

GUIDANCE CONCERNING STATE AND LOCAL
RESPONSIBILITIES UNDER THE
GUN-FREE SCHOOLS ACT OF 1994

This guidance is to provide you with information concerning State and local responsibilities under the Gun-Free Schools Act, which was enacted on March 31, 1994 as part of the Goals 2000: Educate America Act. The Gun-Free Schools Act amends the current Elementary and Secondary Education Act of 1965 (20 USC 2701 et seq.) (ESEA). A copy of the new legislation is attached for your information.

The Gun-Free Schools Act (Act) states that, as a condition of receiving any assistance under the ESEA, a local educational agency (LEA) must have in effect a policy requiring the expulsion from school for a period of not less than one year of any student who brings a firearm to school, except that the LEA's chief administering officer may modify the expulsion requirement on a case-by-case basis. The Department interprets this provision to permit LEAs to discipline students with disabilities in accordance with the requirements of Part B of the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act (Section 504), and thereby maintain eligibility for Federal financial assistance.

The following questions and answers have been prepared to assist State educational agencies (SEAs) and LEAs in implementing these new requirements.

Q. When does the Gun-Free Schools Act take effect?

A. The requirements of the Gun-Free Schools Act took effect on March 31, 1994.

Q. What does the Gun-Free Schools Act require?

A. The Gun-Free Schools Act requires that LEAs, as a condition of receiving ESEA funds: (1) implement a specific discipline policy applicable to students who bring weapons (see the definition of "weapon" in the answer below) to school; (2) provide to the SEA an assurance that the policy is in effect; and (3) submit to the SEA specific reporting information on discipline imposed under the policy.

Policy

The Act states that no ESEA assistance may be provided to any LEA unless that LEA has in effect a discipline policy requiring the expulsion from school for a period of not less than one year of any student who is determined to have brought

a weapon to a school under the jurisdiction of the LEA. The Act states, however, that the LEA's policy may allow the chief administering officer of the LEA to modify the expulsion requirement on a case-by-case basis.

Assurance

An LEA is required to include, in each application to the SEA for assistance under the ESEA, an assurance that the required policy is in effect.

Reporting

An LEA is required to include, in each application to the SEA for assistance under the ESEA, a description of the circumstances surrounding any expulsions imposed under the policy, including --

- (1) the name of the school concerned;
- (2) the number of students expelled from the school; and
- (3) the type of weapons concerned.

Q. How is the term "weapon" defined?

A. For the purposes of the Gun-Free Schools Act, a "weapon" means a firearm as defined in Section 921 of Title 18 of the United States Code. (A copy of this provision is also attached.)

Q. What is meant by the term "expulsion"?

A. The term "expulsion" is not defined by the Act. However, the legislative history of the Act indicates that, at a minimum, expulsion means removal from the regular school program at the location where the violation occurred.

Q. How does the new legislation affect existing disciplinary policies required under the Drug-Free Schools and Communities Act?

A. The requirements of the Gun-Free Schools Act are consistent with the disciplinary policies required under the Drug-Free Schools and Communities Act (DFSCA). All LEAs that receive financial assistance under any Federal program are already required, under Section 5145 of the DFSCA, to have in effect a disciplinary policy that contains a range of sanctions, including expulsion. The DFSCA and regulations at 34 CFR Part 86 (Drug-Free Schools and Campuses) require that the policy and sanctions be applicable to all students. The Gun-Free

Schools Act establishes as a condition of receipt of funds under the ESEA a minimum disciplinary sanction that must be imposed against a student who brings a firearm to school -- i.e., expulsion for at least one year, subject to case-by-case modifications.

Q. Does the Gun-Free Schools Act alter a school district's obligations under the Federal civil rights laws?

A. No. The Gun-Free Schools Act does not amend or create an exception to Federal civil rights laws. In implementing the Gun-Free Schools Act, school districts must comply with the nondiscrimination requirements of Title VI of the Civil Rights Act of 1964 (prohibiting discrimination on the basis of race, color, or national origin), Title IX of the Education Amendments of 1972 (prohibiting discrimination on the basis of gender), Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act (prohibiting discrimination on the basis of disability), and the Age Discrimination Act of 1975 (prohibiting discrimination on the basis of age).

