

14 pager

To: Lisa Brown - ASAP

Fr: Curtis Richards

I thought you should get this
even if not finalized/approved
by Judy. I'll be in touch
tomorrow if she has changes.

BRIEFING PAPER

SPECIAL EDUCATION

A generation ago, millions of children with disabilities were not part of our educational system. Many of them were locked up in institutions, while others stayed at home with their families. Today, as we enter a new millennium, nearly 6.2 million disabled children are part of the educational fabric of America. No longer are we having a conversation about creating opportunities for disabled children to simply go to school; but now the dialogue is appropriately focused on teaching, learning and real educational achievements.

Since 1975, children with disabilities have been guaranteed the fundamental civil right of a "free appropriate public education" by federal law, now known as the Individuals with Disabilities Education Act (IDEA). Disabled students are to be educated alongside their nondisabled peers in the least restrictive environment, and their education success is to be spelled out in an Individualized Education Program (IEP). Special education is now seen as a set of vital supports and services for students with disabilities in integrated educational settings, rather than a segregated place for disabled student instruction.

The Clinton-Gore Administration has been strongly committed to improving the quality of education for all students, including students with disabilities.

The 1997 Amendments to the IDEA strengthened the access of children with disabilities to the general curriculum, promoted accountability for educational results, and better-focused resources on teaching and learning. In addition, the 1997 Amendments to IDEA strengthened the role of parents in educational planning and decision making on behalf of their children. It focused the student's educational planning process on promoting meaningful access to the general curriculum. The new law also reduced the burden of unnecessary paperwork for teachers and school administrators. All of this was accomplished without compromising the Clinton-Gore

Administration's fundamental principle of protecting basic rights of children with disabilities to a free appropriate public education.

We must maintain and honor our commitment to providing all our children---including those with disabilities---a high quality education. This nation should be proud that we have opened the doors of public schools to millions of disabled children, and we must continue to remain committed to providing quality education to all of our children. We must remain unalterably supportive of the IDEA in order to maintain this fundamental commitment.

Q. Will your Administration push to achieve the 40 percent federal funding commitment when the IDEA was first enacted?

I am very aware of, and sensitive to, the financial issues many of our states and local educational agencies are experiencing. That is why I have already proposed a bold initiative to ensure that the federal government helps local school districts by paying its fair share of special education costs.

Federal funding levels for special education programs have increased during the past several years, even though there have been reductions in other Federal programs. For example, in the past three fiscal years, IDEA funding has increased 85 percent. And, it now looks like IDEA funding will be increased in FY 2000 by another \$650 million.

When Congress enacted the Education of All Handicapped Children Act in 1975, which is known as IDEA today, a goal of 40 percent was established as a target for federal funding. There was not a mandate to have the federal government fund special education costs at 40 percent. It would cost the federal government more than \$15 billion in FY 2000 to provide 40 percent of the average expenditure per pupil, \$11 billion more than in 1999.

States have the primary responsibility for educating all children, including children with disabilities. IDEA authorizes payments to states to assist them in carrying out their responsibilities for educating all children, particularly children with disabilities.

The Clinton-Gore Administration has secured record levels of federal funding for education. We have had an overall strategy to improve education through new investments in elementary and secondary education that will benefit all children, including children with disabilities. These initiatives would reduce class size in the early grades, modernize thousands of schools, help children read well by the end of the third grade, strengthen reform efforts by high-poverty urban and rural school districts, provide after-school learning opportunities, and provide mentoring and other support services to prepare students for college. We believe that while these new initiatives are focused on all children, they will be particularly important in improving results for children with disabilities.

Q. What is your specific special education proposal?

In early October, I announced a multi-pronged approach to ensure that schools get the support they need to provide quality special education services while also investing in the needs of all children. My specific proposal includes:

- Ensuring that the federal government helps local school districts by paying its fair share of special education costs;
- Pledging that my first budget would include an important down payment toward that goal---the largest ever federal funding increase in this program, while maintaining a commitment to a balanced budget and making needed investments to strengthen public schools for all children;
- Vetoing any spending plan that does not include funding to help communities provide a quality public education to all children, including those with disabilities;
- Assisting in defraying local school district expenses to educate students with very high-cost special needs. We can do this by working with states to establish or expand funding pools to which school districts could apply to help cover the costs of educating the relatively few children with disabilities requiring

extraordinarily expensive services to attend local public schools. These funding pools would be funded under the IDEA and would be managed by states;

- Launching critical early identification and intervention efforts. An early identification and intervention fund that would reduce the long term costs of special education by helping school districts adopt proven methods of identifying and assisting children with reading or behavioral problems in kindergarten or 1st grade. Coupled with my universally available preschool and smaller class size proposals, this plan will help teachers give students the help they need to succeed early on, and avoid referring them for unnecessary special education services later;
- Investing in teacher training to help all teachers learn how to effectively meet the needs of children with disabilities. A very high percentage of students with disabilities spend much of their day in regular classrooms, and training both special education and regular teachers to address the needs of these students will ensure a better education for all our children.

