauthorized and expanded with bipartisan support. Under the program, nine million individuals with disabilities, from all walks of life, have been assisted in acquiring gainful employment and each year, approximately 200,000 people with disabilities achieve an employment outcome.

We are here today to convey our belief that we need to continue with vocational rehabilitation as a separate identifiable employment program for people with

disabilities. We do not believe it can effectively be consolidated with other job training programs because of the specialized needs of our customers.

It is important to recognize that VR is more than job training. Employment training is only one of a broad range of services provided by the program. Many individuals served by the VR program need specialized services before they can benefit from employment training. The program provides evaluation, counseling, guidance, physical and mental restoration, mobility training, assistive technology and other services to prepare and place people with disabilities into jobs. These VR services are primarily purchased through local service providers such as community-based rehabilitation programs, hospitals, physicians, as well as colleges, technical schools, and other job training providers. Relationships with these service providers are well-established and based upon the program's expertise regarding their success in working with individuals with various disabilities. The program works closely with the individual to tailor these services to the individual's unique strengths, resources, priorities, concerns, and capabilities. Staff working with the clients have the expertise not only to evaluate the individual's specific training needs but to assess other factors related to the individuals's disability that might affect job readiness or success in obtaining employment.

In my own experience, when I became totally blind at the age of sixteen I was entirely without hope. I had no conception of what a blind person might do with his or her life and assumed the future held for me a life of dependency and isolation. I needed much more than employment training. I needed help in reshaping my own conception of blindness, coupled with training in skills such as Braille and cane travel that would allow me to live independently. Only then could I start the process of identifying my career interests and begin pursuing the training necessary for eventual employment. Adjustment counseling, training in the adaptive skills of blindness, vocational training, information about adaptive technology and assistance in job placement were all part of the services I required and the assistance I received.

Over the years, Congress has sharpened the focus of the VR program, increasingly shifting it from working with people with mild or moderate disabilities to working with an increased number of people with more severe disabilities -- people who were not and could not be served by other programs -- people with serious, multiple and specialized service needs. Over time, we have learned much about how to work effectively with people with serious disabilities. For example, prior to 1943, the VR program presumed that a blind person had no rehabilitation potential. Today, we routinely place blind people as teachers, lawyers, computer programmers, customer

service representatives, machinists and in a whole host of occupations previously assumed to be unattainable for a person with a severe disability.

A single consolidated program has a number of potential hazards, not the least of which is the serious concern that a consolidated program would simply be ill-equipped to work effectively with people with severe disabilities. We are concerned that a consolidated job training program will not be able to offer the specialized services people with disabilities need to secure and retain employment. Without access to comprehensive services, their reliance on public assistance may increase dramatically, including, in some cases, institutionalization, at considerable public expense.

Another serious concern is that a consolidated employment training program would likely base eligibility on an individual's need for employment. An important aspect of the vocational rehabilitation program is the provision of rehabilitative services that allows individuals to continue working while receiving specialized training, rehabilitation engineering or adaptive technology assistance. Many individuals with severe disabilities experience significant change in their ability to function over time. We would be deeply troubled if these individuals would have to first lose their jobs as a condition to becoming eligible for services under a consolidated program.

We believe that the objective of greater flexibility, coordination and efficiency through consolidation of various programs is not incompatible with the idea of maintaining VR as a separate identifiable program. Currently, Governors have latitude in the organizational placement of the VR program within State government. Additionally, the Act contains the flexibility to allow VR agencies to participate in various types of one-stop shopping configurations within their states.

Over the past several months, we have engaged in a number of meetings with VR agency directors whose agencies are participating in state one-stop shopping programs. In every case, coordination with the state's overall employment training system has provided real benefit to the VR program. Nevertheless, agencies participating in one-stop shopping programs expressed the importance of the VR system remaining separate in order to preserve the availability of comprehensive, specialized services for people with disabilities, particularly those with severe disabilities.

We believe that it is important that other employment programs within a state make provisions for serving people with disabilities who may not require the comprehensive services of the vocational rehabilitation program, particularly those with less severe disabilities. Clearly, people with disabilities must have equal access

to programs and services available to others. However, historically this has not been the case.

Another driving force for consolidation of programs is the hope of achieving a simplified system and enhancing the customer's role in planning and selecting employment training services. We believe both of these objectives are currently met under a specialized program of vocational rehabilitation. The 1992 amendments to the Rehabilitation Act include provisions to increase our customers' participation in the rehabilitation process. These new provisions (referred to as the choice provisions) reinforce the principle of the client as customer.

We believe this provision is an important expression of the belief that rehabilitation is not simply a hand-out to be passively received but a program that promotes self-help and independence.

We believe that Federal employment programs must be able to demonstrate their effectiveness. In order to improve the effectiveness of our program, we are developing uncomplicated accountability measures for the VR program that look at indicators such as numbers of customers served, employment outcomes, job retention and customer satisfaction. In this way we hope to go beyond the collection of gross measures of program performance and focus on what we regard as qualitative

measures of program success.

In closing, let me again state that the Rehabilitation Services Administration strongly believes that people with disabilities significantly benefit from a distinct program of vocational rehabilitation. We are deeply concerned that combining rehabilitation with other job training programs will return us to a condition wherein individuals with disabilities and, particularly individuals with severe disabilities, will have little opportunity to obtain the services needed to become taxpaying, contributing members of their communities. The comprehensive nature of the vocational rehabilitation program distinguishes it from other job training programs. At the same time, the Act allows and, in fact, encourages the VR program to work collaboratively with other employment services.

As Commissioner of the Rehabilitation Services Administration, I wish you to know that I am personally and deeply committed to working actively toward promoting expanded employment opportunities for people with disabilities. It is our hope that we can continue to build on the success of the past 75 years and apply our research, experience, and imagination to the important job of helping people with disabilities to reach their fullest potential.

I thank you for allowing me the opportunity to present my views. This concludes my remarks. I would be happy to answer questions.

SENATOR JAMES H. HARTMAN
SENATOR JAMES H. HARTMAN
SENATOR JAMES H. HARTMAN
SENATOR JAMES H. HARTMAN
SENATOR JAMES H. HARTMAN
SENATOR JAMES H. HARTMAN
SENATOR JAMES H. HARTMAN
SENATOR JAMES H. HARTMAN
SENATOR JAMES H. HARTMAN
SENATOR JAMES H. HARTMAN

SENATOR JAMES H. HARTMAN
SENATOR JAMES H. HARTMAN
SENATOR JAMES H. HARTMAN
SENATOR JAMES H. HARTMAN
SENATOR JAMES H. HARTMAN
SENATOR JAMES H. HARTMAN
SENATOR JAMES H. HARTMAN
SENATOR JAMES H. HARTMAN
SENATOR JAMES H. HARTMAN
SENATOR JAMES H. HARTMAN

SUSAN K. HATTAN, STAFF DIRECTOR
WICK LITTLEFIELD, MINORITY STAFF DIRECTOR AND CHIEF COUNSEL

United States Senate

COMMITTEE ON LABOR AND
HUMAN RESOURCES

WASHINGTON, DC 20510-6300

Time Table and Agenda for the Subcommittee on Disability Policy Bill Frist, Chairman

February 24, 1995

Time Table

1. **Job training.** March-April, 1995. Assist in crafting the provisions related to vocational rehabilitation in Senator Kassebaum's Job Training Consolidation Act.
2. **IDEA, simple extension.** March, 1995. Introduce a simple one-year extension of IDEA, Parts C through H, so they do not expire on October 1, 1995.
3. **IDEA, informational hearings.** May, 1995. Hold two-days of informational hearings on the education of students with disabilities [see details below].
4. **IDEA, staff-level briefings.** June, 1995. Hold four days of briefings by interest groups, experts, and federal officials on issues that should be addressed in a reauthorization.
5. **Americans with Disabilities Act.** July 26, 1995. Hold a hearing on the positive effects of the ADA on individuals with disabilities, their families, and communities.
6. **IDEA, reauthorization bill.** Fall, 1995. Introduce a reauthorization bill.
7. **IDEA, reauthorization hearings.** Fall, 1995. Two days of hearings on the reauthorization bill.
8. **IDEA, markup.** Fall, 1995. At this point, with several new Members, we anticipate both Subcommittee and Full Committee markups.
9. **IDEA, floor action.** By Thanksgiving, 1995.

Background on Individuals with Disabilities Education Act (IDEA)
Part B of IDEA authorizes funding for State Education Agencies (SEAs) to assist states to educate children and youth (3 through

21) [\$2.683 billion in FY 95. Another \$315.6 million was appropriated for serving infants and toddlers with disabilities (Part H of the Act)]. The federal government provides approximately 8 percent of the funding for the state special education program for students with disabilities between 3 and 21 years of age and states and local communities provide the remainder of the funds.

There are also 14 discretionary programs (Parts C through G of the Act), totally about \$250 million in FY 95, that are funded through the Act, over which the Department of Education maintains direct control. These programs fund personnel training, research, demonstration projects, special categorical programs (e.g., for students who are deaf-blind, severely disabled, or seriously emotionally disturbed), parent training programs, early childhood programs among other programs. Part I of the Act, enacted last year (Senator Harkin's Support for Families of Children with Disabilities Act) has received no funding.

Part B of the Act, the state grant program, is permanently authorized. It is considered a civil rights law. Parts C through H of the Act expire on October 1, 1995. Part I expires on October 1, 1997. In order to receive an appropriation for FY 96, any program due to expire on October 1, 1995, must have been reported out of the Committee by May 15, 1995.

How Part B Operates. Eighty percent of a state's special education federal grant is dispersed to local education agencies (LEAs). The amount a state receives is based on the number of children, up to 12 percent of the school population, who have one of 13 disabilities and have individualized education programs (IEPs). The amount an LEA receives is calculated on the same basis. As long as a state and its LEAs provide a free appropriate public education to all eligible children with disabilities, according to conditions specified in Part B of IDEA and its implementing regulations, they may spend the federal dollars any way they choose for these children.

Plans Related to IDEA

- Proceed with a simple one-year extension of parts C through H of IDEA immediately to take the time pressure off the Subcommittee (This is acceptable to Senator Kassebaum's staff and the interest groups.).
- Because several Members of the Subcommittee are new to the area of disability policy, hold a series of informational hearings (two or three days) on how students with disabilities are being educated.
- Hold three or four staff-level briefings on specific reauthorization issues.