Q. Do the requirements of the Gun-Free Schools Act conflict with requirements that apply to students with disabilities?

A. No. Compliance with the Gun-Free Schools Act may be achieved consistently with the requirements that apply to students with disabilities as long as discipline of such students is determined on a case-by-case basis in accordance with the disability laws. Students with disabilities may be expelled for behavior unrelated to their disabilities as long as the procedural safeguards required by IDEA and Section 504 are followed. Under Section 504, the determination of whether the child's behavior is caused by the disability, however, must be determined through a reevaluation by individuals personally familiar with the child and knowledgeable about special education. In addition, the IDEA requires that educational services must continue, although they may be provided in another setting, for students with disabilities who are properly expelled.

If it is determined that the student's action in bringing a firearm to school is related to the student's disability, IDEA and Section 504 do not permit the LEA to expel the student. However, under IDEA and Section 504, a student with a disability may be suspended for up to ten days, which permits the LEA to address any immediate threat to the student or the safety of others. LEAs may also seek a court order to remove a student who is considered to be dangerous. In addition, the child's placement may be changed, in accordance with the

procedures under those laws, if it is determined that, in light of the behavior, the child's placement is not appropriate.

Q. Does the Act require LEAs to amend applications for ESEA funds that have already been awarded?

A. No. Although the legislation took effect on March 31, 1994, the assurance required under the Act need not be submitted until an LEA files with the SEA its first application for ESEA funds after that date. However, the SEA may require that the assurance be filed earlier.

Q. When must an LEA revise its disciplinary policies?

A. The Secretary believes that Congress intended that the required policy be implemented immediately. Thus, as a condition of receiving ESEA funds, an LEA must undertake good faith efforts to revise its disciplinary policies immediately unless it already has in effect a policy that meets the new requirements.

Q. What if the revised policy cannot be fully implemented at this time due to conflicting State or local laws, administrative impediments, or other unique circumstances?

A. Receipt of ESEA funds is conditioned upon compliance with the requirements of the Gun-Free Schools Act. The Secretary recognizes that there may be circumstances that adversely affect an LEA's ability to implement fully a discipline policy that meets these requirements. Therefore, an LEA may submit to the SEA the assurance required by the Act if the LEA has:

(1) made a good faith effort to begin promptly the process of implementing a policy that complies with the Act; and

(2) developed a plan to complete the implementation process as soon as possible.

In situations where a conflicting State law prevents full implementation of the required policy, SEAs may accept an LEA's assurance if the SEA determines that the appropriate State officials are making good faith efforts to bring about the revision of the State legislation.

Appropriate documentation must be maintained to demonstrate, upon request, the adequacy of efforts to implement fully the required policy.

THE WHITE HOUSE

Office of the Press Secretary
(Belmont, California)

For Immediate Release

October 22, 1994

REMARKS BY SENATOR FEINSTEIN
AT THE SIGNING OF PRESIDENTIAL MEMORANDUM:
"ZERO TOLERANCE FOR GUNS IN SCHOOLS"

Carlmont High School
Belmont, California

SENATOR FEINSTEIN: Thank you very much. Mr. President, my colleagues in government, and ladies and gentlemen, I want you to know how much we appreciate this President, and how much he has done for California. I don't know any sitting president that has returned to California as much as President Clinton has. I know after the Loma Priater earthquake a president wasn't here. I know after the Northridge earthquake this President came to California, the Vice President came, the Cabinet Secretaries came, \$10 billion in earthquake relief was fed, and this President cares about our great state. (Applause.)

So, Mr. President, as the Senator from California, it's a great treat for me to welcome you once again to this magnificent and beautiful state. Although, I must say that this morning we welcome you with a sobering and concerning note because the legislation, and the executive order that you're about to sign to implement it, is something that should cause everyone in this gymnasium and in gymnasiums all across this state great concern.

Let me begin with a couple of statistics. According to the National School Safety Center, every day 135,000 guns are brought into the schools of this country. Since 1993, in a year alone, there have been 35 deaths and 92 injuries from guns. It's estimated that 160,000 students across this great land don't go to class because they fear violence. And one out of every five students carries a weapon: a gun, a knife or a club. School violence has become the number one concern of parents.

And for very good reason. Violence and fear have become epidemic on some of our campuses. Worse than that, in many areas it's standard. Last year in this great state two students were killed in a single California school district in one month. One, shot during his english class. And the other, Michael Ensley (phonetic), with whom I visited with his mother at Reseda High -- during a break at Reseda High -- and shot because he had a look on his face that the assailant didn't like.

