

The Crisis of Underfunding Special Education

When Congress enacted the Education for All Handicapped Children Act of 1975 (PL 94-142), now known as the Individuals with Disabilities in Education Act (IDEA), its intent was to ensure that all children with disabilities have available to them a free and appropriate public education. It also included a commitment to help pay for the excess costs of educating children with disabilities by including a provision authorizing Congress to allocate funding to states for this purpose. Since 1981, Congress has been authorized to fund states up to 40% of the national average per-pupil expenditure in public schools. Unfortunately, twenty-four years later, Congress provides on average only 8% of the national per pupil average expenditure.

California serves the largest population of children with disabilities in the nation. Over 600,000 students receive special education and related services in public schools at a reported cost of \$3.4 billion. According to the California Department of Education, this year, \$800 million of those costs are paid for by local school agencies. The funding California receives from the federal government is about \$400 million and the state covers the remaining over \$2 billion cost to pay for the federal IDEA mandates.

Impact of the Underfunding of Special Education on Local School Agencies

Unlike other states, school agencies in California do not have the authority to increase local revenues that could pay for the unfunded costs of providing services to children with disabilities. Therefore, to offset the costs of providing special education services, they must use funding from other programs or their general funds intended for all students. Many school agencies are reporting that this has resulted in severe cuts to education programs and jeopardized the school agency's financial stability.

California Faces Rapid Growth in Special Education

California continues to experience one of the fastest growing student populations in the nation. Within this student growth, the identified population of disabled students, including those students with more severe and costly disabilities, is growing at an even faster rate. In fact, special education pupil counts have been growing about 1.5 times as fast as K-12 enrollment for the past decade. Additionally, the cost of providing services to this growing population is also on the rise. An example of this is the recent U.S. Supreme Court ruling that a school district must bear the fiscal responsibility of providing full-time nursing services in certain circumstances. Increased federal funding would ensure states meet the service needs of this growing population.

Federal Action Needed Now

California is appreciative of Congress' recognition of the significant underfunding of the special education requirements and its recent efforts to increase IDEA funding. We strongly support these efforts and urge the President and Congress to continue this trend and fulfill the promise of moving toward the 40% funding level. We ask that you provide new federal funds for IDEA this year without compromising existing federal education programs.

Increased funding for IDEA will:

- ease the financial pressure placed on state and local education agencies.
- free local funding to address unique problems and needs.
- provide more flexibility to schools on how to structure programs and services to students with disabilities.

School agencies do not have the same categorical funding needs, but every school agency in California faces the financial challenge of paying for underfunded special education mandates by assuming the responsibility to ensure all students are receiving educational services they need to become well educated and productive citizens.

For more information, please contact any of the K-12 education organizations listed on the back of this position paper. Rev 9/99

*The following California Organizations**

SUPPORT INCREASED FUNDING FOR SPECIAL EDUCATION (IDEA)

*The 120 Members of the California State Legislature (see AJR 12)
Delaine Eastin, California State Superintendent of Public Instruction*

Association of California School Administrators

California School Boards Association

California State PTA

California Association of Resource Specialists and Special Day Class Teachers

The Advisory Commission on Special Education

Association of California Urban School Districts

California Association of Suburban School Districts

California School Employees Association

California Association of School Business Officials

California Association of School Psychologists

California/D.C. Alliance

Coalition for Adequate Funding for Disabled Children

Federal Advocacy for California Education (county offices of education)

Special Education Local Plan Area (SELPA's) Administrators Association

Student Support Group Alliance (school nurses, counselors)

School Districts*

Anaheim SD

Biggs USD

Brawley HSD

Brea Olinda SD

Buena Park SD

Capistrano SD

Centralia SD

Clovis USD

Cupertino SD

Cypress SD

Fountain Valley SD

Fullerton SD

Huntington Beach

Irvine USD

LaCanada SD

Lake Tahoe SD

Lodi USD

Long Beach USD

Los Angeles USD

Modesto SD

Palm Springs USD

Perris UHSD

Poway SD

Redondo Beach SD

San Juan USD

Santa Ana SD

South San Francisco USD

Walnut Valley SD

William S. Hart SD

County Offices of Education*

Butte County Office of Education

Colusa County Office of Education

Contra Costa County Office of Education

El Dorado County Office of Education

Fresno County Office of Education

Humboldt County Office of Education

Imperial County Office of Education

Kern County Superintendent of Schools

Los Angeles County Office of Education

Marin County Schools

Merced County Office of Education

Mariposa County USD

Mendocino County Schools

Modoc County Schools

Orange County Department of Education

Riverside County Office of Education

San Diego County Schools

San Joaquin County Schools

San Luis Obispo County Schools

San Mateo County

Siskiyou County Office of Education

Solano County Schools

Sonoma County Office of Education

Tehama County Schools

Yolo County Office of Education

Lake County Schools

Shasta County Schools

**partial listing*

CALIFORNIA								5/4/99
COUNTY BY COUNTY COMPARISON								
OF 98 -99 IDEA PART B GRANTS								
TO PART B GRANTS AT FULL 40% FEDERAL ALLOCATION								
	98 - 99	FULL 40%			98 - 99	FULL 40%		
	PART B	PART B			PART B	PART B		
	GRANT	GRANT			GRANT	GRANT		
COUNTY	ALLOCATION	ALLOCATION	DIFFERENCE	COUNTY	ALLOCATION	ALLOCATION	DIFFERENCE	
ALAMEDA	11,490,516	46,290,561	34,800,045	PLACER/ NEVADA	3,321,594	13,381,334	10,059,740	
ALPINE	426,931	1,719,930	1,292,999	PLUMAS	209,460	843,826	634,366	
AMADOR/ CALAVERAS/ TUOLUMNE	1,249,318	5,032,926	3,783,608	RIVERSIDE	17,126,467	68,995,435	51,868,968	
BUTTE	2,399,056	9,664,809	7,265,753	SACRAMENTO	12,533,808	50,493,555	37,959,747	
COLUSA	248,376	1,000,603	752,227	SAN BENITO	584,312	2,353,953	1,769,641	
CONTRA COSTA	9,506,946	38,299,572	28,792,626	SAN BERNARDINO	20,433,753	82,319,161	61,885,408	
EL DORADO	1,437,632	5,791,508	4,353,905	SAN DIEGO	25,064,184	100,973,277	75,909,093	
FRESNO	10,808,343	43,542,362	32,734,019	SAN FRANCISCO	3,585,994	14,446,492	10,860,498	
GLENN	355,967	1,434,044	1,078,077	SAN JOAQUIN	6,045,574	24,367,216	18,321,642	
HUMBOLDT/ DEL NORTE	1,836,491	7,398,467	5,561,976	SAN LUIS OBISPO	2,206,765	8,660,149	6,453,384	
IMPERIAL	1,689,934	6,808,249	5,118,315	SAN MATEO	5,461,401	22,001,735	16,540,334	
INYO	231,207	931,437	700,230	SANTA BARBARA	3,250,057	13,093,142	9,843,085	
KERN	7,432,381	29,942,003	22,509,622	SANTA CLARA	13,454,629	54,203,163	40,748,534	
KINGS	1,349,469	5,435,455	4,086,986	SANTA CRUZ	2,537,551	10,222,749	7,685,198	
LAKE	714,795	2,879,615	2,164,820	SHASTA	1,962,396	7,905,685	5,943,289	
LASSEN	439,522	1,770,652	1,331,130	SIERRA	66,326	267,442	201,116	
LOS ANGELES	24,613,082	340,871,266	316,258,184	SISKIYOU	563,137	2,262,648	1,700,511	
MADERA/ MARIPOSA	1,518,868	6,118,894	4,600,026	SOLANO	4,526,345	18,236,794	13,710,449	
MARIN	2,049,384	8,256,126	6,206,742	SONOMA	4,509,104	18,165,322	13,656,218	
MENDOCINO	1,189,227	4,790,905	3,601,678	STANISLAUS	5,895,916	23,756,248	17,860,332	
MERCED	3,006,260	12,110,983	9,104,723	SUTTER	958,592	3,861,774	2,903,182	
MODOC	173,405	698,578	525,173	TEHAMA	622,083	2,506,118	1,884,035	
MONO	175,122	705,494	530,372	TRINITY	233,496	940,659	707,163	
MONTEREY	3,662,109	14,753,128	11,091,019	TULARE	4,858,775	19,574,005	14,715,230	
NAPA	1,143,443	4,606,462	3,463,019	VENTURA	7,819,824	31,502,851	23,683,027	
ORANGE	23,438,869	94,425,554	70,986,685	YOLO	1,432,452	5,770,758	4,338,306	
				YUBA	899,546	3,624,303	2,724,757	
				TOTALS	322,754,874	1,300,246,507	977,491,633	