Proposed topics

Informational hearings. First two weeks in May hold Subcommittee information hearings on the following themes and questions:

1. **Promoting learning.** What helps children with disabilities learn? This panel would look at instruction, learning styles, teacher qualifications, setting, supports (e.g., assistive technology, aides), and other factors.
2. **Measuring progress.** How should the educational progress of students with disabilities be measured and should the approach change as students mature? This panel would look at the limits of test scores as indicators of progress, the participation of students with disabilities in statewide assessment programs, and how to focus assessment on credible outcome measures that are appropriate for a student's age and disability.
3. **Helping teachers.** What does a teacher need to be effective when working with students with disabilities? This panel would comment on the needs of both special and general education personnel involved with the education of children with disabilities.
4. **Characteristics and consequences of effective service delivery.** What are the components of early intervention and early childhood programs that enhance a child's overall development and the family's ability to support that development in preparation for school? What transition strategies for students with disabilities in high school increase the potential for successful outcomes in work and community integration?
5. **Family-responsive schools.** What are the characteristics of school systems that are maximumly responsive to students with disabilities and their families?
6. **Funding.** What approaches to funding special education appear to have demonstrable benefits for students with disabilities?

A separate witness panel would address each question. On each panel, we would seek a parent of a child with a disability or a person with a disability, a direct service professional, an administrator, and a national-picture expert. We would select witnesses who together would provide a snap shot, from multiple perspectives, about special education services for students with disabilities of the full age range, with varied disabilities, and from diverse geographic, socioeconomic, ethnic, and cultural backgrounds. Emphasis on each panel will be given to what works and how to market it.

Staff-level briefings. The staff level briefings would occur in June. Various federal officials, national experts, representatives from disability and educational organizations would be asked to advise on these questions and issues related to reauthorization of IDEA:

1. **IDEA review.** What was the need for legislation; what is the legislative history, relevant research on benefits and outcomes; what is the overall vision of the law for children with disabilities and their families?
2. **Funding formula.** What would be the effects of changing the Part B funding formula to states?
3. **Eligibility criteria.** What would be the effects of changing eligibility criteria for special education services?
4. **Discipline.** If and how discipline policy regarding students with disabilities should be addressed in federal law.
5. **Program consolidation.** If and how the 14 discretionary programs should be consolidated.
6. **Administrative requirements.** How can administrative requirements be clarified and simplified (e.g., in local and state applications for funds)?
7. **Mediation.** The effects of mandating that school systems offer mediation to parents as the first step in resolving disputes.
8. **Pooling funds.** The effects of allowing school districts to pool federal special education dollars with other educational funds when serving students with disabilities.
9. **Personnel training funds.** How to determine the personnel training priorities that federal dollars should support.
10. **Services for minorities.** What outreach strategies work and can they be replicated to better meet the needs of students with disabilities and their families from minority backgrounds?
11. **Negotiated rule making.** How can rule making by the Executive Branch be made to be more responsive to entities affected by such rules.
12. **Placement vs. services.** How might school districts be encouraged to allow service needs rather than placement options affect how children with disabilities are served?

13. **School reform and model schools.** What are examples of and trends in reform? Are there evaluations of these reforms? What do they indicate?

What can be done to increase the opportunities for students with disabilities to participate in school reform initiatives and school-to-work programs?

What model school district level programs are available that demonstrate exemplary practices in the education of children with disabilities? What policy implications do these models suggest that would encourage their broader implementation?

14. **Medicaid as a funding source for related services.** Under what conditions are Medicaid dollars being used to pay for related services and other supports.
15. **Part H (the infants and toddlers program) and Preschool Program.** How are they working?
16. **Best practices connected to serving low and high incidence populations.** What are the support, professional development, and technical assistance needs for providing effective services for students with low incidence disabilities? What regular and special education strategies, inservice and preservice approaches, and policy guidelines have been effective in addressing the needs of students with high incidence disabilities?

IDEA Reauthorization: Discipline of Children with Disabilities

Background

School safety is a significant public concern. Increasingly, educators and others are concerned about the effect of Federal procedural safeguards for children with disabilities on the ability of schools to maintain a safe and orderly environment, and that the IDEA requirements can result in inconsistent treatment of disabled and non-disabled students for the same acts of misconduct.

At the same time, the limitations on discipline in the IDEA are based on a recognition that historically students with disabilities, particularly those with behavioral components, have been improperly excluded from school or provided an inappropriate education. Students with disabilities such as autism, Tourette's syndrome or cerebral palsy may be perceived by teachers as threatening even if they objectively do not pose a risk to themselves or other students. The protections against discipline of students with disabilities are critical to parents of students with disabilities.

Moreover, there is a fair amount of confusion about the current law governing discipline of students with disabilities and the circumstances under which discipline -- including suspension or expulsion -- is permissible. We are issuing guidance on discipline which will help clarify much of the current confusion.

Finally, we believe that some of the concerns about this issue are best addressed through increased attention to teacher training, behavior management strategies, increased parental involvement -- particularly for low-income families -- and other methods of preventing problems before they arise.

An attached addendum includes information on current IDEA requirements, the amendments made to IDEA during the ESEA reauthorization and available data on discipline and children with disabilities.

Position of Key Members

Secretary Riley and Judy Heumann met recently with Senators Harkin and Kennedy to discuss the reauthorization. Both Senators stated that it is critical to protect the basic civil rights protections of the IDEA. They also stressed that we not include any compromise on discipline issues in our bill, but rather reach reasonable compromises after negotiations with Congress and representatives of the education and disability communities. They fear that if our bill contains compromise positions, the end result will go further than we propose.

Reauthorization Issues

There are two critical issues related to discipline that will arise during reauthorization: (1) the "stay put" requirement; and (2) the continuation of services requirement. In addition, we will

briefly mention another issue -- attorney's fees -- which while not related to discipline is also likely to be hotly discussed during reauthorization.

A. Stay-Put Requirement

We believe that an appropriate resolution -- one that would be both sound policy and politically viable -- would be the permanent adoption of the Jeffords amendment (which allows an alternative placement for 45 days when a child brings a weapon to school), coupled with a change in the law to permit an impartial hearing officer to grant injunctive relief for a change in placement (pending the outcome of any other proceedings) when a school district can make the case that a child poses a substantial risk to others.

This would allow districts to place students who bring a firearm to school in alternative settings for 45 days. And, for students who bring other weapons or otherwise pose a substantial risk to others, the district may seek a decision from a hearing officer that an alternative placement is permissible. Currently, schools must seek relief from a court if they have been unable to persuade the child's parents to agree to a change in placement.

While we believe that this is an appropriate resolution, we have a number of questions about how to reach it. Options include:

(1) Put nothing on discipline in the Administration's bill but publicly announce that we believe it is important to reach agreement on the important issues of safety and discipline through a consensus process. We would then convene key representatives of the education and disability communities and hill staff and attempt to work towards this compromise; or

(2) Put a permanent extension of the Jeffords amendment in our proposal and then quietly work with representatives of the education and disability communities and Hill staff to reach consensus on how to treat children who pose a danger but do not bring firearms to school.

B. Continuation of Services

The Department has interpreted the "free appropriate public education" requirement of IDEA to require local agencies to continue to provide educational services to students with disabilities who have been suspended on a long-term basis or expelled from school for behavior that is not a manifestation of their disability. This had been the Department's long-standing policy, first articulated in the Reagan Administration. In practice, this means that while a school district may suspend or expel a student who is served under IDEA, it must continue to provide educational services through home tutoring or other methods. The Department is currently litigating this issue with the State of Virginia. In addition, several other states, including North Carolina, have recently objected to our position. (Note that the Department's Office of

Civil Rights has taken the position, under Section 504, that educational services may cease for students whose misconduct is not a manifestation of their disability during periods of long-term suspension or expulsion.)

It is likely that amendments will be proposed by Members from Virginia or North Carolina during the reauthorization to eliminate the continuation of services requirement.

Questions that should be considered include:

- (1) Should the Administration propose to change the continuation of services requirement in its bill.
- (2) If the Administration makes no proposal but amendments on the issue are proposed, how should we respond?
- (3) What is the risk that defending the current rule will undermine the Administration's credibility with the education community and the general public and, perhaps, lead to more restrictive legislation.
- (4) Given the importance of the current rule to many in the disability community, what is the risk that not defending the current rule will undermine the Administration's credibility with that important constituency.
- (5) How do we ensure that the determination of whether the misconduct is a manifestation of the disability is made in a way that adequately protects children and their families.

C. Attorney's Fees

Current law provides for attorney's fees to parents in due process and court proceedings under the IDEA. Since the attorney's fees provisions were enacted several years ago, school districts have strenuously complained about the costs the requirement is imposing on them. However, advocates believe this provision is essential to level the playing field, since most school districts consult attorneys, and may even have them on staff or on retainer.

Prior to the November election, the Republicans put forward a set of amendments to IDEA to be considered for reauthorization. Included was an amendment to the attorney fees provision which would have permitted courts to reduce attorney fees paid to parents if the parents had not made a good faith effort to resolve the dispute with the school district. (Current law already permits a court to reduce attorneys fees if the parent unnecessarily protracted the proceedings.)

We have considered this proposal and others concerning limitations of attorney's fees. We have concerns about these proposals for two primary reasons: (1) they may have the effect of

limiting access of low-income parents to due process; and (2) since IDEA is considered a civil rights law and its attorney's fees provisions are similar to those of other civil rights law, any changes to the attorney's fees provisions in IDEA could be seen as a first step in diminishing entitlement to fees in other civil rights areas.

However, we also recognize that if we make no proposals on attorney's fees, it is fairly likely that some restrictions will be enacted. Thus, we are considering an alternative proposal that would, we believe, be a reasonable political compromise and also encourage "family-friendly" dispute resolution and ensure access of low-income families to the dispute resolution process.

As you know, we already intend to propose that every state be required to put in place a system for mediation in which parents would always be given the choice to mediate disputes under IDEA (parents would, at any time, have the option to have a due process hearing instead).

In order to make mediation most effective, and, at the same time, address the attorney's fee issue, we could propose that no attorneys and attorney's fees be permitted in mediation. Neither parents nor school districts would be permitted to consult with attorneys during the mediation process. (Alternatively, States could have the option of whether to permit attorneys and attorney's fees.) This would allow a low-cost, "de-lawyered" method for parents and school districts to resolve disputes, without tampering with the law's current attorney's fees provisions.