And it's not just an urban school problem. Earlier this year in this school a 15 year old student, named Edward Simms (phonetic), was shot and killed by another student who had threatened Simms with a gun at school in the days before the shooting. And throughout the state our school districts have experienced an alarming increase in weapons on school campuses. And it's not just a high school problem. In fact, there was 103 percent increase in weapons seized in Oakland elementary schools last year. And five guns seized at a single junior high school.

That's why Senator Byron Dorgan of North Dakota, and I, in the Senate of the United States, propose some very strong language as an amendment to the Elementary and Secondary Education Act. It's called the Gun Free Schools Act. And I am very proud, Mr. President, that you have decided that this amendment is important enough for you to be signing an executive order to put it in place today in California. (Applause.)

MORE

- 2 -

The Gun Free Schools Act requires that states and school districts adopt a mandatory one year expulsion policy for students who bring guns to school. Local discretion is built-in, states will be given time to conform, and alternative education is permitted. But what this legislation means is that as parents, teachers, students and law enforcement we will have zero tolerance for guns anywhere in the schools in the United States of America. (Applause.)

Mr. President, your signature on this executive order will make clear that state and local education agencies must implement a zero tolerance policy as a condition of receiving federal education funds. Those who refuse to adopt this policy could lose their share of over \$10 billion in federal education funds, including \$729 million in Chapter One funds for the state of California.

I must tell you, Mr. President, and ladies and gentlemen, that mandatory expulsion has already proven to be an effective deterrent, and it has been credited with lowering gun possession and gun related violence in many school districts. Let me give you one. Los Angeles, for example, gun possession dropped 27 percent. And gun related school violence decreased 34 percent in 1993 and 1994, when a zero tolerance measure was implemented by the Los Angeles County Board of Education.

I am very proud to welcome you here today, and also to point out that you have provided in recommendations to the Congress for additional funds in Goals 2000 -- which you recommended to us and which we passed and which you signed into law; in the Safe and Drug Free Schools Act, which you recommended, we passed and you signed into law -- \$54 million in one, and \$47 million to others -- to provide for safe schools throughout the state of California. And, Mr. President, the Crime Bill, which you so strongly supported and we passed, provides \$37 million in safe haven and youth violence prevention funding, to help communities develop programs before and after school.

And, finally, there is just one prevention program none of us at the federal level can mandate, and that's good parents. Parents that teach their youngsters the difference between right and wrong, parents that give them love and discipline, and parents that know their whereabouts every hour of every day of every week.

So, Mr. President, I truly believe that you and the Congress of the United States have done their job in providing a framework within which local jurisdictions -- school districts, mayors, boards of supervisors, city councils all across this great nation can mount a major prevention problem for safety in our schools, in our work place, on our streets and in our homes. And, Mr. President, I thank you for this leadership. (Applause.)

And, now, it is a great treat for me to be able to introduce to an audience that knows him well, the principal of this great school, Mr. Michael Johnson. (Applause.)

END

THE WHITE HOUSE

Office of the Press Secretary
(Belmont, California)

For Immediate Release

October 22, 1994

REMARKS BY THE PRESIDENT
TO THE STUDENTS OF CARLMONT HIGH SCHOOL
AND IN SIGNING THE PRESIDENTIAL MEMORANDUM:
"ZERO TOLERANCE FOR GUNS IN SCHOOLS"

Carlmont High School
Belmont, California

12:11 P.M. PDT

THE PRESIDENT: It's nice to be back in California. It's nice to be here in Belmont. It's nice to be here at Carlmont High School. (Applause.) I'm honored to be the first President to come here. And it's only fair that I came here to see your principal, since he didn't get to come and see me. (Applause.)

Now, that should not be interpreted as a sign of dissatisfaction with the lady who got to be the principal of the year; but he would have made an awful good one. (Laughter.) And he sounds to me like the principal of the year here. (Applause.)

I want to say how very honored I am to be here with all of you. I thank Mayor Riande for her welcome; Mayor Davids for what he said. I thank them for their leadership and their devotion to public service at the grass roots level, where so many of our problems and challenges have to be met.

I thank Congressman Lantos and Congresswoman Eshoo for not only being my friends but for their extraordinary service in Washington. I can tell you that there is this popular feeling, I think, that nearly everybody who goes off to Washington has something bad happen to them and forgets about the folks back home -- they do not. And they represent you well, and you should be very proud of them. (Applause.)