We must do all this within fiscal constraints and invest in, rather than shortchange, other education investments like class size and after school programs.

Q. How can schools respond to parent complaints regarding special education services?

The foundation for all of IDEA's decision-making processes is a partnership between families and school districts in planning for each child's educational success. Effective communication between parents and school personnel helps them to reach joint solutions to disagreements.

The Department of Education funds a network of resources for parents known as Parent Training and Information Centers. PTIs provide training to parents to assist them in working constructively with school personnel in making these decisions.

The 1997 IDEA Amendments specifically added a requirement that States make mediation available to parents and school districts to resolve disagreements, when a due process hearing has been requested. Parents should not have to take out second mortgages on their homes to assure that schools provide the right services to their children, nor should they have to quit their jobs and move out of the school district. On the other hand, schools should not have to fear a constant plethora or litigation. Mediation has helped to reduce the cost and adversarial nature of due process hearings and complaints.

Q. Would you support an expansion of Parent Training Information Centers?

Yes, absolutely. As a father, I know firsthand that family involvement in children's learning is critical to achieving high quality education. Three decades of research show what common sense already told us: positive school family partnerships can be built to inform and involve families in their children's learning. Families can take concrete steps that significantly help their children succeed in school, regardless of their income, education or knowledge of the English language.

Parent information centers are primary vehicles under the IDEA for providing that linkage between parents of disabled children and schools. Currently, nearly 80 PTIs serve parents of children with all types of disabilities. The training and information provided by the centers helps ensure that parents have the knowledge and skills to help their children succeed. They also play a vital role in dispute resolution by explaining to parents the benefits of alternative methods of dispute resolution, such as the mediation process outlined in IDEA.

Another key resource for parents that need our attention is the small network of Community Parent Projects. These are centers operated by local parent organizations that help ensure that underserved parents of children with disabilities, including low-income parents, parents of children with limited English proficiency, and parents with disabilities, have the training and information they need to enable them to participate effectively in helping their children.

This Congress has not seen fit to increase funding for these centers, and has rejected our Administration's requests to do so. I will make expansion of this parent resource network a high priority in my education budget proposals.

Q. Will you push for greater compliance with and enforcement of IDEA?

We have a lot to be proud of in the area of education of disabled students. Since 1975, we've gone from millions of disabled kids with disabilities shut out of our educational system to more than six million students with disabilities who face a brighter future thanks to the education they are receiving.

However, we need to be honest with ourselves. There is still much work to be done to assure that the fundamental civil rights guaranteed under the IDEA are being met. Like all disability civil rights statutes, the law is only as good as the way it is being implemented. My Administration will place a high priority on the monitoring and enforcement of all disability civil rights statutes, including IDEA. We will actively engage states as partners in enforcement, and they, in turn, will enlist parents and schools to make sure the promise of IDEA is fulfilled for each and every child.

Q. Why should students with disabilities be disciplined differently than those without disabilities?

The discipline question is not an easy issue, especially in light of the Decatur (SP) controversy and the rise in school-related violence. However, there needs to be a balance between schools' ability to offer quality education in a safe environment and protection of the rights of students with disabilities to a free appropriate public education.

Recent changes to the federal law incorporated several court decisions and policy interpretations developed over the years. Under IDEA, it is OK to

- Remove a child for up to 10 school days at a time for any violation of school rules as long as there is not a pattern, there is no long term suspension or expulsion for behavior that is a manifestation of a disability, and educational services continue for children with disabilities who are suspended or expelled from school;
- Remove an individual for an interim alternative education placement for up to 45 days for dangerous behavior involving weapons or drugs, or a hearing officer recommends the removal because the student is substantially likely to injure self or others;
- Have schools assess children's troubling behavior and develop positive behavioral interventions.

The key here is that it makes no sense to just toss kids out on the street with no education. If someone is a threat to themselves or others, then we should find alternative educational settings for them. However, we must make certain that all children have access to an education.