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

White House Office of Domestic Policy
IDEA Reauthorization
Meeting Agenda

I. Update on IDEA activities

- A. Timing of the bill**
- B. Controversial issues**
- C. Roll-out strategies**

CALL

Previous editions usable

☐ YOU WERE CALLED BY- ☐ YOU WERE VISITED BY-

OF (Organization)

☐ PLEASE PHONE ☐ FTS ☐ AUTOVON

☐ WILL CALL AGAIN ☐ IS WAITING TO SEE YOU
☐ RETURNED YOUR CALL ☐ WISHES AN APPOINTMENT
MESSAGE

67052

RECEIVED BY	DATE	TIME

63-110 NSN 7540-00-634-4018 STANDARD FORM 63 (Rev. 8-81)
Prescribed by GSA
☆ U.S. GOVERNMENT PRINTING OFFICE: 1961 281-781/40014 FPMR (41 CFR) 101-11.6

REQUEST FOR APPOINTMENT PARKING

THIS FORM MUST BE COMPLETED AND SENT BY FAX
TO EXT. 61655 AT LEAST 2 HOURS IN ADVANCE
(or by 5:00 p.m. on Friday for weekend parking)

Date 3/27/95

Requestor's Name Diana Fortuna

Requestor's Office Domestic Policy Council

Phone Extension 65570 Room # 224-OEOB

Date Parking Needed 3/27/95

Name of Driver Elmer Clow

Make of Car Green Chevy Van

State and License # 6107983 D.C.

Type Needed (check one): Parking Space Needed _____ or Drop-off Only ☒

Time of Arrival 3pm

Time of Departure 4:30pm

Reason for Request Passenger uses wheelchair

- It is your responsibility to contact WAVES to clear in the driver and all passengers arriving in the car.
- Management and Administration reserves the right to deny any request for appointment parking.

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. list	Monday meeting; RE: Personally Identifiable Information [partial] (1 page)	03/27/1995	b(6)

COLLECTION:

Clinton Presidential Records
Domestic Policy Council
Diana Fortuna
OA/Box Number: 12028

FOLDER TITLE:

IDEA [Individuals with Disabilities Education Act] Meeting 3/27

2007-0143-F
db4502

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Monday, March 27, 1995

3:15 - 4:15 pm, second floor, west wing, (Carol Rasco's office)
staff contact: Diana Fortuna: x65570

Judy Heumann

[001]

Thomas Hehir

Theda Zawaiza

Colleen McGinnis

Joyce Brown-Moore

Cindy Marzonie

car:

Green Chevy Van, liscence #6107983

Elmer Clow

(b)(6)

(driver)

- Judy Heumann
- Thomas Hehir
- Theda Zawaiza
- Colleen McGinnis
- Joyce Brown-Moore
- Elmer Clow
- Cindy Marzonie

liscence plate: 6107983 - Green Chevy Van



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

FAX COVER SHEET

Telephone: (202) 205-5465

Fax Number: (202) 205-9252

TO: Elizabeth CohenFAX NUMBER: 456-7028FROM: Theda Zoussis

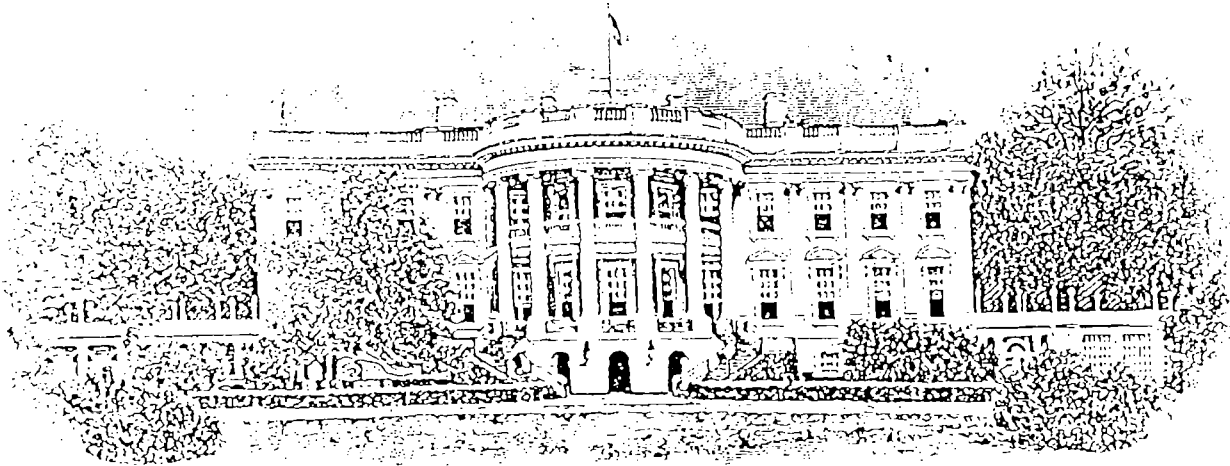
COMMENTS

Agenda for Monday's meeting. Judy Wurtzel
will deliver a copy of our latest draft of the
"vision paper" to your office this afternoon.

Sheet #1 of 2

A large, stylized handwritten signature, likely belonging to Theda Zoussis, written in black ink.

The White House



DOMESTIC POLICY

FACSIMILE TRANSMISSION COVER SHEET

TO: Waves

FAX NUMBER: 395-5349

TELEPHONE NUMBER: 66742

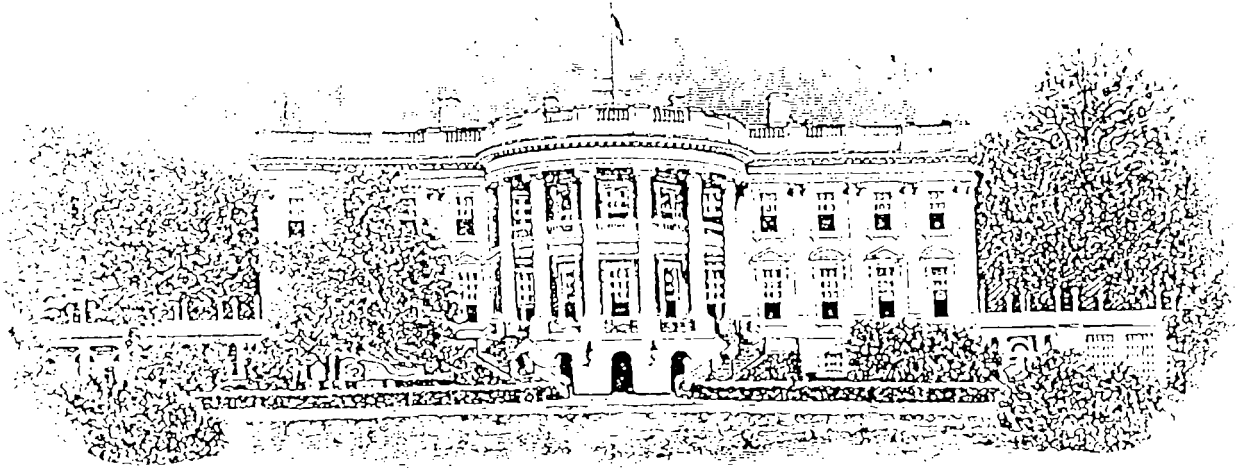
FROM: Diana Fortuna

TELEPHONE NUMBER: 165571

PAGES (INCLUDING COVER): 2

COMMENTS: Thanks

The White House



DOMESTIC POLICY

FACSIMILE TRANSMISSION COVER SHEET

TO: Roz

FAX NUMBER: _____

TELEPHONE NUMBER: _____

FROM: Elisabeth

TELEPHONE NUMBER: 65571

PAGES (INCLUDING COVER): 2

COMMENTS: _____



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF THE UNDER SECRETARY

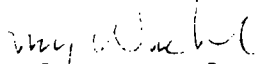
March 25, 1995

NOTE TO CAROL RASCO

Attached is a revised "vision paper" for the IDEA reauthorization. It reflects input we received from the education community and advocacy groups as well as from key Hill staff.

We are still working on changes to the IEP section and hope to have them to you for our meeting Monday.

Judy Heumann and Mike Smith look forward to discussing the proposal with you.


Judy Wurtzel
Special Assistant
to the Under Secretary

DRAFT

IMPROVING THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT:

IDEA Reauthorization

School districts and states around the nation are actively engaged in education reform. The Clinton administration has forged new partnerships with states and communities to support their efforts to develop flexible, coherent, and comprehensive strategies for educational improvement based on high standards for all students. The Goals 2000: Educate America Act, the School-to-Work Opportunities Act, and the Improving America's Schools Act (IASA, the reauthorization of the Elementary and Secondary Education Act), promote these comprehensive strategies based on high academic and occupational standards, improving teaching, and strengthening parental involvement.

The reauthorization of the Individuals with Disabilities Education Act (IDEA) provides us with an opportunity to ensure that the activities of education reform designed to improve educational results for all children in fact include children with disabilities. By aligning the IDEA with state and local school reform efforts, children with disabilities may participate fully in high quality education with the special education and related services necessary for them to learn to challenging standards and achieve better educational results.

The IDEA was enacted in November, 1975, and has undergone numerous amendments, most recently in 1991. The purposes of the IDEA are to assure that all children with disabilities have available to them a free appropriate public education which emphasizes special education and related services designed to meet their unique needs; to assure that the rights of children with disabilities and their parents or guardians are protected; to assist States and localities to provide for the education of all children with disabilities; and to assess and assure the effectiveness of efforts to educate children with disabilities.

The right of children with disabilities to a free appropriate public education is grounded in the United States Constitution. Prior to the enactment of the law, one million children with disabilities were excluded entirely from public schools. Two landmark court decisions, Pennsylvania Association for Retarded Children v. Commonwealth (1971) and Mills v. Board of Education of the District of Columbia (1972), established that the responsibility of states and local school districts to educate individuals with disabilities is derived from the Fourteenth Amendment of the United States Constitution. The drafting of the IDEA was guided by the principles of these court decisions and a recognition of the federal role in ensuring that all children with disabilities in the nation were provided the equal opportunity that the Constitution guaranteed. The federal government plays a particularly important role in assisting the states in meeting their constitutional obligation to ensure the education of children with disabilities. In addition to safeguarding the rights of children with disabilities and their parents, the federal government supports state efforts through fiscal aid to states and through development of the knowledge and practices necessary to ensure a free appropriate education under the IDEA.