I'm also very pleased to be joined today by your State Treasurer Kathleen Brown. (Applause.) And your State Insurance Commissioner John Garamendi. (Applause.) Thank you, John. (Applause.)

I'd like to introduce one other person, too, who is my partner in these education endeavors, a former colleague of mine and former Governor of Vermont and now the Deputy Secretary of Education, come all the way from Washington with me today, Governor Madeleine Kunin. (Applause.) Please make her feel welcome. (Applause.)

I want to say a little more about Senator Feinstein in a moment, in connection with this work, but I appreciate what she said today.

But let me begin by saying that, as all of you know, I had the opportunity to spend a great deal of time in this magnificent state of yours a couple of years ago. And since I have been President I think I've been back here a dozen times. I've worked on the emergencies for California, like the earthquake and the fires; I've worked on trying to get the economy of this state going again -- to sell computers overseas, to sell the farmers' rice to Japan for the first time; to start the ship building industry in the southern part of the state; to help the defense conversion momentum really get going here so we could build a lot of jobs out of this defense downsizing and not just lose them.

MORE

- 2 -

I've tried to do things that would help you deal with the crime and the immigration problems -- real, concrete steps, not just talk about it. Ten thousand more police officers will come to California under the Crime Bill. We have doubled the number of immigration officers along the southern border of the state. We've begun to have a real impact in dealing with the problem of illegal immigration.

But what I want to say to you is that over the long run, if we are going to have a bright future for the people of the United States, and if California is going to work -- and it can work, you look around at the students here, look at all the different ways they found to say welcome to me up there -- (Applause.) If this country is going to work, and this state is going to work, then schools like this school have to work all across America. We have to prove that there is strength, not weakness, in our diversity.

We have to prove that all children can learn. And we have to prove that with all the changes that we're going through in America today, we can still give our kids an old-fashioned, safe upbringing and a good education, because that is the key to the future of the global economy. (Applause.)

One of the least known stories, perhaps, of the recent concluded session of Congress is that it was the best session for education in at least three decades. (Applause.) That's worth clapping for. I appreciate that. (Applause.) This Congress expanded the Head Start program, making more children eligible and making younger children eligible. This Congress passed the Goals 2000 bill, writing into national law our national education goals, world class standards; and saying that we would help to develop means of measuring whether we're meeting those standards, but emphasizing that education reform has to come from the grass roots, school by school.

Just a couple of days ago I signed the Elementary and Secondary Education Act, which dramatically reduces the federal regulations telling schools how to spend the money we give them to help kids who need extra help in schools, and encourages schools to do things that will actually prove that children can learn without regard to their racial or economic background. (Applause.)

The bill also, as Senator Feinstein said, helps to support the safe schools initiative and promotes the concept of character education when basic civic values to be taught in the schools are developed at the community level.

We also passed a bill for young people who don't go to college but do want to get good education; an apprenticeship bill to help every state in the country develop a system to guarantee that even those who don't go to college will have a chance to get some further education and training and get a good job with a prospect of a growing income. (Applause.)

Finally and perhaps most important, we dramatically reorganized the system by which the national government makes colleges loans available, not only to low-income but also to middle class young people. (Applause.)

One of the things that's always bothered me in the last couple of years is seeing the cost of a college education go up faster than any other essential part of a family's budget, even more rapidly than health care costs. In my own state I saw young people start college and then drop out because they either couldn't get loans or they were convinced they would never be able to repay them.

Then I saw young people get out of college with big debt and take jobs that paid higher wages, not because they

MORE

- 3 -

wanted them but because they were afraid they couldn't afford to do something they really wanted to do, like work with people in the community to help kids get a better start, or be school teachers or police officers or do other things, because they were afraid they could never repay their college loans.

Under this system, you won't have to worry about that anymore when you become of age and you get out of high school. You'll be able to choose to borrow money and pay it back over a longer period of time at a lower interest rate as a percentage of your income so that if you choose to serve the public and you choose not to get rich, you at least won't be driven into the poor house by the cost of your college education. (Applause.)

The last thing the Congress did was to pass a program that's already being felt here in California, the national service program, AmeriCorps, to give young people the chance to serve their communities and earn money for their college education. This year, 20,000 young Americans are doing it; year after next 100,000 young Americans are doing it. If the Congress will continue to support it, I am convinced we can have as many as a half a million young Americans paying their way to college by solving the problems of this country one on one, person by person at the grass roots level all across America. And I thank the Congress for that record of education reform. (Applause.)