CALCULATION OF FEDERAL LOCAL ASSISTANCE USING ESTIMATE OF TOTAL 40% ALLOCATION						5/4/99
		COL A	COL B	COL C	COL D	
		TOTAL	TOTAL	40% PART B	TOTAL	
		DEC 1 97	DEC 1	ALLOCATION	CA GRANT	
		COUNT	3-21 COUNT		COL B * COL C	
		610,037	604,820	2,276	1,376,570,320	
			COL E	COL F	COL G	
			95%	ADJUSTED	PART B	
			CA GRANT	DEC 1 COUNT	LOCAL ALLOC	
			COL D * .95		COL E / COL F	
			1,307,741,804	567,218	2305.5365	
COMPARISON OF 98 - 99 LOCAL ASISTANCE ALLOCATON TO FULL 40% ESTIMATED ALLOCATION						
		TOTAL	ADJUSTED	98 - 99	40%	
SELPA	NAME	DEC 1 97	DEC 1 97	PART B	PART B	
-----	----	PUPIL	PUPIL	GRANT	GRANT	
		COUNT	COUNT	572.2939	2,305.5365	DIFFERENCE
111	MID-ALAMEDA COUNTY	5,452	5,119	2,929,572	11,802,041	8,872,469
112	NORTH REGION SELPA	2,610	2,474	1,415,855	5,703,897	4,288,042
113	OAKLAND UNIFIED	5,081	4,856	2,779,059	11,195,685	8,416,626
114	TRI-VALLEY SELPA	3,216	3,012	1,723,749	6,944,276	5,220,527
115	MISSION VALLEY SELP	4,995	4,617	2,642,281	10,644,662	8,002,381
400	BUTTE COUNTY SELPA	4,423	4,192	2,399,056	9,664,809	7,265,753
500	TRI-COUNTY SELPA	2,380	2,183	1,249,318	5,032,986	3,783,668
600	COLUSA COUNTY SELPA	478	434	248,376	1,000,603	752,227
701	CONTRA COSTA SELPA	8,982	8,304	4,752,329	19,145,175	14,392,846
711	MT. DIABLO UNIFIED	4,850	4,584	2,623,395	10,568,579	7,945,184
712	WEST CONTRA COSTA U	4,136	3,724	2,131,222	8,585,818	6,454,596
901	EL DORADO COUNTY SE	2,689	2,512	1,437,602	5,791,508	4,353,906
911	TAHOE-ALPINE SELPA	801	746	426,931	1,719,930	1,292,999
1001	FRESNO COUNTY SELPA	7,992	7,489	4,285,909	17,266,163	12,980,254
1011	FRESNO UNIFIED	9,276	8,815	5,044,771	20,323,304	15,278,533

SELPA	NAME	DEC 1 97	DEC 1 97	PART B	PART B	
----	----	PUPIL	PUPIL	GRANT	GRANT	
		COUNT	COUNT	572.2939	2,305.5365	DIFEREN
1012	CLOVIS UNIFIED	2,982	2,582	1,477,663	5,952,895	4,475,2
1100	GLENN COUNTY SELPA	666	622	355,967	1,434,044	1,078,0
1200	HUMBOLDT-DEL NORTE	3,515	3,209	1,836,491	7,398,467	5,561,9
1300	IMPERIAL COUNTY SEL	3,081	2,953	1,689,984	6,808,249	5,118,2
1400	INYO COUNTY SELPA	470	404	231,207	931,437	700,23
1501	KERN COUNTY SELPA	8,896	8,287	4,742,600	19,105,981	14,363,3
1511	BAKERSFIELD CITY	3,037	2,740	1,568,085	6,317,170	4,749,02
1512	KERN UNION HIGH	1,963	1,960	1,121,696	4,518,852	3,397,15
1600	KINGS COUNTY SELPA	2,479	2,358	1,349,469	5,436,455	4,086,98
1700	LAKE COUNTY SELPA	1,314	1,249	714,795	2,879,615	2,164,82
1800	LASSEN COUNTY SELPA	835	768	439,522	1,770,652	1,331,13
1901	LA COUNTY COURT SCH	950	941	538,529	2,169,510	1,630,98
1902	DOWNEY-MONTEBELLO S	4,907	4,659	2,666,317	10,741,495	8,075,172
1903	EAST SAN GABRIEL VA	13,395	12,807	7,329,368	29,527,006	22,197,63
1904	MID CITIES SELPA	6,221	5,878	3,363,944	13,551,944	10,188,00
1905	PUENTE HILLS SERV.	4,050	3,777	2,161,554	8,708,011	6,546,457
1906	SANTA CLARITA VALLE	3,757	3,489	1,996,733	8,044,017	6,047,284
1907	SOUTHWEST SERVICE A	10,388	9,003	5,152,362	20,756,745	15,604,383
1908	WEST SAN GABRIEL VA	9,194	8,886	5,085,404	20,486,997	15,401,593
1911	ANTELOPE VALLEY SEL	7,661	7,087	4,055,847	16,339,337	12,283,490
1912	FOOTHILL SELPA	4,613	4,364	2,497,491	10,061,361	7,563,870
1913	LONG BEACH UNIFIED	6,817	6,414	3,670,693	14,787,711	11,117,018
1914	LOS ANGELES UNIFIED	73,116	67,247	38,485,048	155,040,413	116,555,365
1915	NORWALK-LA MIRADA/A	4,161	3,944	2,257,127	9,093,036	6,835,909
1916	PASADENA UNIFIED	2,892	2,539	1,453,054	5,853,757	4,400,703

SELPA	NAME	DEC 1 97	DEC 1 97	PART B	PART B	
-----	----	PUPIL	PUPIL	GRANT	GRANT	
		COUNT	COUNT	572.2939	2,305.5365	DIFEREN
1917	TRI-CITIES SELPA	2,505	2,371	1,356,909	5,466,427	4,109,5
1918	WHITTIER AREA COOPE	4,945	4,443	2,542,702	10,243,499	7,700,75
2000	MADERA-MARIPOSA CO.	2,897	2,654	1,518,868	6,118,894	4,600,02
2100	MARIN COUNTY SELPA	3,957	3,581	2,049,384	8,256,126	6,206,74
2300	MENDOCINO COUNTY SE	2,361	2,078	1,189,227	4,790,905	3,601,67
2400	MERCED COUNTY SELPA	5,602	5,253	3,006,260	12,110,983	9,104,72
2500	MODOC COUNTY SELPA	332	303	173,405	698,578	525,173
2600	MONO COUNTY SELPA	330	306	175,122	705,494	530,372
2700	MONTEREY COUNTY SEL	6,792	6,399	3,662,109	14,753,128	11,091,01
2800	NAPA COUNTY SELPA	2,253	1,998	1,143,443	4,606,462	3,463,013
3001	NORTH ORANGE COUNTY	4,378	4,120	2,357,851	9,498,810	7,140,955
3002	SOUTH ORANGE COUNTY	6,165	5,678	3,249,485	13,090,836	9,841,351
3011	ANAHEIM CITY SCHOOL	1,831	1,680	951,454	3,873,301	2,911,847
3012	GARDEN GROVE UNIFIE	4,512	4,307	2,454,870	9,929,946	7,465,076
3013	GREATER ANAHEIM SEL	5,381	5,122	2,931,289	11,808,958	8,877,669
3014	IRVINE UNIFIED	2,348	2,169	1,241,305	5,000,709	3,759,404
3015	NEWPORT-MESA UNIFIE	2,293	2,214	1,267,059	5,104,458	3,837,399
3016	NORTHEAST ORANGE CO	2,853	2,676	1,531,458	6,169,616	4,638,158
3017	ORANGE UNIFIED	3,006	2,851	1,631,610	6,573,085	4,941,475
3018	SANTA ANA UNIFIED	5,098	4,641	2,656,016	10,699,995	8,043,979
3019	TUSTIN UNIFIED	1,240	1,151	658,710	2,653,673	1,994,963
3020	WEST ORANGE COUNTY	4,670	4,347	2,487,762	10,022,167	7,534,405
3100	PLACER-NEVADA COUNT	6,351	5,804	3,321,594	13,381,334	10,059,740
3200	PLUMAS UNIFIED	386	366	209,460	843,826	634,366
3301	RIVERSIDE COUNTY SE	20,921	19,833	11,350,305	45,725,705	34,375,400