As we undertake the reauthorization process again, we reaffirm our commitment to the basic purposes of the IDEA as articulated in the statute. Each student must be ensured a free appropriate public education. Each child's education must be determined on an individualized basis and designed to meet his or her unique needs, in the least restrictive environment. And, the rights of children and their families must be ensured and protected through procedural safeguards. (See 20 U.S.C. secs. 1400, 1412, and 1415.) This reauthorization is intended to build on these basic purposes.

As we review the past twenty years, we must recognize the positive impact that the IDEA has had on the lives of students with disabilities. Thus, our vision must reflect the progress that has occurred and the opportunities now available to children with disabilities that were unavailable twenty or even ten years ago. Before the enactment of the IDEA, one million children with disabilities were excluded from school altogether, and many others were housed in institutions such as the Willowbrook State School for the Mentally Retarded in New York and the Pennhurst State School and Hospital in Pennsylvania, which failed to address their educational needs.

Today, one of the basic goals of the law -- ensuring that children with disabilities are not excluded from school -- has been largely achieved. Today, families can have a positive vision for their child's future. They can participate in a planning process for their child, both in school and community, that leads toward a future with higher education, employment opportunities, community living options, and increased degrees of independence.

Because of the IDEA, in the past twenty years, results for children with disabilities have improved dramatically. Graduation rates are higher. More students are going on to college. Today, half of all adults with a disability have completed some college or received a degree -- compared to only 30% in 1986. Students enrolled in occupationally-oriented vocational education programs are particularly likely to pursue post-secondary education. Rates of employment are higher. Today, 56.8% of youth with disabilities are competitively employed within five years of leaving school.

Moreover, the number of children served in costly state institutions has declined significantly. For example, there has been a 62% reduction in the number of children with mental retardation placed in residential facilities between 1978 and 1987. Today, just over one percent of all children with disabilities live in institutions. This has led to a lifetime benefit to those individuals and society.

Our research and understanding of how to improve educational results for children with disabilities have also improved significantly. As a result of more than twenty years of research, demonstrations, dissemination, and technical assistance, there exists an important knowledge base about effective strategies for teaching and learning for infants, preschoolers, children and youth with disabilities, including minority and culturally and linguistically diverse children. A number of states, school districts, and individual schools are translating that knowledge into improved practice.

IDEA has been a primary catalyst for this progress and must continue to open doors for persons with disabilities. Disability is a natural part of the human experience and in no way diminishes the right of individuals to participate in or contribute to society. Improving educational results for children with disabilities is an essential element of empowering individuals with disabilities to maximize employment, economic self-sufficiency, independence, and integration into society.

While there has been great progress, there remain significant challenges. Now that children with disabilities are in school, the critical issue is to place greater emphasis on improving educational results. Despite progress, educational outcomes for students with disabilities remain less than satisfactory. The students served under the IDEA are very diverse and represent a broad range of abilities. Too many students, without appropriate interventions or supplementary aids and services, are failing courses and dropping out of school. When appropriate interventions are not provided, these students too often get in trouble with the law and spend significant time in jail. Enrollment in post-secondary education is low. And, while employment rates are improving, they are still unsatisfactory. Results for students with learning disabilities and emotional disabilities are particularly poor -- and these students are approximately 60% of all students served under the IDEA. Moreover, children from culturally and linguistically diverse backgrounds are often inappropriately identified and served. In some cases, children with disabilities are not identified and served. In other cases, particularly with African-American children, students are over-identified and placed in overly restrictive settings.

The challenges that face students with disabilities and their families often require services from multiple agencies and providers. While the law recognizes the importance of interagency collaboration, more needs to be done to encourage better working relationships between schools and other community programs, resources, and agencies to meet the needs of children with disabilities and their families.

Improving educational results for children with disabilities requires a continued focus on full implementation of the IDEA by ensuring that each student's educational services and placement are determined on an individual basis, according to the unique needs of the child, and provided in the least restrictive environment. This means that we must focus on teaching and learning, utilizing individualized approaches, improving developmental and educational results and ensuring that students with disabilities graduate from high school prepared for independent living and work or continued education. We must build on the experience and research developed in the past twenty years. As we know more about how children learn, we know that all students with disabilities, given the opportunity, can achieve more than we ever believed possible. It is our responsibility, within the framework and the spirit of the law, to provide this opportunity.

We also know after twenty years that there is no quick or easy fix. Hoping that the right thing will happen is not sufficient. In this reauthorization, we have the opportunity to improve the IDEA to ensure both that the fundamental objectives of the law are more likely to be achieved and that the existing rights and protections for children and their families are preserved and maintained.

Our vision is based on five 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.

The pages that follow suggest improvements to the IDEA that will be critical to achieving each of these principles. Both the five principles and the proposed strategies are drawn from extended and in-depth consultations with a range of organizations and individuals committed to improving results for students with disabilities. These principles and proposals reflect a serious and comprehensive review of suggestions and modifications generated by the Federal Register notice requesting comment on the IDEA reauthorization. Some issues, including discipline and Part H, will be addressed in separate documents.

Most of the strategies designed to achieve these principles can be achieved through carefully selected refinements or clarifications in Part B of the IDEA as well as substantial redesign of Parts C through G. These new strategies will strengthen the law by making it more effective for children with disabilities and their families and in no way diminish the opportunities and safeguards guaranteed in the IDEA as it stands today.

Families of children with disabilities stand on the brink of an exciting era -- an opportunity to take giant steps to help their children have lives of independence and fulfillment. The combined efforts of families, educators, and advocates working together for the past twenty years are beginning to result in students leaving the school system better equipped to live and work in their communities. However, there is still much work to be done.

I. ALIGN THE IDEA WITH STATE AND LOCAL EDUCATION REFORM EFFORTS SO THAT STUDENTS WITH DISABILITIES CAN BENEFIT FROM THEM.

School districts and states around the nation are actively engaged in education reform. Goals 2000, School-to-Work, and the IASA promote comprehensive strategies for education reform based on high academic and occupational standards, improving teaching, and strengthening family involvement, for all students, including students with disabilities. To ensure that children

with disabilities actually benefit from these reform efforts, we should strive for a system of education that helps all children, including children with disabilities, learn to high standards. This reauthorization can help to foster the development of such a system.

To understand what it really means to align the IDEA with federal, state and local school reform efforts, it helps to look at the major reform components. These include: 1) challenging standards and aligned assessments for all children; 2) comprehensive state and local reform plans; 3) high-quality professional development aligned to the standards; 4) comprehensive technical assistance; 5) whole school, rather than categorical, reform efforts; and, 6) links among schools, parents and communities. On a basic level, alignment could mean the linking of special education programs and processes with each of these components. On a more fundamental level, however, it means promoting the transformation of our current programmatically-driven education system into an education system for all children that meets the individual needs of each child.

We envision an education system that would set higher expectations for all students, give all students the opportunity to learn to challenging standards, and take responsibility and be accountable for the success of all children. To the extent appropriate, students with disabilities would have meaningful and effective access to the same curricula aligned with the state's content standards that other students are receiving and, with reasonable accommodations, be included in state and local assessments. Individualized education programs (IEPs) would focus on enabling students with disabilities to learn to challenging standards. The needs of students with disabilities would be considered as part of state and local planning for regular education and not regarded solely as special education's responsibility. All teachers working with children with disabilities would be trained to teach to challenging standards. Schools would ensure communication between parents and teachers. Students would receive needed health and social services through collaboration between families, schools, other public agencies and other providers. And the needs of all children would be considered as states revise licensing and certification standards for teachers, as local educational agencies reform governance and management to focus on improving teaching and learning, and as schools mobilize the involvement of families and the community in reforming schools.

In this context, special education would not be regarded as a separate program or place for children with disabilities but a source of special education and related services for children with disabilities who need them for a meaningful and effective education. The strategies we describe below are critical to the development of a system that meets this vision.

II. IMPROVE RESULTS FOR STUDENTS WITH DISABILITIES THROUGH HIGHER EXPECTATIONS AND ACCESS TO THE GENERAL CURRICULUM.

A critical element of aligning the IDEA with state and local education reform efforts is promoting high expectations for children with disabilities commensurate with their unique needs and meaningful and effective access to the general curriculum in the regular classroom, to the

maximum extent appropriate. We know from experience and research that when we have high expectations for students with disabilities, ensure their access to the general curriculum *whenever* appropriate, and provide them the necessary accommodations and supplementary aids and services, many can achieve to high standards -- and all can achieve more than society has historically expected. Despite our knowledge, the education system too often fails to have challenging standards for these students or even to take responsibility for their academic progress. Instead, too often, the system provides a "watered down" curriculum, fails to set meaningful educational goals, and excludes far too many students from state and district-wide assessments. The original intent of the IDEA was to ensure access to an appropriate education based on individual needs, including access to the general curriculum whenever appropriate; special education is now too often seen as a "place" to send students rather than as special education services designed to ensure students have meaningful and effective access to the general curriculum and achieve to high standards.

There are two complementary and related strategies for promoting high expectations: (1) including students with disabilities in state and district-wide assessments; and (2) improving the IEP process to focus on access to the general curriculum, where appropriate, and on goals designed to improve educational results.

Challenging standards and aligned assessments are a central component of state and local school reform efforts. One strategy to help ensure that the education system has high expectations for students with disabilities and includes them in school reform efforts is to require that these students be included in state and district-wide assessments and the results be publicly reported. While Section 504 of the Rehabilitation Act and the Americans with Disabilities Act already prohibit the inappropriate exclusion of students with disabilities from participation in assessments, we believe that public reporting of results is equally important. When schools are required to assess students with disabilities and report on the results, schools are more likely to focus on improving results for students with disabilities and students are more likely to have meaningful access to the general curriculum.

Including students with disabilities in assessments will be a significant change for current practice in many States and school districts. Despite the civil rights requirements of Section 504 and the Americans with Disabilities Act, some States exclude more than half of all students with disabilities from assessments. In order to assist States and school districts, research and technical assistance efforts under the IDEA discretionary authorities will include specific attention to assessment issues.

But including students in assessments is not alone sufficient to meet these goals. The IEP -- which plays a central role in the implementation of the IDEA -- must also effectively support them. However, there is much concern in the field that IEPs too often fail to include meaningful educational goals designed to provide students with access to the general curriculum and the special education and related services to enable them to achieve to high standards. Parents infrequently receive regular reports of their child's progress toward the annual goals in the IEP. And, the annual review of the student's progress at the IEP meeting often fails to take a hard

look at the results of on-going classroom assessment to determine whether a revision of the child's program is necessary or the student continues to need special education or related services.