Now, having said that, let me come to the point. Education still does not occur in Washington. Education occurs school by school, class by class, student by student. The magic of education is in what happens between the teachers and the students, what the role of the principal is, whether the parents are supportive at home, what is going on inside the student. None of that can happen in an atmosphere of fear.

We all know stories, horrible stories of children being shot or cut or terrorized. When I was in California last year, I did a town meeting and a young man from Northern California told me that he and his brother changed schools because they thought the school they were in was so dangerous. And then when they lined up to register in the new school they thought was safer, somebody just came in the school door and shot his brother, standing right there in line to register. He just happened to be in the wrong place.

You would not believe the letters I get from children of all ages begging me to do something about the violence that terrorizes their lives. You may have seen me read a letter that I got from a young man from New Orleans, when the Crime Bill was being debated, who said, "I know you can do something about crime, and I am frightened." That young man was shot a couple of weeks after he wrote a letter to me.

I got a letter after the Crime Bill was signed from the son of a friend of mine in my administration who said, "I have a nice family. We have a high income. We live in a good neighborhood. I go to a good school. My friends and I are still scared every time I go downtown to the movies. I feel better now that the Crime Bill has been signed."

We cannot operate in a country where children are afraid and cannot feel, much less think. You cannot learn in that kind of atmosphere. That is why, as the principal said, we're trying to be tough and firm and strong in some of these critical areas. That's why we had to pass the Brady Bill. That's why we had to pass the Crime Bill. That's why we adopted Senator Feinstein's amendment to ban assault weapons on the streets of our cities. (Applause.)

And that's why we come here today to sign this executive order. I know here in this high school you already

MORE

- 4 -

have a zero tolerance policy for guns, and I applaud you for it. I applaud your principal, and I applaud the students who support it. Now, students all over the country, their parents, their teachers, their principals, will be required to meet the challenge that you have met, to follow your example. Students have to take the lead, to take responsibility for this. We can do better, and we must.

"Zero Tolerance" is a common sense policy. Why does anybody need to have a gun in school. That's why this order directs the Secretary of Education to withhold funding the states that don't comply with the law. Young people simply should not have to live in fear of young criminals who carry guns to schools.

And again I will say, just like the assault weapons, this bill is in the federal law because Senator Feinstein sponsored it and demanded it, and we got it thanks to her efforts and those of Senator Dorgan, and I thank them both. (Applause.)

Now, as I sign this order, just before I do, I want you to think about it, all of you students here. What are you going to do? What are you personally going to do about what's going on? That's really what counts. We can have this rule and fewer people will bring guns to schools; we also need fewer guns on our streets. One of the things in the crime bill is the banning of juvenile possession of handguns unless the juvenile is under the supervision of an adult. We are doing all we can to pass laws. But in the end your future will be decided by what is inside you, what you decide to do.

I think all Americans have been very moved -- I know I certainly have -- by the signs of the Haitian people getting their freedom back and President Aristide going back, to bring democracy back to Haiti. (Applause.)

You know, one of his biggest challenges after all the violence that those people have suffered is to make sure that his own supporters now do not resort to violence to retaliate. Why is violence going up so much among young people in our country? Violence begets violence, begets violence, begets violence. It has to end somewhere.

And if you watched President Aristide back in Haiti, perhaps the most gripping thing was when he stood there having had many of his friends killed, having had children that he tried to help terrorized, standing there saying to the masses of his people: No to violence; no to retribution; yes to peace; yes to reconciliation.

And if they are saying that inside their heart that will do more than any law. So I say to you, as your principal said, we've done some tough things to try to give you a bright future. And we're not ashamed of them; we're proud of them. If we can think of other things to do, we will do them as well.

But in the end what you say inside is even more important. You must say no to guns. No to gangs. No to drugs. Yes to education. Yes to hope. Yes to your own future.

The 21st century can be the best time this country and this state ever knew because of all of you; because of our diversity; because in a global society we will be the great global nation, because everybody can be an American. You don't have to be of a certain race or ethnic background or religious conviction. You just have to come here and share our land and share our values and make the most of your own life. That is what you have to do.

MORE

- 5 -

But in the end you will have to do it. So I say to you, I'm proud to sign this order to give you the chance to say yes to your future. And I hope and pray you will do it.