SELPA	NAME	DEC 1 97	DEC 1 97	PART B	PART B	
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		COUNT	COUNT	572.2939	2,305.5365	DIFEREN
3311	CORONA-NORCO UNIFIE	3,255	3,107	1,778,117	7,163,302	5,385,18
3312	RIVERSIDE UNIFIED	3,737	3,515	2,011,613	8,103,961	6,092,34
3313	MORENO VALLEY UNIFI	3,589	3,471	1,986,432	8,002,517	6,016,08
3401	SACRAMENTO COUNTY S	8,377	7,725	4,420,970	17,810,269	13,389,2
3411	ELK GROVE UNIFIED	3,841	3,621	2,072,276	8,343,348	6,276,07
3412	SACRAMENTO CITY UNI	5,904	5,558	3,180,809	12,814,172	9,633,36
3413	SAN JUAN UNIFIED	5,532	4,997	2,859,753	11,520,766	8,661,01
3500	SAN BENITO COUNTY S	1,093	1,021	584,312	2,353,953	1,769,64
3601	DESERT MOUNTAIN SEL	8,577	8,224	4,706,545	18,960,732	14,254,18
3602	EAST VALLEY CONSORT	8,254	7,735	4,426,693	17,833,325	13,406,63
3603	WEST END SELPA	10,968	10,454	5,982,760	24,102,079	18,119,31
3611	MORONGO UNIFIED	1,407	1,285	735,398	2,962,614	2,227,216
3612	SAN BERNARDINO CITY	5,226	5,020	2,872,915	11,573,793	8,700,878
3613	FONTANA UNIFIED	3,123	2,987	1,709,442	6,886,638	5,177,196
3701	EAST COUNTY SELPA	9,157	8,240	4,715,702	18,997,621	14,281,91
3702	NORTH COASTAL SELPA	10,266	9,369	5,361,822	21,600,571	16,238,74
3703	NORTH INLAND SELPA	4,171	3,715	2,126,072	8,565,068	6,438,996
3704	SOUTH BAY SERVICE A	8,839	8,324	4,763,774	19,191,286	14,427,51
3711	POWAY UNIFIED	2,744	2,516	1,439,891	5,800,730	4,360,839
3712	SAN DIEGO CITY UNIF	12,651	11,632	6,656,923	26,818,001	20,161,076
3800	SAN FRANCISCO UNIFI	6,665	6,266	3,585,994	14,446,492	10,860,498
3901	SAN JOAQUIN COUNTY	4,721	4,387	2,510,653	10,114,389	7,603,736
3911	LODI AREA SELPA	3,053	2,872	1,643,628	6,621,501	4,977,873
3912	STOCKTON CITY UNIFI	3,696	3,310	1,894,293	7,631,326	5,737,033
4000	SAN LUIS OBISPO COU	4,272	3,856	2,206,765	8,890,149	6,683,384

SELPA	NAME	DEC 1 97	DEC 1 97	PART B	PART B	
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		COUNT	COUNT	572,2939	2,305.5365	DIFERE
4100	SAN MATEO COUNTY SE	10,075	9,543	5,461,401	22,001,735	16,540
4200	SANTA BARBARA COUNT	6,244	5,679	3,250,057	13,093,142	9,843,
4301	SANTA CLARA AREA 1	2,286	2,148	1,229,287	4,952,292	3,723,
4302	SANTA CLARA AREA 2	2,694	2,516	1,439,891	5,800,730	4,360,
4303	SANTA CLARA AREA 3	4,126	3,595	2,057,397	8,288,404	6,231,
4304	SANTA CLARA AREA 4	3,195	3,057	1,749,502	7,048,025	5,298,
4305	SANTA CLARA AREA 5	9,455	8,932	5,111,729	20,593,052	15,481,
4306	SANTA CLARA AREA 6	1,958	1,851	1,059,316	4,267,548	3,208,
4307	SANTA CLARA AREA 7	1,522	1,411	807,507	3,253,112	2,445,
4401	NORTH SANTA CRUZ CO	2,611	2,426	1,388,385	5,593,232	4,204,
4411	PAJARO VALLEY JOINT	2,290	2,008	1,149,166	4,629,517	3,480,
4500	SHASTA COUNTY SELPA	3,626	3,429	1,962,396	7,905,685	5,943,
4600	SIERRA COUNTY SELPA	124	116	66,386	267,442	201,05
4700	SISKIYOU COUNTY SEL	1,045	984	563,137	2,268,646	1,705,
4801	SOLANO COUNTY SELPA	6,237	5,756	3,294,124	13,270,568	9,976,
4811	VALLEJO CITY UNIFIE	2,304	2,154	1,232,721	4,966,126	3,733,
4900	SONOMA COUNTY SELPA	8,468	7,879	4,509,104	18,165,322	13,656,
5001	STANISLAUS COUNTY S	7,275	6,939	3,971,147	15,998,118	12,026,
5011	MODESTO CITY SCHOOL	3,563	3,365	1,925,769	7,758,130	5,832,
5100	SUTTER COUNTY SELPA	1,815	1,675	958,592	3,861,774	2,903,
5200	TEHAMA COUNTY SELPA	1,148	1,087	622,083	2,506,118	1,884,
5300	TRINITY COUNTY SELP	440	408	233,496	940,659	707,16
5400	TULARE COUNTY SELPA	9,962	8,490	4,858,775	19,574,005	14,715,
5600	VENTURA COUNTY SELP	14,608	13,664	7,819,824	31,502,851	23,683,
5700	YOLO COUNTY SELPA	2,731	2,503	1,432,452	5,770,758	4,338,

SELPA	NAME	DEC 1 97	DEC 1 97	PART B	PART B	
-----	----	PUPIL	PUPIL	GRANT	GRANT	
		COUNT	COUNT	572.2939	2,305.5365	DIFE
5800	YUBA COUNTY SELPA	1,688	1,572	899,646	3,624,303	2,72
7100	CA STATE SPECIAL SC	1,087	1,053	602,625	2,427,730	1,82
7200	CA YOUTH AUTHORITY	1,823	1,811	1,036,424	4,175,327	3,13
7300	CA DEPT. OF DEV. SE	390	387	221,478	892,243	570
	STATE TOTALS	610,037	567,218	324,615,401	1,307,741,807	983,1
	SELPA ONLY TOTALS			322,754,874	1,300,246,507	977,4

Assembly Joint Resolution No. 12

RESOLUTION CHAPTER 76

Assembly Joint Resolution No. 12—Relative to special education funding.

[Filed with Secretary of State August 19, 1999.]

LEGISLATIVE COUNSEL'S DIGEST

AJR 12, Lempert. Special education: federal funding.