Experience offers insight into why this is the case: IEP meetings are too often a discussion of only the few hours each day or each week the child is "in" special education and of short-term objectives that bear little relation to how children learn or their parents' aspirations for them. And, since the law does not require regular education teachers to attend IEP meetings, for those students who spend much of their day in the regular classroom, the discussion of what instructional approaches and services are necessary to enable the student to achieve to high standards often takes place without the teacher with whom the student spends most of his or her time. In effect, IEP meetings focus on "access to special education" rather than access to education. Moreover, because of the requirement that the IEP contain short-term objectives for every goal, teachers spend significant energy developing a multitude of detailed and lengthy objectives that have little instructional utility. As a result, the IEP process too often results in a paper exercise characterized by fragmented goals, lower expectations, and instructional irrelevance.

There is a fair amount of consensus that this is in stark contrast to what IEP meetings are supposed to be -- an opportunity for parents and the child's teachers to discuss a student's progress based on on-going classroom assessment and other appropriate information, how he or she will achieve to high standards and have access to the general curriculum whenever appropriate, what changes in the child's program are necessary to improve achievement, whether the child continues to need special education and related services, and, if so, what special education services and program modifications the student needs to achieve to high standards, whether he or she will be included in the general or in alternative assessments, and the extent to which the student will be removed from the regular education environment.

After 20 years of experience, we have learned much about the effectiveness of IEPs. In this reauthorization we should increase the utility of the IEP to preserve the individualized educational planning that is central to effective teaching and learning while reducing paperwork requirements that do not benefit families, students, or teachers.

Strategies for Assessments:

- o Include in the IDEA the requirement that states include students with disabilities in the general assessments aligned with a state's content standards, with few exceptions.
- o Recognizing that a small number of students with significant cognitive disabilities cannot appropriately be included in the state and district-wide assessments that are aligned with their state's content standards, states -- in their IDEA plans-- would justify the extent to which they propose not to include students with disabilities in the state's assessments, and would phase in alternative content standards and

assessments for students whose participation in the general state assessment is not appropriate and would report on their performance.

- o As appropriate, provide non-statutory guidance that excluding more than 1 to 2% of all students from the general state assessment may be an initial indicator of a potential problem.
- o States would report on results of assessments for all students with disabilities.
- o When the student is included in the general state assessment, the IEP would explain what reasonable accommodations, if any, are needed. If the child is given an alternative assessment, the IEP would explain why inclusion in the general state assessment is not appropriate and how the child will be assessed.

Clarification and Refinement of IEP Requirements:

Amend the IEP provisions of the IDEA to create a more useful IEP process that contains the following elements:

- o Amend the IEP provisions of the IDEA to create a more useful IEP process that contains the following elements:
 - (1) a description of the student's present levels of performance, including how the student's disability affects his or her ability to access the general curriculum;
 - (2) a description of the special education and related services and accommodations necessary to enable participation in the general curriculum and assessments and enable achievement to high standards, including supports to the student's teacher;
 - (3) if a student needs different goals than those of the general curriculum, a statement of measurable annual goals, how those goals will be assessed, and a description of the special education and related services and accommodations necessary to enable the child to meet those goals, including supports to the student's teacher;
 - (4) for all students, a statement of where special education and related services and accommodations will be provided, the projected initiation and duration of services and accommodations, and, if they are not provided in the regular classroom, document why they are not;
 - (5) review of the student's progress, based on on-going classroom

assessment, in relation to the general curriculum or the annual goals of the IEP, and a revision of the student's program to address lack of expected progress;

(6) for students 14 and over, a plan for transition, including attention to the student's course of study (e.g., participation in a school to work or vocational education program) as well as the transition services to be provided consistent with current requirements; and

(7) consideration of the parents' aspirations for their child and a statement of how the parents will be kept regularly apprised of their child's progress (by means such as periodic report cards, parent-teacher meetings, etc....).

- o As part of developing a more instructionally relevant IEP that includes measurable annual goals and regular reporting to parents on their child's progress, short-term objectives would no longer be required. However, educators could include them whenever they believed them to be useful.
- o Amend IEP provisions to require that at least one of the student's regular education teachers, in addition to the special education teacher, participate in the IEP meeting.

III. ADDRESS INDIVIDUAL NEEDS IN THE LEAST RESTRICTIVE ENVIRONMENT FOR THE STUDENT.

A central purpose of the IDEA is to ensure an effective and individualized education designed to address each child's unique needs in the least restrictive environment. However, for many children, this promise is still not being met. Analysis of our experience over the past 20 years shows that too many children are still not receiving an individualized education in the least restrictive environment, as the law contemplates. Below we discuss strategies for achieving this central purpose of the law through attention to the following areas: (1) initial evaluation and triennial reevaluation; (2) the current categorical eligibility criteria; (3) the funding formula; (4) the incidental benefit rule; and (5) the problem of disproportionate representation of linguistically and culturally diverse students. We discuss each in turn.

Initial Evaluation and Triennial Revaluation

To help students achieve to higher standards, parents and teachers need usable information about the student's abilities and the special education and related services he or she needs -- how the student learns, where instruction should begin, instructional strategies that are most effective for each student, what progress should be expected, what supports or accommodations are

necessary to ensure meaningful access to education. The initial evaluation and triennial reevaluation, as well as the annual review of the IEP, are the tools for obtaining this vital information. To be effective, they should assess how the child is progressing in the general curriculum and how he or she responds to various instructional approaches within the curriculum.

Far too often, initial evaluations and triennial reevaluations consist of a battery of standardized tests that are only partially, or not at all related to the student's instruction or academic progress. Too often, they look only at which of the thirteen disability categories the student fits within in order to place a label on the child, without looking at how the child learns, or how the curriculum needs to be modified for the individual child. While determining what category a child is in can often provide helpful information, it does not provide sufficient information to educators and parents to make individualized decisions based on the student's unique needs. Most professionals agree that currently excessive attention is devoted to simply identifying the disability rather than gathering valuable information about what the individual student knows and needs to be able to learn to his or her full potential.

Initial evaluations and triennial reevaluations as currently implemented often detract resources from the primary goals of teaching and learning. School psychologists spend too much of their time administering evaluations and reevaluations with little instructional relevance rather than working directly with students, parents, and teachers to improve results for students. Even students with clearly permanent disabilities such as deafness or blindness are often inappropriately subjected every three years to a battery of tests to determine whether they remain disabled. Moreover, each initial evaluation and triennial reevaluation is estimated to cost an average of \$2,000. Streamlining evaluation and reevaluation procedures to focus them on what is necessary will free up resources and the time of school psychologists and other staff to help more students.

New Strategies for Initial Evaluations and Triennial Reevaluations:

Initial Evaluations

- o Modify regulations governing initial and triennial evaluations to increase focus on instructionally relevant information, in addition to determining the existence of the child's disability. For example, while the evaluation would determine that a child has a disability that affects his or her ability to read, it would focus on which instructional techniques would help this particular child learn.

Triennial Reevaluation

- o Make reevaluation provisions more functional through the following changes:
 - (1) While continuing the requirement that a reevaluation be conducted at

least every three years by a multi-disciplinary team, require the team, based on professional and parental judgment, to review existing assessment and evaluation data regarding the child, and give it discretion to determine what additional data are needed to determine the child's present level of performance and educational needs, including whether the student continues to need special education and related services.

(2) In order to ensure that parents have input into the reevaluation process, require that the public agency provide notice to the child's parents that:

- (a) Summarizes existing assessment and evaluation data regarding the child and describes the evaluation procedures that the public agency proposes to conduct, and the purpose for each such procedure; and
- (b) When the agency is not proposing to determine continued disability because it believes that the child's disability is permanent, informs the parents that they may request that the reevaluation also include a determination of whether the student continues to have a disability.

- o These provisions for triennial reevaluations would differ from current law in the following ways. First, public agencies would not be required as part of each reevaluation to make a new determination as to whether the child has a disability, unless the public agency or the parent believes that such a determination is warranted. Second, the reevaluation would not be required to address every area of suspected disability, if the parent and multi-disciplinary team agree that the information was not useful or that comprehensive information from other sources was already available. Third, the provisions would clarify that the current practice in many districts of simply re-administering the same procedures that were used in the initial evaluation is neither necessary nor appropriate in all cases.

Eligibility

Identifying that a student has a disability is a natural element of the life of a child with a disability and can help to explain what accommodations and special education and related services the student needs in order to achieve to his or her full potential. However, the type of disability should not itself determine the instruction and services a child needs or the child's placement. Research shows that the instruction and services a student needs are best determined by an individualized analysis of the child's abilities and skills. Nonetheless, *too often a purely* categorical approach to instruction and service delivery focuses solely on the disability category without recognizing that many students within each category have very different functional

abilities and instructional needs.

The thirteen disability categories in the statute and regulations form the basis for who is eligible to be served under the IDEA. In many cases, once a student is identified as being in a particular disability category, the student is assigned to a program for students in that disability category to be taught by a teacher trained in that disability category. However, too often the thirteen categories in the law are based on medical models and stereotypical patterns of performance for groups of persons and do not convey accurate information about an **individual** student's educational needs or how the disability affects an **individual** student's ability to succeed educationally.

Federal law does not require the labeling of individual students, although it does require reporting on the number of students in each disability category. However, the current requirement of reporting and designation of children in one of thirteen medically determined categories in order to be eligible under the IDEA has fostered a narrow, categorical approach to evaluating, labeling, placing, and serving children. This categorical approach is inconsistent with the basic principle of the IDEA that children should be served based on individual needs in the least restrictive environment rather than based on stereotypical assumptions. Not only is this categorical approach contradictory to our fundamental goals and research on best practices, but also, for some students can be stigmatizing and breed low expectations.

The practice of labeling school-aged children in one of 13 categories can also detract from the central goal of schools: teaching and learning. Local school districts are spending considerable resources on evaluations to determine the appropriate diagnostic label (such as mentally retarded, learning disabled, autistic) for each child -- with little educational benefit.

The eligibility criteria for pre-school students is different. For 3-5 year olds, States may identify children as "developmentally delayed" instead of classifying them at a young age in a particular category.