Thank you, and God bless you all. (Applause.)

(The Memorandum is signed.)

END

12:35 P.M. PDT

THE WHITE HOUSE
WASHINGTON

October 22, 1994

MEMORANDUM FOR THE SECRETARY OF EDUCATION

SUBJECT: Implementation of the Gun-Free Schools Act of 1994, and the Safe and Drug-Free Schools and Communities Act

Our schools are increasingly plagued by violence and crime that is abhorrent to all law-abiding citizens. It is of paramount importance that this Nation's schools be safe, disciplined, and conducive to learning.

Several laws passed this year will promote our effort to make schools safe for learning. The Gun-Free Schools Act of 1994 provides that within one year, every State receiving Federal aid for elementary and secondary education must have a law requiring school districts to expel from school for at least one year any student who brings a gun to school, subject to certain exceptions. The Safe and Drug-Free Schools and Communities Act funds comprehensive violence prevention programs, including those that enhance school security.

To ensure vigorous enforcement, I am directing you to coordinate implementation of these anti-violence measures with appropriate local authorities to the maximum extent possible. Your collaborative efforts should include the States, school districts, law enforcement agencies, and educators. In the case of the Gun-Free Schools Act, enforcement should include termination of Federal assistance if you determine that a State is not in compliance.

You should report to me in writing by December 31 on the specific steps you have taken to implement these statutes.





UNITED STATES DEPARTMENT OF EDUCATION

WASHINGTON, D.C. 20202-_____

COPY

Honorable Howard Dean
Governor of Vermont
Pavilion Office Building
109 State Street
Montpelier, Vermont 05609

Dear Governor Dean:

I'm sure you share our concern that the problem of youth violence, and particularly violence in schools, has intensified recently. It is increasingly apparent that children cannot learn and teachers cannot teach in school environments where students and teachers fear for their safety. In response to this concern, the Gun-Free Schools Act of 1994 was enacted in March, 1994, and reauthorized as part of the Improving America's Schools Act of 1994 (the reauthorization of the Elementary and Secondary Act of 1965 (ESEA), Public Law 103-382) on October 20, 1994. This letter is to provide you with information about changes in the Gun-Free Schools Act of 1994. A copy of the new legislation is enclosed.

The reauthorized version of the Gun-Free Schools Act, although similar to the original legislation, contains several changes that will affect States and local educational agencies. The major changes affecting your state are:

- * States must have in effect a State law requiring local educational agencies to expel from school for a period of not less than one year a student who is determined to have brought a weapon to school (certain exceptions apply to the expulsion requirement); and
- * States that have existing laws in conflict with the one year expulsion requirement have a period of one year to come into compliance.

The major change affecting local educational agencies is:

- * Local educational agencies, as a condition of receiving funds under the Improving America's Schools Act, must have a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a firearm or weapon to school.

Page 2 - 3-

The new Gun-Free Schools Act becomes effective with the receipt of grants made with funds using the Department's Fiscal Year 1995 appropriations under ESEA competitive grant programs and the Impact Aid program, and for other ESEA programs, July 1, 1995. Consequently, immediate steps must be taken to comply with these new requirements. Specific action steps are discussed below.

Action Steps for States

Each State must take prompt action to enact State legislation requiring local educational agencies to comply with the one year expulsion requirement. States that have existing laws in conflict with the one year expulsion requirement have one year (until October 20, 1995) to come into compliance.

Action Steps for local educational agencies

Each local educational agency must promptly take action to implement a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a firearm or weapon to school.

In an October 22, 1994 memorandum to the Secretary, President Clinton emphasized the importance of safe schools in our Nation, and stated:

To ensure vigorous enforcement, I am directing you to coordinate implementation of these anti-violence measures with appropriate local authorities to the maximum extent possible. Your collaborative efforts should include the States, school districts, law enforcement agencies, and educators. In the case of the Gun-Free Schools Act, enforcement should include termination of Federal assistance, if you determine that a State is not in compliance.

A copy of the President's memorandum is enclosed for your information.

We ask that State educational agencies inform local educational agencies about these changes in the Gun-Free Schools Act. We provided guidance to you, dated August 1, 1994, concerning the prior version of the Gun-Free Schools Act. In light of the changes in the new legislation, that guidance is outdated and will need to be revised. We plan to issue a revised guidance package as soon as possible, and we will be providing technical assistance on these issues at a national conference on elementary and secondary education issues that will be held by the Department of Education in Baltimore on December 1-3, 1994.