Q. What can be done to help make IEPs work and be less cumbersome:

IDEA '97 required that new IEP requirements be in effect by July 1, 1998. To assist States and districts in implementing the new requirements, the Department of Education interpreted this provision to mean that IEP developed or revised after that date needed to comply with the new requirements.

The Department of Education funded four "Partnerships for Linking Policy and Practices Audiences with the 1997 Amendments of IDEA." One of the partnerships was created specifically to link with local school administrators, and the others with families, policymakers, teachers and other key service providers. These "Partnerships" are working together with the Department of education to assist all stakeholders in implementing the revised IDEA. One focus of their work together with the Department is to assist States and school districts in maximizing the effectiveness and efficiency of their IEP process to focus on teaching and learning and eliminate unnecessary

paperwork, while ensuring that the rights of children with disabilities and their families are protected. This work will result in guidance and training strategies that will be disseminated widely across the country.

The 1997 Amendments also enable school districts to review existing data when they prepare to evaluate a child with a disability, and conduct additional tests only if needed to provide data not already available about the child's needs.

School districts should work with their State education departments to develop strategies for effective and efficient IEPs that will work best in the state's school districts.

Q. How can regular education teachers be included in the IEP process?

It is critical that regular education teachers be included in the IEP process for a number of reasons. Most students with disabilities will spend most of their school day learning in the general curriculum in regular education classrooms. Regular education teachers have the strongest expertise regarding the general education curriculum and their classrooms. And, regular education teachers need to be involved in---and understand---decisions that are made about special education support for children with disabilities in their classrooms and for the regular education teachers themselves.

As part of the reauthorization of the IDEA in 1997, regular education teachers consistently told the Administration that their ability to meet the needs of children with disabilities was compromised if they were not included in the IEP process. In fact, thirty-two States had recognized this need, and required the involvement of regular education teachers in IEP meetings prior to the 1997 Amendments.

The IDEA regulations afford school districts the flexibility to determine which teacher or teachers will be members of the IEP team for a particular student. Whether the child's regular education teacher must be physically present at an IEP meeting, and the extent that individual must participate in all phases of the IEP process, are

matters that must be determined on a case-by-case basis by the parents, the school and other members of the IEP team.

Q. What do you see as some of the most important accomplishments of the Administration in the IDEA reauthorization?

The 1997 Amendments to IDEA provided greater flexibility to states and schools by:

- Emphasizing teaching, learning and results for children with disabilities;
- Strengthening the role of parents in the educational planning for their children;
- Broadening the role of teachers in the educational planning for disabled children;
- Eliminating the need for unnecessary testing when data already exist to determine a child's continued eligibility for services under IDEA;
- Allowing school districts to use a portion of their special education basic grant funding in schoolwide programs authorized under Title I of ESEA; and,
- Allowing State and local educational agencies to use a portion of their IDEA funds to assist in the implementation of coordinated services systems that can benefit all children.

Q. What are your views on assessment of students with disabilities?

Assessment is an integral aspect of accountability. Given the emphasis on assessment in recent educational reform efforts, including State and Federal legislation linking assessment and school accountability, it is of utmost importance that students with disabilities be included in the development and implementation of assessment activities. Too often, in the past, students with disabilities have not fully participated in State and district assessments only to be short-changed by the low expectations and less challenging curriculum that may result from exclusion.

Exclusion from assessments based on disability generally would violate Section 504 of the Rehabilitation Act of 1973 (Section 504), which prohibits exclusion from participation of, denial of, benefits to, or discrimination against, individuals with disabilities on the basis of their disability in Federally-assisted programs or activities.

The 1997 Amendments to IDEA emphasize improving results for children with disabilities and contains requirements related to assessments. As a condition of eligibility, Part B of IDEA requires States to have policies and procedures to ensure that children with disabilities are included in general State and district-wide assessment programs with appropriate accommodations, where necessary.

IDEA requires that individualized education programs include a statement of any individual modifications in the administration of state or districtwide assessments of student achievement that are needed in order for the child to participate in such assessments; and if the IEP team determines that the child will not participate in a particular state or districtwide assessments student achievement (or part of such assessment), the IEP must include a statement of why that assessment is not appropriate for the child; and how the child will be assessed.

The individualized determination of whether a student will participate in a particular assessment, and what accommodations, if any, are appropriate should be addressed through the individualized education program process or other evaluation and placement process and included in either the student's IEP or Section 504 plan.