This measure would memorialize the President and Congress of the United States to provide the full federal share of funding for special education programs to the states so that California and other states will not be required to take funding from other vital state and local programs to fund this underfunded federal mandate.

WHEREAS, The Congress of the United States enacted the Education for All Handicapped Children Act of 1975 (P.L. 94-142), now known as the Individuals with Disabilities Education Act (IDEA), to ensure that all children with disabilities in the United States have available to them a free and appropriate public education that 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; and

WHEREAS, Since 1975, federal law has authorized appropriation levels for grants to states under the IDEA at 40 percent of the average per-pupil expenditure in public elementary and secondary schools in the United States; and

WHEREAS, Congress continued the 40-percent funding authority in Public Law 105-17, the Individuals with Disabilities Education Act Amendments of 1997; and

WHEREAS, Congress has never appropriated funds equivalent to the authorized level, has never exceeded the 15-percent level, and has usually only appropriated funding at about the 8-percent level; and

WHEREAS, The California Master Plan for Special Education was approved for statewide implementation in 1980 on the basis of the anticipated federal commitment to fund special education programs at the federally authorized level; and

WHEREAS, The Governor's Budget for the 1999-2000 fiscal year proposes \$2.2 billion in General Fund support for the state's share of funding for special education programs; and

WHEREAS, The State of California anticipates receiving approximately \$410,500,000 in federal special education funds under Part B of IDEA for the 1999-2000 school year, even though the federally authorized level of funding would provide over \$1.8 billion annually to California; and

WHEREAS, Local educational agencies in California are required to pay for the underfunded federal mandates for special education programs, at a statewide total cost approaching \$1 billion annually, from regular education program money, thereby reducing the funding that is available for other education programs; and

WHEREAS, The decision of the Supreme Court of the United States in the case of Cedar Rapids Community Sch. Dist. v. Garret F. ((1999) 143 L.Ed 2d 154), has had the effect of creating an additional mandate for providing specialized health care, and will significantly increase the costs associated with providing special education services; and

WHEREAS, Whether or not California participates in the IDEA grant program, the state has to meet the requirements of Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 701) and its implementing regulations (34 C.F.R. 104), which prohibit recipients of federal financial assistance, including educational institutions, from discriminating on the basis of disability, yet no federal funds are available under that act for state grants; and

WHEREAS, California is committed to providing a free and appropriate public education to children and youth with disabilities, in order to meet their unique needs; and

WHEREAS, The California Legislature is extremely concerned that, since 1978, Congress has not provided states with the full amount of financial assistance necessary to achieve its goal of ensuring children and youth with disabilities equal protection of the laws; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature respectfully memorializes the President and Congress of the United States to provide the full 40-percent federal share of funding for special education programs so that California and other states participating in these critical programs will not be required to take funding from other vital state and local programs in order to fund this underfunded federal mandate; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Majority Leader of the Senate, to the Chair of the Senate Committee on Budget, to the Chair of the House Committee on the Budget, to the Senate Committee on Appropriations, to the Chair of the House Committee on Appropriations, to each Senator and Representative

from California in the Congress of the United States, and to the United States Secretary of Education.

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**IDEA FUNDING
WASHINGTON D.C. VISITS**

WEEK OF SEPTEMBER 13, 1999

*Association of California School Administrators
California School Boards Association
Coalition for Adequate Funding for Disabled Children
Special Education Local Plan Area Administrators Association*

LIST OF PARTICIPANTS

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NATIONAL COUNCIL ON DISABILITY

An independent federal agency working with the President and Congress to increase the inclusion, independence, and empowerment of all Americans with disabilities.

To: Judy Heumann, Pat Morrissey, Connie Garner, Katie Corrigan, Jonathan Young, Ralph Neas, Pat Wright, Katie Neas

From: Mark S. Quigley, Public Affairs Specialist

Date: January 13, 2000

Subject: ~~CONFIDENTIAL~~ REPORT, FOR YOUR EYES ONLY

As you know, the National Council on Disability (NCD) will conduct a news conference to highlight the release of its report *Back to School on Civil Rights* on Tuesday, January 25, 2000, at 9:00 a.m., in Room 902, Senate Hart Office Building.

In preparation for that event, you may wish to review the attached copy of that ~~CONFIDENTIAL~~ report. This report is not to be copied or distributed. It is intended **FOR YOUR EYES ONLY**. An earlier version of this report had been leaked to the media and we are hoping to avoid that problem with this final version.

Thank you for your cooperation on this matter.

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**Back to School on Civil Rights:
Advancing the Federal Commitment to
Leave No Child Behind**

National Council on Disability

January 25, 2000

LETTER OF TRANSMITTAL

January 25, 2000

The President
The White House
Washington, DC 20500

Dear Mr. President:

On behalf of the National Council on Disability (NCD), I am pleased to submit a report entitled *Back to School on Civil Rights: Advancing the Federal Commitment to Leave No Child Behind*. This report is the second in a series of independent analyses by NCD of federal enforcement of civil rights laws.

The series grew out of NCD's national policy summit of a diverse group of more than 300 leaders from the disability community, where the participants called on NCD to push for more effective enforcement of existing civil rights laws. NCD produced the first report, *Enforcing the Civil Rights of Air Travelers with Disabilities*, in March 1999. The third report on enforcement of the Americans with Disabilities Act will be released in spring 2000.

Back to School on Civil Rights looks at more than two decades of federal monitoring and enforcement of compliance with Part B of IDEA. Overall, NCD finds that federal efforts to enforce the law over several Administrations have been inconsistent and ineffective. Despite the important efforts of your Administration to be more aggressive than any of its predecessors in addressing these compliance problems, failures to ensure local compliance with Part B requirements continue to be widespread and persist over many years. Enforcement of the law is too often the burden of parents who must invoke formal complaint procedures and request due process hearings to obtain the services and supports to which their children are entitled under law. The report includes recommendations for your Administration and Congress that would build on the 1997 reauthorization of IDEA.

NCD stands ready to work with you and all public and private stakeholders to address the problems identified in this report and to advance a federal approach to enforcement that results in improved compliance and better outcomes for children and families, so that the nation's 25-year-old commitment to effective education for all children will be more fully realized.

In your 1997 State of the Union address, you made clear that your number one priority is to ensure that all Americans have the best education in the world. We share your commitment.

Sincerely,

Marca Bristo
Chairperson

(This same letter of transmittal was sent to the President Pro Tempore of the U.S. Senate and the Speaker of the U.S. House of Representatives.)

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NCD would like to thank the students, parents, family members, and professionals from the various stakeholder communities who so generously gave of their time and energy in providing interviews and information for this report. To the students with disabilities and their families who traveled to Washington, DC, to speak on September 22, 1999, at the Town Meeting

on Federal Enforcement of IDEA, NCD gives special thanks for sharing your stories of struggle and success.

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Executive Summary

Twenty-five years ago, Congress enacted and President Gerald Ford signed the Education for All Handicapped Children Act, one of the most important civil rights laws ever written. The basic premise of this federal law, now known as the Individuals with Disabilities Education Act (IDEA), is that all children with disabilities have a federally protected civil right to have available to them a free appropriate public education that meets their education and related services needs in the least restrictive environment. The statutory right articulated in IDEA is grounded in the Constitution's guarantee of equal protection under law and the constitutional power of Congress to authorize and place conditions on participation in federal spending programs. It is complemented by the federal civil rights protections contained in section 504 of the Rehabilitation Act of 1973, as amended, and Title II of the Americans with Disabilities Act.

This report, the second in a series of independent analyses by the National Council on Disability (NCD) of federal enforcement of civil rights laws, looks at more than two decades of federal monitoring and enforcement of compliance with Part B of IDEA.* Overall, NCD finds that federal efforts to enforce the law over several Administrations have been inconsistent, ineffective, and lacking any real teeth. The report includes recommendations to the President and the Congress that would build on the 1997 reauthorization of IDEA. The intent is to advance a more aggressive, credible, and meaningful federal approach to enforcing this critical civil rights law, so that the nation's 25-year-old commitment to effective education for all children will be more fully realized.