Page 3 - 3-

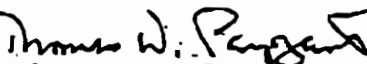
The Department will be providing guidance on disciplining children with disabilities. We also plan to identify model school suspension and expulsion programs that are operating around the country. Because we realize that this is a complex issue for which there is no single model or approach, we would like to provide school districts with a variety of alternative ways to effectively deal with this problem.

We appreciate your assistance in implementing this new Act and invite you to share your own experiences in this area with us. We look forward to effectively implementing this new law which is one important and immediate step we can take to improve the safety of our nation's children. In the meantime, please direct questions concerning implementation of the Gun-Free Schools Act to the Safe and Drug-Free Schools and Communities Program at (202) 260-3954.

Sincerely,



Madeleine M. Kunin
Deputy Secretary



Thomas W. Payzant
Assistant Secretary,
Office of Elementary and
Secondary Education

Enclosures

educational personnel that there will no longer be any failure or inability on the part of such agency or consortium to meet the applicable requirements of section 14503 or any other provision of this Act.

"(c) **PAYMENT FROM STATE ALLOTMENT.**—When the Secretary arranges for services pursuant to this section, the Secretary shall, after consultation with the appropriate public and private school officials, pay the cost of such services, including the administrative costs of arranging for those services, from the appropriate allocation or allocations under this Act.

"(d) **PRIOR DETERMINATION.**—Any by-pass determination by the Secretary under this Act as in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994 shall remain in effect to the extent the Secretary determines that such determination is consistent with the purpose of this section.

"SEC. 14507. PROHIBITION AGAINST FUNDS FOR RELIGIOUS WORSHIP OR INSTRUCTION.

"Nothing contained in this Act shall be construed to authorize the making of any payment under this Act for religious worship or instruction.

"SEC. 14508. APPLICABILITY TO HOME SCHOOLS.

"Nothing in this Act shall be construed to affect home schools.

"SEC. 14509. GENERAL PROVISION REGARDING NONRECIPIENT NONPUBLIC SCHOOLS.

"Nothing in this Act shall be construed to permit, allow, encourage, or authorize any Federal control over any aspect of any private, religious, or home school, whether or not a home school is treated as a private school or home school under State law. This section shall not be construed to bar private, religious, or home schools from participation in programs or services under this Act.

"SEC. 14510. SCHOOL PRAYER.

"Any State or local educational agency that is adjudged by a Federal court of competent jurisdiction to have willfully violated a Federal court order mandating that such local educational agency remedy a violation of the constitutional right of any student with respect to prayer in public schools, in addition to any other judicial remedies, shall be ineligible to receive Federal funds under this Act until such time as the local educational agency complies with such order. Funds that are withheld under this section shall not be reimbursed for the period during which the local educational agency was in willful noncompliance.

"SEC. 14511. GENERAL PROHIBITIONS.

"(a) **PROHIBITION.**—None of the funds authorized under this Act shall be used—

"(1) to develop or distribute materials, or operate programs or courses of instruction directed at youth that are designed to promote or encourage, sexual activity, whether homosexual or heterosexual;

"(2) to distribute or to aid in the distribution by any organization of legally obscene materials to minors on school grounds;

"(3) to provide sex education or HIV prevention education in schools unless such instruction is age appropriate and includes the health benefits of abstinence; or

"(4) to operate a program of condom distribution in schools.

"(b) **LOCAL CONTROL.**—Nothing in this section shall be construed to—

"(1) authorize an officer or employee of the Federal Government to mandate, direct, review, or control a State, local educational agency, or schools' instructional content, curriculum, and related activities;

"(2) limit the application of the General Education Provisions Act;

"(3) require the distribution of scientifically or medically false or inaccurate materials or to prohibit the distribution of scientifically or medically true or accurate materials; or

"(4) create any legally enforceable right.

"SEC. 14512. PROHIBITION ON FEDERAL MANDATES, DIRECTION, AND CONTROL.

"Nothing in this Act shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's curriculum, program of instruction, or allocation of State or local resources, or mandate a State or any subdivision thereof to spend any funds or incur any costs not paid for under this Act.

"SEC. 14513. REPORT.