Some states are already moving to less categorical approaches to eligibility and service delivery for 5 to 21 year olds -- based in part on the success of the less categorical approach for 3 to 5 year olds. However, they find their progress toward more efficient and effective approaches hampered by the current federal eligibility requirements. A revised eligibility definition could give those states the flexibility to move forward toward less categorical approaches, while permitting other states to retain their current eligibility criteria.

Under a revised eligibility definition, the same children would be identified as disabled and in need of special education and related services -- but the processes of identification would be instructionally relevant. It would help to identify what the child knows, what accommodations and services the child needs to be able to learn to high standards, and enable students, families, and teachers better understand the child's needs and appropriate instructional strategies. It will also ensure that services and placement would be based on the individual student's need -- and not the student's disability category.

New Strategies for Eligibility:

- o Amend the IDEA to replace the current eligibility definition with a functional definition. A child with a disability eligible for services under the IDEA would be defined as " a child who has a physical or mental impairment and who by reason thereof requires special education."

This definition would include all children who have the following impairments and who by reason thereof require special education: autism, deaf-blindness, hearing impairments, deafness, visual impairments including blindness, mental retardation, multiple disabilities, speech or language impairments, serious emotional disturbance, orthopedic impairments, traumatic brain injury, specific learning disabilities, and other health impairments. However, for purposes of eligibility, children would not need to be placed in any particular category so long as they were within the general functional definition. The authority to serve pre-school children who are experiencing "developmentally delays" would remain unchanged.

This change in eligibility criteria would not affect who is eligible for services under the IDEA. All students who are currently eligible would remain eligible under the new definition. And, as under current law, only students who are in need of special education services as a result of their disability would be eligible. Thus, children who are currently identified under section 504 would not now be eligible under IDEA unless they required special education services.

Nor would this change require states to change their eligibility criteria -- they could retain what they now use, including a discrepancy definition for learning disability, if they so wished. However, states that were ready to move toward less categorical eligibility criteria and assessments, consistent with the new definition, could continue to do so. And, to support the efforts of the states, federal research efforts would devote considerable attention to improving and disseminating knowledge about eligibility criteria and assessment instruments -- including an examination of appropriate, research-based alternatives to the current discrepancy definition for learning disabilities.

Formula

To achieve our goal of ensuring that every child receives an appropriate education that meets his or her unique needs in the least restrictive environment and receives services based on individual needs not label, it is critical that federal and state financing systems do not create disincentives for appropriate placements and services.

Twenty years ago, when Part B was first adopted, Congress found that one million children with disabilities were excluded entirely from the public school system and many children with

disabilities were participating in regular school programs but their disabilities prevented them from having a successful school experience because they were undetected. A critical purpose of the law was to ensure that children with disabilities were identified and served. A funding formula that funded states based on the number of students identified and served created appropriate incentives to identify children and serve them under the IDEA. And, those incentives have been successful -- over 5 million students are served under the IDEA and the number increases every year.

Today, the major policy concern is not that millions of disabled children are not identified or not enrolled in school. Critical issues instead are that too many children are served in inappropriately restrictive environments, and, in some communities, that children -- particularly minority children -- are often inappropriately identified as disabled in order to generate funding to either remove them from the regular classroom or purchase extra services for them.

The current federal funding formula can create incentives that add to these problems -- and create disincentives for those states that seek progressive solutions to them. For example, states such as Vermont and Pennsylvania have embarked on aggressive programs of early intervention and pre-referral in order to serve students with disabilities in a less restrictive and more appropriate manner. Yet, as they engage in these practices to serve children early and inclusively -- practices that educators and families agree are exemplary -- they find the number of students identified as needing special education and related services -- and thus their federal funding -- is declining. The federal funding formula thus is a direct disincentive to best practice.

Allocating funding to states based on census -- that is, the total number of children in the state -- would create incentives for states to undertake reforms such as pre-referral and early intervention and disincentives for over-representation of minorities. Such a change would not affect procedural safeguards or the requirement to identify and serve all children with disabilities who need special education and related services. Nor would it require that states adopt census formulas for the distribution of state special education funds. Allocating federal funding to states based on census would also simplify administration of the program -- reducing data collection burdens and avoiding the problems of inaccurate child counts. Such a change in the federal formula would also be a critical counterpart to changes in the eligibility criteria. Changing eligibility criteria without a concomitant move to a census-based federal funding formula could create inappropriate incentives for states to develop more expansive definitions of eligibility.

State funding formulas frequently also contain disincentives to appropriately serving students in the least restrictive environment. For example, in some states, if a district seeks to keep a child in his or her neighborhood school because it believes that the student is appropriately served in the regular classroom in that school, the state will not pay for the supports and accommodations that child needs to be able to succeed in that less restrictive environment. The lack of state funding in this instance is due solely to the state's funding formula, not the needs of the student. Indeed, that same state would pay most or all of the cost of an expensive separate placement. Not surprisingly, research shows that states that pay districts more for teaching special education

students in restrictive environments have fewer students in the regular classroom.

New Strategies for the Formula:

- o Amend the IDEA to create incentives for appropriate practice by basing federal allocations to states over and above their FY1995 funding levels on the total number of children in the state, regardless of the number of children identified as disabled.
- o Amend the IDEA to require States that have funding formulas for special education that provide greater funding for students in more restrictive placements to demonstrate in their State plan that the formula will not result in placements that violate IDEA's least restrictive environment requirement.

Incidental Benefit Rule

Just as the current federal funding formula creates disincentives for appropriate placements and services, the rules the federal government imposes for tracking how the federal dollars are used create disincentives for serving children in the regular classroom, wherever appropriate.

Serving a disabled child in the regular classroom often means that a special education teacher or aide will work in the regular classroom with that child and that child's regular education teacher. However, under the Department's general administrative regulations, whenever a special education teacher works in a regular classroom with both disabled and non-disabled students, only the time spent working with disabled students may be paid for by IDEA funds. The regulations allow only an "incidental benefit" to non-disabled students -- and "incidental benefit" is very narrowly defined. In practical terms, this means that personnel must spend an inordinate amount of time on paperwork to document the time and effort spent on working with disabled and non-disabled children so that only that portion of the salary attributable to time spent solely with disabled children is paid for by IDEA.

Research and experience shows that the presence of the special education teacher or aide can significantly enhance the educational experience of all the children in the classroom, not only the children identified as disabled. The special education teacher or aide can help the disabled child or children work in small groups with non-disabled children, can assist in maintaining classroom discipline, and can intervene early with children who may not yet be identified as disabled but are at significant risk of being identified because of their difficulties in learning. However, the incidental benefit rule discourages such practices -- directly contradicting what we know about good educational practice.

Requiring this detailed fiscal tracking of IDEA funds derives from a desire to make schools accountable for how they use every federal dollar. However, under the current IDEA, funds do not "follow" the child. Once the federal funds are allocated to the school district based on

the number of children with disabilities in that district, the district need not distribute the funds to schools based on their enrollment of children with disabilities -- the federal funds could be used for special education services entirely in one school, or for one child or for one activity. Given this flexibility in use of funds, requiring detailed accounting when the district chooses to use federal funds in regular classrooms adds little accountability.

Moreover, we have learned from advances in a variety of fields that there are other types of accountability and methods of ensuring accountability that could support -- rather than detract from -- more effective educational services under the IDEA. The most important type of accountability for IDEA could be accountability for student results. Including students in assessments and reporting results -- as we suggest above -- is a critical element in developing meaningful accountability in the IDEA. A second level of accountability is accountability for required services. The IEP process and the due process protections embedded in the law ensure this accountability. When these other forms of accountability are in place, accountability for tracking inputs should become less critical, particularly, when, as is the case in the IDEA, the federal funding is only a small percent of the overall funding for special education.

We propose a different formulation of the fiscal tracking requirement -- one that would create incentives for appropriate services while at the same time ensuring that children served under the IDEA continue to benefit from federal funding. This new formulation would loosen the limitation on the benefits non-disabled students can receive from the IDEA funds as long as children with disabilities benefit from these services and continue to receive all the services required by their IEPs.

New Strategies for the Incidental Benefit Rule:

- o Allow school districts to use their Part B funds to provide special education services in the regular classroom, without having to track whether benefits might accrue to non-disabled students -- so long as three conditions are met: (1) the funds are used to purchase special education services; (2) the services are provided in the regular classroom; and (3) children with disabilities benefit from these services and continue to receive all the services required by their IEPs.

Minority and Linguistically and Culturally Diverse Students

Although special education has generally been viewed as a valued service, there is another side to this for some children from minority backgrounds. African-American children are identified for special education and placed in restrictive settings and stigmatizing, dead-end programs at much higher rates than other children. Conversely, Asian and Native American Indian children are often under-represented in special education. Schools often have difficulty in appropriately identifying and serving children with limited English proficiency. A major challenge is to ensure that children from diverse linguistic and cultural backgrounds are appropriately served under the IDEA.

The strategies and approaches we outline here will help reduce inappropriate incentives that foster inappropriate identification, placement, and services. For example, our improved strategies for assessments and IEPs will reduce incentives to place children in restrictive placements in order to avoid being accountable for their academic progress and will promote for all children high expectations rather than "watered down" curriculum and dead-end programs. Our approaches to evaluation, triennial reevaluation, and eligibility will remove stigmatizing labels and provide for periodic assessment that is instructionally relevant and designed to determine whether the child continues to need special education services. Our strategies for federal and state funding formulas will remove fiscal incentives to over-identify children and to place them in restrictive settings. And, our approach to fiscal tracking will promote educational supports in the regular classroom.

New Strategies for minority involvement:

- o Provide for more inclusive educational support in the regular classroom with full participation in the general curriculum and assessments, as appropriate for each child.
- o Remove stigmatizing labels and provide for periodic assessment that is meaningful and instructionally relevant.
- o Remove fiscal incentives to over-identify children and to place them in restrictive settings.

V. PROVIDE FAMILIES AND TEACHERS--THOSE CLOSEST TO STUDENTS--WITH THE KNOWLEDGE AND TRAINING TO EFFECTIVELY SUPPORT STUDENTS' LEARNING.

Achieving the principles we have outlined above for all students with disabilities -- aligning IDEA with state and local school reform efforts; promoting high expectations for students with disabilities and access to the regular curriculum in the regular classroom, when appropriate; and more effectively addressing individual students' needs in the least restrictive environment -- will not be possible without improved practice by teachers and administrators and new relationships between teachers and families. Implementing these strategies in assessments, IEP practice, evaluation, eligibility and other critical areas will not be possible unless families, teachers, and principals have the knowledge and training they need to work effectively with students and with each other.