*During the period between the research conducted for this report and its release, the Department of Education (DoED) designed and began to implement a new "continuous improvement monitoring system" in the fall of 1998. DoED believes its new system will address many of the longstanding problems with compliance monitoring identified in this report. This report does not attempt to assess the effectiveness of DoED's new monitoring system, in part because it has not been in effect long enough for its effectiveness to be measured fairly.

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Background

In 1970, before enactment of the federal protections in IDEA, schools in America educated only one in five students with disabilities. More than 1 million students were excluded from public schools, and another 3.5 million did not receive appropriate services. Many states had laws excluding certain students, including those who were blind, deaf, or labeled “emotionally disturbed” or “mentally retarded.” Almost 200,000 school-age children with mental retardation or emotional disabilities were institutionalized. The likelihood of exclusion was greater for children with disabilities living in low-income, ethnic and racial minority, or rural communities.

In the more than two decades since its enactment, IDEA implementation has produced important improvements in the quality and effectiveness of the public education received by millions of American children with disabilities. Today almost 6 million children and young people with disabilities ages 3 through 21 qualify for educational interventions under Part B of IDEA. Some of these students with disabilities are being educated in their neighborhood schools in regular classrooms. These children have a right to have support services and devices such as assistive listening systems, braille text books, paraprofessional supports, curricular modifications, talking computers, and speech synthesizers made available to them as needed to facilitate their learning side-by-side with their nondisabled peers. Post-secondary and employment opportunities are opening up for increasing numbers of young adults with disabilities as they leave high school. Post-school employment rates for youth served under Part B are twice that of older adults with disabilities who did not benefit from IDEA in school, and self-reports indicate that the percentage of college freshmen with a disability has almost tripled since 1978.

Findings

As significant as the gains over time are, they tell only part of the story. In the past 25 years states have not met their general supervisory obligations to ensure compliance with the core

civil rights requirements of IDEA at the local level. Children with disabilities and their families are required far too often to file complaints to ensure that the law is followed. The Federal Government has frequently failed to take effective action to enforce the civil rights protections of IDEA when federal officials determine that states have failed to ensure compliance with the law. Although Department of Education Secretary Richard W. Riley has been more aggressive in his efforts to monitor compliance and take formal enforcement action involving sanctions than all his predecessors combined, formal enforcement of IDEA has been very limited. Based on its review of the Department of Education's monitoring reports of states between 1994 and 1998, NCD found:

Every state was out of compliance with IDEA requirements to some degree; in the sampling of states studied, noncompliance persisted over many years.**

Notwithstanding federal monitoring reports documenting widespread noncompliance, enforcement of the law is the burden of parents who too often must invoke formal complaint procedures and due process hearings, including expensive and time-consuming litigation, to obtain the appropriate services and supports to which their children are entitled under the law. Many parents with limited resources are unable to challenge violations successfully when they occur. Even parents with significant resources are hard-pressed to prevail over state education agencies (SEA) and local education agencies (LEA) when they or their publicly financed attorneys choose to be recalcitrant.

The Department of Education has made very limited use of its authority to impose enforcement sanctions such as withholding of funds or making referrals to the Department of Justice, despite persistent failures to ensure compliance in many states.

DoED has not made known to the states and the public any objective criteria for using enforcement sanctions, so that the relationship between findings of noncompliance by federal monitors and a decision to apply sanctions is not clear.

**Every state has a legal obligation to ensure compliance with the requirements of IDEA at the state and local levels. In this report, the term "out of compliance" means that a state has failed to ensure compliance with one or more requirements of the statute.

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DoED Monitoring Model

The oversight model adopted by the Department of Education is multitiered and multipurpose. The Office of Special Education Programs (OSEP) distributes federal IDEA funding to the states and monitors the SEAs. The SEAs in turn monitor the LEAs to make sure they are in compliance with IDEA. In this tiered oversight model, the same Department of Education office (OSEP) distributes federal funds, monitors compliance, and enforces the law where violations are identified. The politics and conflicts inherent in administering these three disparate functions have challenged the Department's ability to integrate and balance the objectives of all three.

Data Sources and Summary of Analyses

As mentioned above, NCD found that the most recent federal monitoring reports demonstrated that every state failed to ensure compliance with the requirements of IDEA to some extent during the period covered by this review. More than half of the states failed to ensure compliance in five of the seven main compliance areas. For example, in OSEP's most recent monitoring reports, 90 percent of the states ($n = 45$) had failed to ensure compliance in the category of general supervision (the state mechanism for ensuring that LEAs are carrying out their responsibilities to ensure compliance with the law); 88 percent of the states ($n = 44$) had failed to ensure compliance with the law's secondary transition services provisions, which require schools to promote the appropriate transition of students with disabilities to work or post-secondary education; 80 percent of the states ($n = 40$) failed to ensure compliance with the law's free appropriate public education requirements; 78 percent of the states ($n = 39$) failed to ensure compliance with the procedural safeguards provisions of the law; and 72 percent of the states ($n = 36$) failed to ensure compliance with the placement in the least restrictive environment requirements of IDEA. In the two remaining major compliance areas, IEPs and protection in

evaluation, 44 percent of the states (n = 22) failed to ensure compliance with the former and 38 percent of the states (n = 19) failed to ensure compliance with the latter.

Enforcement Authority

Currently, the U.S. Department of Education has neither the authority nor the resources to investigate and resolve individual complaints alleging noncompliance. The Department does consult with and share some of its enforcement authority with the U.S. Department of Justice (DOJ), which has no independent litigation authority. Yet between the date it was given explicit referral authority in 1997 and the date this report went to the printer, DoED had not sent a single case to DOJ for “substantial noncompliance,” and had articulated no objective criteria for defining that important term. The Department of Justice, whose role has been largely limited to participation as an *amicus* in IDEA litigation, does not appear to have a process for determining what cases to litigate.

Overall Enforcement Action

Despite the high rate of failure to ensure compliance with Part B requirements indicated in the monitoring reports for all states, only one enforcement action involving a sanction (withholding) and five others involving imposition of “high risk” status and corrective action as a prerequisite to receiving further funds, have been taken. The only withholding action occurred once for a temporary period and was overruled by a federal court. Overall, the DoED tends to emphasize collaboration with the states through technical assistance and developing corrective action plans or compliance agreements for addressing compliance problems. There appear to be no clear-cut, objective criteria for determining which enforcement options ought to be applied and when to enforce in situations of substantial and persistent noncompliance.

Recommendations for Strengthening Federal Enforcement

NCD makes the following recommendations to strengthen the capacity of both the Department of Education and the Department of Justice to more effectively enforce IDEA:

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Congress should amend IDEA to create a complaint-handling process at the federal level to address systemic violations occurring in a SEA or LEA. Congress should designate the Department of Justice to administer the process and allocate adequate funding to enable the Department to take on this new role. This new federal complaint process should be designed to complement, not supplant, complaint procedures and the due process hearing at the state level. The federal process should be simple to use and easy to understand by parents and students.

Congress should amend IDEA to provide the Department of Justice with independent authority to investigate and litigate cases brought under IDEA. The Department of Justice should be authorized to develop and disseminate explicit criteria for the types of alleged systemic violation complaints it will prioritize given its limited resources.

Congress should include in the amendment that the Department of Education and the Department of Justice shall consult with students with disabilities, their parents, and other stakeholders to develop objective criteria for defining "substantial noncompliance," the point at which a state that fails to ensure compliance with IDEA's requirements will be referred to the Department of Justice for legal action.