For the small number of students whose IEPs specify that they should be excluded from regular assessments, including some students with significant cognitive impairments, participation in regular assessments is not appropriate. For these students, IDEA requires that the State ensure that, as appropriate, the State or local agency (1) develops guidelines for the participation of children with disabilities in alternate assessments for those children who cannot participate in State and district-wide assessment programs; and (2) develops and, beginning not later than July 1, 2000, conducts those alternate assessments.

IDEA also requires States and districts to report on the performance of disabled children in assessments, and with the same frequency and in the same level of detail as the reports on the assessment of nondisabled students.

Students with disabilities should have the greatest possible access to the general curriculum and the highest possible expectations for achievement. We need to know their achievement rates just as much as we need to track the success rates of the nondisabled peers.

Q. What is the Cedar Rapids v. Garrett F. case and how does it effect the education of disabled children?

Garrett F. is a student who uses a wheelchair and a ventilator. He requires nursing services during the day, including while at school. The Supreme Court ruled that the school district is required to pay for those medical services, under IDEA. This decision affirmed the 1984 Tatro decision that under IDEA school districts must provide children with disabilities the related services, including health services, that can be performed by a non-physician, to enable them to access to a public education.

There are relatively few children who are ventilator users. The Congressional Office of Technology Assessment estimates that fewer than 2,000 students under age 21 use a ventilator in any given year. The National School Board Association estimates that there are about 17,000 students needing ongoing medical support, a very small fraction of the 6.2 million students with disabilities being served under IDEA. Under the federal law, special education funds can be used for medical support services. Yet the recent 1997 Amendments to IDEA make it clear that Medicare and other programs retain their responsibility to provide services, at school or at home. The cost to the government would be far greater if a child is supported in an institution.

Q. Why have we seen more students with Autism in our public schools?

The Department of Education has seen a 173 percent increase in the reported number of students with autism in the past five years. The number of students with autism served under IDEA has increased from 15,580 in the 1992-93 school year to 42,500 in 1997-98. Prior to 1991, there was no category for reporting autism. We understand that the number of students with autism appears to have increased, however, that is not a scientific finding, part of the increase may be attributable to a change in reporting methodology. Additionally, there is now an infrastructure in place under IDEA for a team to work together to tailor services to best serve the child. And, we need to be investing in research and development for effective practice in serving children with autism as well as teacher training for this population.

Q. What is happening to school to work transition?

We know that transition services work for students with disabilities, and nondisabled students. Learning-based work experiences are critical to facilitating a smooth transition from school to work, or from school to college to work.

Beginning by age 14, the IEP should begin a program to transition students with disabilities from school into adult life, including work or postsecondary education and work. Access to the general curriculum to ensure graduation and receipt of a diploma are key to that transition. The drop out rate among students with disabilities is nearly twice that of non-disabled students. Transition efforts have helped keep students connected to school and reduced the drop out possibility. Utilization of Vocational Rehabilitation services can provide access to employment services and training.

VOCATIONAL REHABILITATION

The Vocational Rehabilitation Program provides assistance to disabled persons who need skill development and assistance in finding employment as well as living independently in their communities.

The Vocational Rehabilitation program, which is a partnership between the federal government and the states, has undergone significant change during the Clinton-Gore Administration. There have been some real positive changes in Vocational Rehabilitation practices as a result of the 1992 Amendments to the Rehabilitation Act. In particular, changes in the eligibility process have increased the rate of acceptance into the program and substantially increased the number of individuals in the vocational rehabilitation system, especially the number of individuals with significant disabilities. The Vocational Rehabilitation program is assisting greater numbers of individuals to achieve their employment goals. Additionally, consumer choice is woven into the fabric of individual vocational rehabilitation plans. As it should be, every disabled person should be able to make his or her own informed choice about career choices and service providers. In fact, recent research confirms that vocational rehabilitation consumers are predominantly satisfied with the level of control they have over their own rehabilitation programs.

Vocational Rehabilitation is now part of the Workforce Development System as envisioned by last year's Workforce Investment Act. With an expertise in disability assessment and accommodations, the Vocational Rehabilitation is a nice compliment for the One Stop employment service system. Rehabilitation can focus on the more significant disabled population while the generic workforce system can serve people with the mild and moderate disabilities.

INDEPENDENT LIVING

There are nearly 450 Independent Living Centers across the country, about 250 of which are supported with federal funds. The Independent Living movement is based on personal and systemic advocacy to improve the opportunities for disabled people to be full participants in their communities. Independent Living Centers are consumer-controlled, nonresidential centers, which offer an array of services so that people with disabilities can live, work, play and get around in their communities.

We should expand this critical network of centers dedicated to improving the lives of disabled people.