Developing knowledge, training, and better working relationships will require new approaches that build on our increased knowledge of what works for improving educational results for children with disabilities. First, the discretionary programs authorized under Parts C through G of the IDEA should be strengthened to better support research, technical assistance, parent training, and the development of linkages with other research, training, and technical assistance efforts that address the needs of children with special needs in other sectors such as health,

social services and justice. Second, the provisions governing professional development in the discretionary programs and Part B should be transformed to create a powerful and coherent system for training all educators working with children with disabilities. Third, specific steps should be taken to strengthen working relationships between families and schools in four critical areas -- increasing involvement of families in decision-making, improving information available to families, linking families to other resources and supports in the community and reducing adversarial dispute resolution by using mediation.

A. Restructuring the Discretionary Authorities

For 19 years, the discretionary authorities have played a critical role in supporting the development of knowledge about the needs of children with disabilities. Each of the 14 programs was created to address a specific need that the field had identified as important. Many of the programs have helped to address those needs. For example, the systems change grants in the areas of transition and severe disabilities have been instrumental in directing attention to and improving practice in these critical areas. OSEP funded research -- particularly the recent National Longitudinal Transition Study of Special Education -- has greatly expanded our knowledge about how to improve educational results for children with disabilities. The National Early Childhood Technical Assistance System (NEC'TAS) has provided coordinated, comprehensive, research-based technical assistance that has effectively assisted states in implementing the preschool grants program under Section 619 as well as the infants and toddlers program authorized under Part H.

While the 14 discretionary programs have made important contributions over the years, few dispute that they are not achieving their potential and could do far more in supporting the efforts of families, teachers, schools, administrators, researchers, and institutions of higher education to work together to improve educational results for children with disabilities. Under current law, the 14 separate discretionary programs are free-standing and self-contained. The multiplicity and narrow focus of the programs promotes fragmentation. Few programs manage to provide substantial support to or to have a substantial impact on more than a few states or districts. Having developed separately over the years to address specific issues, they bear little relationship to each other or even to the key challenges the states are facing in the implementation of Part B. Moreover, there are significant gaps in current authorities (e.g., model projects for students with learning disabilities are limited to children under 8 years old; model projects for drop-out prevention are limited to students who are in high school or who are severely emotionally disturbed). In addition, administering the numerous discretionary programs requires significant federal staff. As we work to make government smaller and more efficient, there will be fewer OSEP staff to administer these programs -- making effective administration problematic.

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 effective use of the resources of the discretionary programs. This new approach would have the following elements. First, the explicit goal and focus of the programs would be

improving the implementation of Parts B and H. Second, to meet that goal, 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. Third, recognizing the key role that the states play in implementing the law, the programs would enhance the ability of state agencies to carry out their own plans for program improvement by providing flexible resources for professional development and systems change activities based on an IDEA state improvement plan. Fourth, recognizing the importance of federal monitoring in ensuring compliance with the IDEA, the programs would link support for professional development and systems change activities to state efforts to address critical compliance issues such as teacher shortages.

Finally, the programs would support the alignment of the IDEA with state and local reform efforts by ensuring linkages with other program improvement activities funded under such authorities as Goals 2000, ESEA, and other efforts funded by other agencies other than education that support or provide services to children with disabilities and their families.

New Strategies for Discretionary Authorities:

- o Amend the IDEA to create five powerful new discretionary authorities that would replace the current Parts C through G. The five new authorities would be: (1) Research and Demonstrations; (2) Technical Assistance and Systems Change; (3) Technology Development and Support; (4) Parent Training; and (5) Professional Development.

In order to ensure that issues concerning the special needs of children with low-incidence disabilities continue to be adequately addressed in the areas where there is currently categorical funding by type of disability -- severe emotional disturbance, deaf-blindness, severe disabilities -- there would be a minimum floor for discretionary spending across the five new discretionary authorities to meet the needs of children in these disability categories equal to current appropriations dedicated to these areas.

o Research and Demonstrations

This new authority would support research, development, model demonstrations, outreach, and synthesis studies for all disability categories across three broad age ranges -- early childhood; elementary and middle school; high school and transition. The authority would invite broad-based planning from various constituencies in each of these three broad age ranges (including researchers, parents, individuals with disabilities, teachers, administrators, and policy makers) in developing a comprehensive, long-range research, development, and demonstration agenda to improve knowledge and to create better linkages between

knowledge and practice. The authority would support large scale evaluations and assessments that have the potential to significantly increase our knowledge and improve the implementation of IDEA. Research would be informed by the field and systematically developed through demonstrations, disseminated through outreach, and tightly linked to technical assistance in order to improve the translation of research into practice around the nation. Coordination with the research efforts of other federal agencies in order to reduce fragmentation and focus on cross-cutting issues such as transition and the integration and coordination of services would be a priority. Recognizing the inaccuracies in current state-reported data, this authority would support efforts to obtain improved data on the implementation of the IDEA.

Developing the research, demonstration, and outreach agenda for all disability categories and age ranges in a unified planning process encourages attention to the issues the field agrees are critical for improving results for children, reduces overlap, gaps, and fragmentation, and makes research results more easily accessible. The broad-based planning process would ensure that cutting edge areas such as evaluation and assessments that are critical to improving educational results would receive appropriate attention and support.

This authority would also include support for demonstration programs to develop model regional and national programs to provide a range of post-secondary education options for individuals who are deaf or hard of hearing.

o Technical Assistance and Systems Change

This authority would support a range of coordinated technical assistance activities designed to assist states and others in using the best available research and information about best practices to improve educational results for children with disabilities. Activities would be designed to ensure that the most current knowledge is rapidly communicated to educators; to enhance the ability of state education agencies to carry out their own plans for program improvement; and to promote better coordination with other program improvement activities funded under such authorities as Goals 2000 and ESEA in order to leverage those resources and provide for the inclusion of students with disabilities in school reform activities.

Elements of a new technical assistance authority designed to meet these goals would include:

- (i) technical assistance centers that provide states with assistance in linking to other technical assistance resources, accessing information on research and best practices, and developing their IDEA state improvement plans;

(ii) linkages to the 15 comprehensive technical assistance centers to be funded under ESEA in order to promote effective attention to disability issues by these centers, which will be assisting states in the implementation of ESEA;

(iii) comprehensive systems change grants that expand on the successes of the current narrowly targeted systems change grants by focusing on improving state implementation of Part B based on the goals and critical areas identified in each state's IDEA improvement plan; and

(iv) clearinghouses and specialized technical assistance providers or activities to ensure that critical areas of national importance are addressed.

o Technology Development and Support

Recognizing the importance of technology in improving educational results for students with disabilities and the increasing technological opportunities and challenges of our information age, this authority would:

(i) support development of new and emerging technologies for students with disabilities;

(ii) support development of a range of assistive and instructional technologies that enable the learner with disabilities to access education;

(iii) enhance the educational and cultural experiences of individuals who are deaf or hard of hearing by providing access to captioned videos, captioned television programming, adapted educational media technology, and cultural activities; and

(iv) enhance the educational and cultural experiences of individuals who are visual or print disabled by providing access to video described television programming and other video materials, and recorded educational materials.

o Parent Training

This authority would ensure the development of a Parent Training and Information Center in every state and increase the emphasis on serving minority families. The authority would also seek to ensure that Parent Training and Information Centers assist parents of students with disabilities understand and be involved in education reform activities at the state and local level.

o Professional Development

This authority is discussed in detail in the next section.

B. Professional Development

Perhaps no other activity will be more critical in our effort to improve results for students with disabilities than ensuring that teachers and other staff serving them have the necessary skills and knowledge to address their special needs. The need for professional development is particularly acute as states provide for participation of students with disabilities in curriculum aligned with state standards and the placement of more students in regular classrooms.

Historically, special education and regular education have operated as separate systems, with separate bureaucracies and separate training programs, even though today the majority of students with disabilities spend all or part of their time in regular education classes. Most "regular" education teachers have never received training on working with students with disabilities. Most special education personnel are ill-equipped to work in regular classrooms or collaborate with regular educators because their training focuses on serving students with disabilities primarily in segregated environments. This situation is slowly changing as more States are requiring special education training for new regular education teachers, and as more institutions of higher education are combining their schools of special and regular education. However, these reforms only affect new teachers. The bulk of the educational work force remains without education or training to serve students with disabilities.

Current professional development activities too often perpetuate this status quo. States are required to plan for comprehensive systems of personnel development (CSPDs) but are given few resources to develop and implement them. Because training of regular and special education teachers proceeds on different tracks, little training is given regular education personnel to provide special education services even though most students with disabilities are educated in regular education classrooms for all or part of the day. And, insufficient training is given special education teachers and other staff in the content knowledge necessary to help students with disabilities learn to high standards or the skills necessary to collaborate with regular educators or work in integrated classrooms.

Moreover, institutions of higher education are the primary recipients of Part D funding but too often function independently of the needs of states for personnel. And, grants to develop new pre-service and in-service training programs are not linked with ongoing state personnel development activities or to broader state and national goals such as the development of model national standards or cross-categorical certification. Finally, the many separate independent awards made under Part D hinder overall reform of teacher training and systemic changes (e.g., portable certification requirements and reducing overspecialization) that would help address the need for qualified personnel.

What is needed is high quality professional development for all teachers, paraprofessionals, related services personnel, and school administrators who work with students with disabilities

designed to ensure high expectations, access to the general curriculum and appropriate special education services provided, whenever possible, in the regular classroom.

New Strategies for Professional Development

A restructured IDEA professional development authority would contain the following four elements: (i) National activities to support state of the art practices and promote portability and cross-categorical approaches; (ii) Activities to build capacity of colleges and universities to ensure strong leadership in regular and special education administration and teacher training; (iii) Regional grants to colleges and universities for increasing the supply and quality of personnel to work with students with low-incidence disabilities; and (iv) Grants to SEAs for training of all teachers and principals working with students with disabilities tied to ESEA, Goals 2000, and an IDEA professional development plan. Each is described in detail below.

(i) National activities to leverage the professional development system and build capacity of institutions of higher education and state professional development programs and promote state of the art practices. This would be a general authority for national activities such as development of exemplary measures of assessing teachers and other staff for licensure and certification; activities to promote cross-categorical approaches to training, certification, and licensure; activities that promote portability of certification; and innovative personnel preparation projects.