Congress should ask the General Accounting Office (GAO) to conduct a study of the extent to which SEAs and LEAs are ensuring that the requirements of IDEA in the areas of general supervision, secondary transition services, free appropriate public education, procedural safeguards, and placement in the least restrictive environment are being met. In addition, the DoED Office of Inspector General (OIG) should conduct regular independent special education audits (fiscal and program). The purpose of the audits would be to examine whether federal funds granted under IDEA Parts B and D (State Program Improvement Grants) have been and are being spent in compliance with IDEA requirements. These audits should supplement OSEP's annual compliance-monitoring visits, and the audit results should be in DoED's annual report to Congress. To the extent that the DoED OIG lacks the subject-matter expertise to conduct program audits under IDEA, the OIG should contract with independent entities having such expertise when a program audit is necessary.

The Department of Education should establish and use national compliance standards and objective measures for assessing state progress toward better performance outcomes for children with disabilities and for achieving full compliance with Part B.

The Department of Education should consult with students with disabilities, their parents and other stakeholders in developing and implementing a range of enforcement sanctions that will be triggered by specific indicators and measures indicating a state's failure to ensure compliance with Part B.

When Congress and the President approve an increase in the funding to be distributed to local schools under Part B, Congress and the President should appropriate at the same time an amount equal to 10 percent of the total increase in Part B funding to be used to build the Department of Justice's and the Department of Education's enforcement, complaint-handling, and technical assistance infrastructure to effectively enable the federal agencies to drive improvements in state compliance and ensure better outcomes for children.

Personnel Training Needs

Regular and special education teachers in many states are frustrated by the mixed messages regarding compliance from school administrators, local special education directors, state oversight agents, school district attorneys, and federal oversight agents. Teachers ultimately bear the responsibility to implement interventions and accommodations for students with disabilities, often without adequate training, planning time, or assistance. They must function within an educational system that often lacks adequate commitment, expertise, or funding to deliver appropriate services to every child who needs them. School administrators, special education directors, school principals, and agents of federal, state, and local governments must stop working at cross purposes and commit to working together to resolve, not conceal or ignore, these very real problems. If the Federal Government continues to refrain from taking enforcement action in the face of widespread failures to ensure Part B compliance, this atmosphere of questionable commitment to the civil rights of students with disabilities will continue.

Advocacy Service Needs

Pervasive and persistent noncompliance with IDEA is a complex problem with often dramatic implications on a daily basis for the lives of children with disabilities and their families.

Too many parents continue to expend endless resources in confronting obstacles to their child's most basic right to an appropriate education, often at the expense of their personal lives, their financial livelihoods, and their careers. Students are frustrated—their skills undeveloped and their sense of belonging tenuous. When informal efforts have failed to end unnecessary segregation or inappropriate programming for individual children, many have used the rights and protections afforded by IDEA to successfully challenge these injustices. Advocacy and litigation have been essential to ending destructive patterns of recurring noncompliance. Litigation has resulted in important victories for the children involved and better outcomes for other students with disabilities by exposing and remedying systemic noncompliance with IDEA. Yet legal services are often far beyond the financial reach of many families of students with disabilities.

Children with disabilities and their families are often the least prepared to advocate for their rights in the juvenile justice, immigration and naturalization, and child welfare systems when egregious violations occur. Children with disabilities and their families who are non-English speaking, or who live in low-income, ethnic or racial minority, and rural communities, are frequently not represented as players in the process. These individuals must be included and given the information and resources they need to contribute and advocate for themselves.

Recommendations for Training and Advocacy

Accordingly, NCD makes the following recommendations:

When Congress and the President approve an increase in the funding to be distributed to local schools under Part B of IDEA, Congress and the President should appropriate at the same time an amount equal to 10 percent of the total Part B increase to fund free or low-cost legal advocacy services to students with disabilities and their parents through public and private legal service providers, putting competent legal assistance within their financial reach and beginning to level the playing field between them and their local school districts.

The Department of Education should give priority support to the formation of a comprehensive and coordinated advocacy and technical assistance system in each state. The Department should develop a separate OSEP-administered funding stream to aid

public and private advocacy entities in each state in collaborating to expand and coordinate self-advocacy training programs, resources, and services for students with disabilities and their parents throughout the state. Elements of the coordinated advocacy and technical assistance systems should include:

The availability of a lawyer at every state Parent Training and Information (PTI) Center, a protection and advocacy agency, legal services, and independent living center to provide legal advice and representation to students with disabilities and their parents in advocating for their legal rights under IDEA.

Self-advocacy training programs for students with disabilities and their parents focused on civil rights awareness, education and secondary transition services planning, and independent living in the community.

The establishment of a national backup center with legal materials, training, and other supports available for attorneys working on IDEA cases and issues at the state level.

Expansion of involvement by the private bar and legal services organizations in providing legal advice to students with disabilities and their parents in advocating for their legal rights under IDEA.

Training in culturally sensitive dispute resolution to meet the needs of growing populations of citizens from racial and ethnic backgrounds having diverse traditions and customs. Multiple language needs and communication styles must be accommodated in all training.

Full compliance with IDEA will ultimately be the product of collaborative partnership and long-term alliances among all parties having an interest in how IDEA is implemented. For such partnerships to be effective, all interested parties must be well prepared to articulate their needs and advocate for their objectives. To that end, coordinated statewide strategies of self-advocacy training for students with disabilities and their parents are vital. To make this happen, NCD recommends the following:

The Department of Education should fund additional technical assistance, training, and dissemination of materials to meet continuing needs in the following areas:

Culturally appropriate technical assistance, which should be available to ensure that American Indian children with disabilities, their families, tribal leaders, and advocates in every interested tribe can participate as full partners in implementing IDEA in their communities. Culturally appropriate training and technical assistance should be developed and delivered through the satellite offices of newly created disability technical assistance centers (DBTACs) managed and staffed primarily by Native Americans that serve American Indian communities around the country.

Training to enhance evaluation skills for parents to assess the effectiveness of their states' IDEA compliance-monitoring systems.

Training of the appropriate agents (officials, advocates, and other stakeholders) in the immigration and naturalization and child welfare systems in IDEA's civil rights requirements.

Training of the appropriate agents (officials, advocates, and other stakeholders) in the juvenile justice system in IDEA's civil rights requirements, how they apply within the juvenile justice system, and ways the law can be used to help minimize detention of children with disabilities in the juvenile justice system.

A Six-State In-Depth Sample

NCD looked in depth at a sampling of six states, using the last three monitoring reports to assess the compliance picture in those states over time. The first two of the monitoring reports for these six states (covering a period from 1983–1998) included failure to ensure compliance with a total of 66 Part B requirements. Only 27 percent ($n = 18$) of the 66 violations had been corrected by the time of the third report. Based on the reported data, in 73 percent ($n = 48$) of the

66 violations, either the six states still failed to ensure compliance or no compliance finding was reported at all in the last monitoring report.***

To date federal compliance-monitoring and enforcement efforts have not fully dealt with the root causes of widespread noncompliance, and children with disabilities and their parents have suffered the consequences. This report details NCD's findings and recommendations for improving the effectiveness of federal efforts to ensure state compliance with IDEA and related legislation. NCD calls on Congress and the President to work together to address the inadequacies identified by this report so that children and families will have an effective and responsive partner in the Federal Government when they seek to ensure that IDEA's goals of enhanced school system accountability and improved performance outcomes for students with disabilities move from the language of the law to the reality of each American classroom.

IDEA mandates that school systems respond to the needs of individual children with disabilities, making education accessible to them, regardless of the severity of their disabilities. Teachers today know that education tailored to individual needs and learning styles can make all the difference in the quality of a child's learning, whether or not she has a disability. Very few public schools consistently and effectively deliver this individualized approach for all children. Accordingly, many children fall through the cracks, as performance on achievement tests across the nation demonstrates. Alternatives to traditional public education such as charter and private

schools, as well as political calls for vouchers, indicate growing public dissatisfaction with schools that do not educate all children effectively. IDEA calls for a responsive public education system that meets the individual learning needs of students with disabilities. It also contains a blueprint for the future of public education—where no child is left behind, and all

***When no information was provided in a report about a particular requirement, it could mean that the state was compliant, that there was a "single cite" instance of noncompliance, or that compliance with the requirement was not monitored at all.

children have an equal opportunity to gain the knowledge and skills they need to fulfill their dreams.