(ii) Activities to develop capacity of institutions of higher education to ensure strong leadership in regular and special education administration and teacher training. Currently, approximately \$10.7 million of Part D funds are used to support the development of special education leadership personnel, including teacher trainers, administrators, and researchers. In order to improve results for students with disabilities, this program should focus on ensuring that Ph.D level leadership personnel in both regular and special education have the skills and training necessary to contribute to an educational system that helps students with disabilities achieve to high standards.

The new authority would continue to provide scholarships and stipends, but would maximize their effectiveness in promoting innovation and improvement of pre-service training through: (1) giving preferences to institutions that connect their early childhood and school-aged special education and general education programs; (2) supporting attention to special education issues in preschool and in regular education programs for principals and other administrators; and (3) targeting awards to programs that are research-based and support best practices.

(iii) Grants to institutions of higher education for increasing supply and quality of personnel working in low-incidence disability areas. Students with significant disabilities often have particularly intensive needs and require specialized functional techniques. In many areas of the country there are significant shortages of teachers, paraprofessionals, and related services personnel qualified to work with students with

low-incidence disabilities -- those disabilities such as autism, traumatic brain injury, deafness, blindness, deaf-blindness, and significant and multiple disabilities that include less than 1% of the general population. However, the current program is not effectively meeting the need. There are now a myriad of separate grants supporting pre-service training for low-incidence personnel. Not only does the geographical distribution of grants bear no relationship to the distribution of teacher shortages, but also most programs are extremely small -- many with only one professor -- and extremely expensive for universities to operate. And, since the incidence of children with particular disabilities is so low, few states have sufficient numbers of such children to justify a state effort to increase the number of personnel.

A restructured low-incidence pre-service program would phase in an approach to flexibly meet regional needs for supporting the development and long-term support of high-quality programs. Elements of the program would include: (1) grants would be made for pre-service programs by region for each low-incidence disability category; (2) grants would be fewer and larger to promote high quality programs and to train personnel to be able to work with children with various disabilities (e.g., if a school has both a program for the deaf and for the blind, it can also train teachers of the deaf-blind); (3) grants would be made to institutions of higher education or to regional consortia of such institutions and SEAs; (4) grant applicants would have to show how their program would meet the needs of the states in the region; and (5) grants would support portability of credentials by requiring states to indicate how they are working with other states in the region and with the grantee to ensure portability of certification for students trained in the program.

(iv) Grants to SEAs for IDEA professional development plan to support training of all teachers working with students with disabilities. The new authority would build on and leverage the newly enacted professional development authorities of Goals 2000 and ESEA to create a cohesive approach to the training of all teachers. It would also make IDEA professional development a driving force for improving the entire IDEA program by giving states the tools to address professional development under IDEA in return for increased accountability for attaining positive outcomes for students with disabilities.

In order to give states the ability to develop viable training systems, funds would be distributed to the states on a formula basis to meet their professional development needs for teachers, paraprofessionals and related services personnel. At the heart of this new authority would be a state plan for IDEA professional development linked to both the overall state IDEA plan and to the state's Goals 2000 and ESEA plans for professional development.

The state plan would be developed and implemented in conjunction with the state agency for higher education, institutions of higher education or schools of education, relevant certifying organizations, and community-based and other nonprofit organizations of demonstrated effectiveness, and with the extensive participation of local teachers, parents,

administrators, and related services personnel. The plan would indicate the role of each entity in the implementation of the plan.

The state IDEA professional development plan would provide the framework for professional development for all teachers and administrators working with students with disabilities and the framework for expenditure of all IDEA funds used by the state for professional development (both grants under Part D and any of the Part B state set-aside used for professional development).

The new authority would encourage deep attention to in-service training and increasing the quality of the current work force, while also recognizing the state's obligation to take responsibility for teacher shortages in high incidence areas. We believe that, except in exceptional circumstances, market forces should ensure an adequate supply of high incidence personnel. However, if in some states that proves not to be the case, the state would be able to use its state grant to increase supply in a variety of flexible and creative ways that meet that state's particular needs.

In addition, the state plan would be tied to OSEP monitoring by requiring states to show how their professional development strategy addresses deficiencies identified in monitoring (including insufficient numbers of personnel). Currently, there is no link between state CSPD efforts and monitoring findings. Requiring state plans to address monitoring findings -- and giving states resources to address problems -- would create a "continuous improvement feedback loop" that could be a significant step in our efforts to improve implementation of the IDEA.

C. Strengthening Working Relations between Families and Schools

Families are a child's first and best teacher and their most important advocates. While the IDEA creates a strong framework for family-school collaboration, more could be done to strengthen working relationships between families and schools. Building upon current family training centers and heightening their focus on improving educational results for children are essential elements of an overall strategy. We believe that other key elements of an overall strategy include increasing involvement of families in decision making, improving notice requirements, and reducing the adversarial nature of the complaint and hearing processes.

Involvement of families in decisions about their child's education are at the heart of the IDEA framework for family-school collaboration. Yet, families are often excluded from fundamental decisions regarding the placement of their child. While families are required by law to be included in IEP meetings, there is no requirement that placement decisions be made by the IEP team or that families be included in making placement decisions.

Detailed notice to families of their rights is a critical safeguard, yet families often receive notice of their rights in a blizzard of overwhelming and duplicative notices written in confusing

"legalese." Current law requires full explanation of all rights whenever the school notifies the family of a proposal or refusal to initiate or change the identification, evaluation, or educational placement of a child or the provision of a free appropriate public education to the child -- which can happen several times a year. IDEA reauthorization should ensure that families receive -- in understandable language and format, and with appropriate frequency -- the information they need to make informed decisions; and should also reduce the amount of redundant information that public agencies are currently required to provide to families.

The complaint and hearing processes are central to implementation of the law. Ideally, due process should be a last resort when less adversarial methods of resolving differences have failed. Due process hearings generally are very costly in terms of time and financial resources, and severely strain families' and school personnel's emotional resources and good will. Moreover, our experience under the Act indicates that due process--despite legally binding timelines--can in practice, be a very lengthy process, during which student needs are not addressed. Many states have created mediation systems that have been extremely successful in resolving family-school disputes quickly and effectively. However, states are not required to offer mediation to families, and in a number of states, families often have no opportunity to resolve disputes by mediation. And, since low-income and minority families are less likely to use due process than other families, in states that do not offer mediation these families often have no accessible avenue for resolution of their concerns.

New Strategies:

- o Modify regulations to require states to include parents in placement decisions (which, as under current law, could be made at the annual IEP meeting).
- o Amend the IDEA notice provision to require that families receive notice of all procedural safeguards once a year, or more often if they request it, and that they receive notice of specialized information whenever that information is relevant. (For example, notice of specific due process hearing requirements would be provided when the school proposes an initial evaluation, or when the family or agency initiates a hearing.)
- o Require state agencies to offer mediation as an option for dispute resolution and require the school district to engage in mediation if the family wishes to mediate. Ensure that mediation cannot be used to delay or deny access to due process.

V. FOCUS RESOURCES ON TEACHING AND LEARNING TO ENABLE STATES, DISTRICTS, AND SCHOOLS TO USE RESOURCES MORE EFFECTIVELY

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-- access to education and improved educational results,

not just access to a place or service termed "special education."

It will be far more difficult to achieve the significant improvements embodied in the other four principles without accompanying changes in how states and locals focus their attention and use their resources. The IDEA reauthorization must maximize the extent to which special education resources are devoted to teaching and learning of children with disabilities and must promote a greater focus on quality and results and eliminate instructionally irrelevant activities and unnecessary paperwork.

Many of the approaches and strategies discussed above will help to focus resources on teaching and learning. In particular, our proposed new strategies for IEPs, eligibility, initial evaluations and triennial reevaluations, the incidental benefit rule, and mediation will help to focus energy and resources on activities with clear educational benefits.

In the case of IEPs, new attention to access to the general curriculum and state assessments will help ensure a focus on educational results. And, the replacement of short-term objectives with meaningful annual objectives and regular reporting to the parents of the child's progress toward those objectives, will eliminate a paperwork requirement that most agree has limited educational value and is a significant burden on teachers.

The same is true of eligibility, initial evaluations and triennial reevaluations. Reducing labeling of children will permit the considerable resources that are now used to determine the appropriate diagnostic label to be devoted to instructionally relevant evaluation of the child's disability and need for special education. And, modifying the requirements for initial evaluations and triennial reevaluations to promote instructionally-relevant, functional analyses will ensure that the time and resources of teachers and school psychologists are devoted to activities designed to support higher achievement rather than to the administration of tests that have little relation to the student's instruction or academic progress.

Relaxing the incidental benefit rule to allow special education funds to be used to provide special education services in the regular classroom, so long as students with disabilities benefit and are appropriately served, will promote appropriate services in the regular classroom while eliminating the burdensome requirement to document the time and effort of personnel who work with both disabled and non-disabled children.

Promoting mediation as a method of dispute resolution will also help to focus resources on teaching and learning. If families and schools can resolve their disputes quickly and effectively through mediation, the heavy financial and emotional cost of due process can be avoided.

In addition to these new strategies, several other areas are of concern if we are to better focus resources on teaching and learning. One critical area is state and local planning. To create an education system that enables all children to reach high standards, regular education and special education must plan together at the state, local, and school-building levels to ensure high expectations, and appropriate professional development, funding, instructional strategies, and

classroom configurations. Currently, the IDEA state and local Part B applications provide assurances that the states and districts are in compliance with Part B requirements and procedures. They do not focus on results; they do not encourage comprehensive planning for special education, much less alignment between special and regular education; and they drain state and local resources that could be better used. OSEP routinely receives from states large boxes containing copies of every state policy and procedure concerning special education -- but OSEP rarely receives, because the state plan requirements do not ask for -- thoughtful plans describing the results children with disabilities are achieving and how the state intends to improve results in the context of its overall education reforms.

New Strategies for State and Local Planning:

- o While retaining necessary attention to procedural compliance, replace current state and local application with state and local improvement plans that focus on improving results for students with disabilities, align with planning requirements under Goals 2000 and ESEA in order to facilitate coordination and comprehensive planning, address how critical deficiencies identified by monitoring will be reduced, and connect the IDEA professional development plan with the state's overall improvement strategy as well as the state's Goals 2000 and ESEA professional development plans.

3/24/95