Ultimately, the enforcement of the civil rights protections of IDEA will make a difference to every child, not only children with disabilities. At the national summit on disability policy hosted by NCD in 1996, more than 350 disability advocates called for a unified system of education that incorporates all students into the vision of IDEA. NCD's 1996 report, *Achieving Independence*, presents the outline of a system in which every child, with or without a disability, has an individualized educational program and access to the educational services she or he needs to learn effectively. IDEA leads the way in reshaping today's educational system from one that struggles to accommodate the educational needs of children with disabilities to one that readily responds to the individual educational needs of all children.

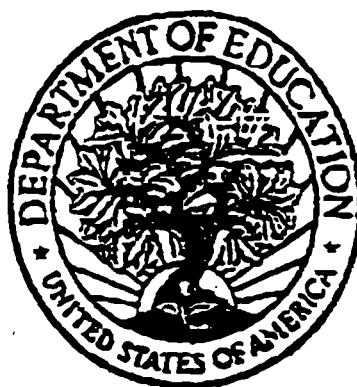
**Department of Education: Increases Proposed in the Budget During the Clinton Administration
(Discretionary Program Level in Thousands)***

	FY 1993	FY 1994	FY 1995	FY 1996	FY 1997	FY 1998	FY 1999	FY 2000 **
President's Budget	0	26,442,154	25,949,331	26,039,515	25,488,177	29,349,749	31,155,302	34,711,893
Enacted Level	23,547,736	24,386,243	24,373,003	22,694,249	26,311,919	29,558,521	33,118,408	35,295,532
Budget - Prior Year Enacted (\$'s)	0	2,894,418	1,563,088	1,666,512	2,793,928	3,037,830	1,596,781	1,593,485
Budget - Prior Year Enacted (%)	0	12%	6%	7%	12%	12%	5%	5%
Increase in Enacted (\$'s)	0	838,507	(13,240)	(1,678,754)	3,617,670	3,248,602	3,559,887	2,177,124
Increase in Enacted (%)	0	3%	-0%	-7%	14%	11%	11%	6%

*Adjusted to reflect increases in advance appropriations.

** FY 2000 Enacted Level is the Senate-passed bill's program level.

65581
To Bethany
From Dave



FAX TRANSMISSION

U.S. DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES
OFFICE OF THE ASSISTANT SECRETARY
MAIN OFFICE (202)205-5465
FAX - (202)205-9252

To: Benson Line

Date: 3/14/00

Fax #: 202-456-5581

Pages: 2 Pages (including cover sheet)

From: Cathy Henry, Esq. Judicial Vice-Director of Communication
OSERS

Subject: Severely injured letter to Parents re: IDEA

COMMENTS: As per your request to the Department Office

Re: call Cathy at 202-205-8939 for further assistance



THE SECRETARY OF EDUCATION
WASHINGTON, D.C. 20202

June 9, 1999

Dear Parents:

Over the past several years, I have worked on the reauthorization of the Individuals with Disabilities Education Act (IDEA) and then on its implementing regulations. I want to thank you for your active participation. Throughout the process, you expressed your opinions and shared your experiences through your letters and the hundreds of comments you submitted. I also had numerous opportunities to meet parents of children with disabilities and to learn from you -- our children's first and best teachers -- about your expectations for your sons and daughters. It has been an important learning experience for me. More importantly, your views helped shape both the legislation and the regulations.

I have a deep respect for the commitment you have made to ensure that your children's future is bright and full of promise. Together we can continue to work to ensure that all children with disabilities learn and aspire to high standards and contribute fully as integral members of the complex society of the 21st century. As I travel across this country, talking with parents, teachers and administrators, I sense a spirit of partnership and optimism that is having a positive effect on our schools. This revitalization helps to ensure that *all* students benefit from our strengthened education system.

I know that we all agree that a quality education is the key to successful outcomes in life. And when it comes to something as fundamental as education, "all" really does mean *all*. As President Clinton so eloquently stated during the Rose Garden signing ceremony for the IDEA Amendments of 1997, "...[T]his legislation mandates that with appropriate accommodations, children with disabilities learn the same things with the same curricula and the same assessments as all other children. We know from every teacher and every principal, from every parent and every coach that children rise to expectations when they are set high. And children with disabilities are no exception... [W]e know our children's success depends on the quality of their teachers and the involvement of their parents..."

We have come a long way in helping our children aspire to the highest standards in all facets of life. However, we still have a long way to go. In today's multicultural society, we must ensure that all disabled students have equal access to quality educational services that will prepare them for meaningful employment and independent living in adulthood. The Department of Education takes seriously its role in providing teachers and school administrators the tools they need to provide a supportive learning environment for all disabled students, including those from diverse backgrounds, those with fragile medical conditions, and those with behavioral issues. With innovative, empathetic and practical approaches to teaching and learning, and with partnerships

Page 2

of parents and teachers working together, all students can succeed in the classroom, building the skills and confidence they will need throughout life.

As parents, you are crucial to this effort. We applaud your efforts to give your children the best possible grounding so that they are prepared to take their rightful place as contributing members of their neighborhood and community. We are counting on you to continue your efforts in the years ahead, as we continue our efforts. Thank you for your part in improving education for all children.

Yours sincerely,


Richard W. Riley



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

202-205-5465 - PHONE
202-205-9252 - FAX

DATE: 4-26-2000

NUMBER OF PAGES: 7
(Including cover)

TO: Bethany Little
AGENCY: _____
PHONE: 456-5543
FAX: 456-5581

FROM:

___ Judith Heumann

___ Laura Verner

☒ Curtis Richards

___ Veronica Hogan

___ Lori Abrams

___ Lynne Fairfax

___ Beatriz Mitchell

___ Amii Limpp

___ Peggy McLeod

___ Liz Aybar

___ Sybrena Bullock

COMMENTS: F4I



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

APR 21 2000

THE ASSISTANT SECRETARY

Honorable Jeb Bush
Governor of Florida
The Capitol, Room PL05
Tallahassee, Florida 32399-0001

Dear Governor Bush:

We would like to share with you some serious concerns that have come to our attention regarding planned changes in Florida's administration of the State Vocational Rehabilitation Services Program, authorized by the Rehabilitation Act of 1973. In particular, we are very concerned about the effectiveness of service delivery in both the current vocational rehabilitation program and the restructured system proposed for implementation in Florida beginning this July.

We wish to emphasize that we fully support State efforts to improve the efficiency and effectiveness of the program. At the same time, however, it is also our responsibility to ensure that statutory program requirements and the needs of individuals with disabilities are not compromised. At this juncture, we would like to bring to your attention some of our major issues concerning the delivery of services both during this period of transition and under the proposed restructured program.

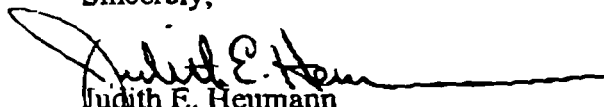
- Is the State exercising sufficient control over the program to ensure that the same level of services and programs are offered throughout the State and prioritizing services to individuals with the most significant disabilities in a manner consistent with the provisions of the Rehabilitation Act?
- Is there continuity of services during the period of transition to ensure that the immediate needs of individuals with disabilities are accommodated consistent with the statute?
- Is the scope of choice available to individuals with disabilities consistent with that required by law, particularly in terms of selecting their employment goals, services necessary to attain those goals, and service providers, regardless of whether an individual chooses a service provider that has the vocational rehabilitation contract?
- Has there been sufficient and meaningful consultation with various program constituencies regarding the administration of the vocational rehabilitation program as required by law?

Many of these same concerns have been brought to our attention by Floridians with disabilities and their advocates. The concerns we have identified through our monitoring and technical assistance efforts to date are serious. We are planning several monitoring activities in the very near future. The purpose of these activities is to determine if individuals with disabilities are being served appropriately during this transition period and to determine whether the proposed restructuring of the program includes necessary safeguards to ensure that the method for delivering services is appropriate under the law. During the week of April 24, we plan to interview program staff and consumers in different areas of the State and to review service records for evidence of appropriate service delivery.

In addition, during the week of May 15, we plan to hold four public hearings to provide interested parties the opportunity to comment on the performance and administration of the vocational rehabilitation program. The nature and scope of the intended changes will have a significant impact on the Florida vocational rehabilitation program and the individuals with disabilities it serves. We are very concerned about statements made by members of the Florida disability community that they have not been afforded meaningful opportunities to provide input into the reorganization of Florida's program and the development of the new service delivery model consistent with the law. Through these hearings, we hope to assess whether the program is operating in accordance with the law and Florida's State plan and to better understand the steps Florida will need to take to ensure that the needs of individuals with disabilities will be addressed under a new system. We would like to invite you and your staff to attend any or all hearings. Each hearing will take place from 4:00 to 8:00 p.m., and we will notify you of the location of each hearing when it has been confirmed.

We know you share with us the commitment to provide Floridians with disabilities efficient and appropriate vocational rehabilitation services so that they may achieve quality employment outcomes. We will keep you apprised of our findings from our monitoring activities. Should you need additional information on this developing situation or if you wish to discuss the concerns described above, please feel free to contact us.

Sincerely,


Judith E. Heumann
Assistant Secretary
Office of Special Education and
Rehabilitative Services


Fredric K. Schroeder
Commissioner
Rehabilitation Services Administration

cc: Mr. John Winn, Education Policy Coordinator
Ms. Sally Bradley, Chief of Staff
Office of the Governor
Mr. Carl Miller, Director
Florida Division of Vocational Rehabilitation

Briefing memo

UNITED STATES DEPARTMENT OF EDUCATION
REHABILITATION SERVICES ADMINISTRATION
CENTRAL OFFICE

MEMORANDUM

DATE : April 11, 2000

TO: Frank S. Holleman, III

FROM: Judith E. Heumann *Judith E. Heumann*
Assistant Secretary
Office of Special Education and Rehabilitative Services

Fredric K. Schroeder, Ph.D. *Fredric Schroeder*
Commissioner
Rehabilitation Services Administration

SUBJECT: Concerns Regarding Reorganization of Florida's Vocational
Rehabilitation Program

Summary

This memorandum describes our concerns about the impact that the proposed reorganization of the Florida vocational rehabilitation (VR) program will have on the effective and timely delivery of services to individuals with disabilities. In addition, we will describe the actions we intend to take to address our concerns.

Background

• **State Legislation**

The State of Florida enacted legislation last year that fundamentally alters the manner in which VR services are provided to applicants and individuals eligible for services under the VR program authorized in title I of the Rehabilitation Act of 1973, as amended (the "Act"). The key feature of the legislation is the transformation of the current VR program in which services for individuals with disabilities are planned, arranged, and coordinated by employees of the designated State VR unit (currently the Division of Vocational Rehabilitation (DVR)) into one in which these functions are carried out by private community rehabilitation programs under contracts with the State VR agency.

The legislation stipulates that the VR program administered by DVR will be moved from the Department of Labor and Employment Security (DLES) to the Department of Education (DOE) effective July 1, 2000, with the newly created Occupational Access and Opportunity Commission (OAOC) serving as the State entity responsible for the administration of the VR program. The legislation calls for the privatization of the VR

program to the maximum extent possible consistent with applicable Federal requirements. To achieve the goals of the legislation, the OAOC is to administer the VR program mainly through contracts with private community-based VR service providers who will perform all of the functions typically carried out by State DVR employees, other than those functions, such as eligibility determinations and approval of individualized plans for services for program participants, that title I of the Act and its implementing regulations reserve to employees of the designated State unit.

- **RSA Monitoring and Technical Assistance Efforts to Date**

The State of Florida receives approximately \$100 million in Federal VR program funds, which is matched by approximately \$20 million in State funds. RSA, as the cognizant Federal agency for the VR program, has been closely monitoring the developments taking place in Florida and providing technical assistance on issues identified by the State. These monitoring and technical assistance activities reflect RSA's responsibilities as mandated by section 12(a)(1) and (5) and section 107 of the Act.

In December of 1999, OAOC representatives met with RSA staff to seek Federal guidance on a variety of planned implementation activities and to provide clarification on issues of concern to RSA. In addition, RSA staff in the Atlanta Regional Office have been providing technical assistance to the State with respect to the development of a State VR plan that reflects the proposed legislative changes and conforms to Federal State plan requirements.

In January of this year, RSA documented its concerns and recommendations in a letter to the State VR director. In February the State requested technical assistance from RSA on a variety of implementation issues, and in its responses of February 25 and March 13, RSA identified Federal requirements, including seeking and taking into consideration public input on the reorganization initiative, that the State needed to address before its State plan could be approved by RSA. In a letter of April 7, RSA expressed concerns regarding the effects of the current staff attrition and hiring freeze are having on current service delivery and reiterated concerns that meaningful public input on the reorganization had not been obtained.

In addition, in February RSA conducted an on-site review of the service delivery project in Monroe County that serves as the model for the proposed changes in the administration of the VR program. Preliminary findings from this review suggest there was little to no oversight of the project by the VR agency such that the project assumed authority for carrying out VR functions including making eligibility determinations and approving plans; no clearly defined delineation of responsibility or authority for contract activities within the VR agency; and, no information to support the cost-effectiveness of providing services through this contract.

- **Expressions of Concern Regarding the Reorganization**

As the State moves ahead quickly with its program reorganization efforts, the RSA Central Office and Atlanta Regional Office have received expressions of concern from individuals with disabilities and disability-related organizations about the significant adverse impact the planned changes will have on the delivery of VR services and also the State's failure to effectively seek and consider public input as required by the Act. In addition, RSA has received correspondence expressing dissatisfaction with respect to the speed with which such a massive administrative change is being implemented and how the changes are unfolding without the involvement and input of the public, particularly the customers of the program – individuals with disabilities.

Key concerns of RSA/OSERS with the proposed changes:

- Ability to uniformly administer the VR program throughout the State while using a variety of community service providers and to ensure that the level of program services is the same Statewide consistent with the statutory provisions of section 101(a)(4) of the Act;
- Emphasis on the employment needs of individuals with the most significant disabilities consistent with section 101(a)(5) of the Act;
- Continuity of services during the period of transition since the timetable for implementing the new administrative scheme is very short thus raising the potential that some of the community service providers may not be sufficiently prepared to quickly implement a program to accommodate the immediate needs of applicants and individuals eligible for VR services consistent with sections 102(a)(6) and 101(a)(9) of the Act;
- Scope of choice that will be available to applicants and individuals eligible for VR services in terms of selecting their employment goals, VR services to attain those goals, and service providers consistent with section 102(d) of the Act, particularly when an individual chooses a service provider other than the one that has the VR contract; and,
- Lack of sufficient and meaningful consultation with various program constituencies regarding the administration of the VR program as required by section 101(a)(16) of the Act.

Plans for Continued Monitoring and Technical Assistance

To answer our questions regarding current service delivery in Florida and to address concerns we have regarding the proposed reorganization and its impact on services, we plan to take the following actions:

- Send to the Florida Governor a letter describing our concerns about the reorganization of the VR program and the concerns that have been brought to our attention by

individuals with disabilities in Florida and their advocates regarding the impact of the proposed changes on the delivery of VR services;

- Continue to request that the Director of the State VR agency provide specific information to answer our questions related to the State plan which has been submitted for our review and the transition plan developed by Florida describing actions it will take during the reorganization to assure us that service delivery will not be adversely affected;
- Conduct public hearings around the State to gather input from the disability community with respect to their concerns about current service delivery and their concerns about the impact of the proposed changes on their lives; and
- Conduct reviews in VR district and local offices around the State to examine current service delivery given recent reports of staff attrition and the current hiring freeze.