"The Secretary shall report to the Congress not later than 180 days of the date of enactment of the Improving America's Schools Act of 1994 regarding how the Secretary shall ensure that audits conducted by Department employees of activities assisted under this Act comply with changes to this Act made by the Improving America's Schools Act of 1994, particularly with respect to permitting children with similar educational needs to be served in the same educational settings, where appropriate.

"SEC. 14514. REQUIRED PARTICIPATION PROHIBITED.

"Notwithstanding any other provision of law, no State shall be required to participate in any program under the Goals 2000: Educate America Act, or to have content standards or student performance standards approved or certified under such Act, in order to receive assistance under this Act.

"PART F—GUN POSSESSION

"SEC. 14601. GUN-FREE REQUIREMENTS.

"(a) **SHORT TITLE.**—This section may be cited as the 'Gun-Free Schools Act of 1994'.

"(b) **REQUIREMENTS.**—

"(1) **IN GENERAL.**—Except as provided in paragraph (3), each State receiving Federal funds under this Act shall have in effect a State law requiring local educational agencies to expel from school for a period of not less than one year a student who is determined to have brought a weapon to a school under the jurisdiction of local educational agencies in that State, except that such State law shall allow the chief administering officer

of such local educational agency to modify such expulsion requirement for a student on a case-by-case basis.

"(2) **CONSTRUCTION.**—Nothing in this title shall be construed to prevent a State from allowing a local educational agency that has expelled a student from such a student's regular school setting from providing educational services to such student in an alternative setting.

"(3) **SPECIAL RULE.**—(A) Any State that has a law in effect prior to the date of enactment of the Improving America's Schools Act of 1994 which is in conflict with the not less than one year expulsion requirement described in paragraph (1) shall have the period of time described in subparagraph (B) to comply with such requirement.

"(B) The period of time shall be the period beginning on the date of enactment of the Improving America's Schools Act and ending one year after such date.

"(4) **DEFINITION.**—For the purpose of this section, the term 'weapon' means a firearm as such term is defined in section 921 of title 18, United States Code.

"(c) **SPECIAL RULE.**—The provisions of this section shall be construed in a manner consistent with the Individuals with Disabilities Education Act.

"(d) **REPORT TO STATE.**—Each local educational agency requesting assistance from the State educational agency that is to be provided from funds made available to the State under this Act shall provide to the State, in the application requesting such assistance—

"(1) an assurance that such local educational agency is in compliance with the State law required by subsection (b); and

"(2) a description of the circumstances surrounding any expulsions imposed under the State law required by subsection (b), including—

"(A) the name of the school concerned;

"(B) the number of students expelled from such school;

and

"(C) the type of weapons concerned.

"(e) **REPORTING.**—Each State shall report the information described in subsection (c) to the Secretary on an annual basis.

"(f) **REPORT TO CONGRESS.**—Two years after the date of enactment of the Improving America's Schools Act of 1994, the Secretary shall report to Congress if any State is not in compliance with the requirements of this title.

***SEC. 14602. POLICY REGARDING CRIMINAL JUSTICE SYSTEM REFERRAL.**

"(a) **IN GENERAL.**—No funds shall be made available under this Act to any local educational agency unless such agency has a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a firearm or weapon to a school served by such agency.

"(b) **DEFINITIONS.**—For the purpose of this section, the terms 'firearm' and 'school' have the same meaning given to such terms by section 921(a) of title 18, United States Code.

***SEC. 14603. DATA AND POLICY DISSEMINATION UNDER IDEA.**

"The Secretary shall—

"(1) widely disseminate the policy of the Department in effect on the date of enactment of the Improving America's Schools Act of 1994 with respect to disciplining children with disabilities;

"(2) collect data on the incidence of children with disabilities (as such term is defined in section 602(a)(1) of the Individuals With Disabilities Education Act) engaging in life threatening behavior or bringing weapons to schools; and

"(3) submit a report to Congress not later than January 31, 1995, analyzing the strengths and problems with the current approaches regarding disciplining children with disabilities.

"PART G—EVALUATIONS

***SEC. 14701. EVALUATIONS.**

"(a) **EVALUATIONS.**—

"(1) **IN GENERAL.**—Except as provided in paragraph (2), the Secretary is authorized to reserve not more than 0.50 percent of the amount appropriated to carry out each program authorized under this Act—

"(A) to carry out comprehensive evaluations of categorical programs and demonstration projects, and studies of program effectiveness, under this Act, and the administrative impact of such programs on schools and local educational agencies in accordance with subsection (b);

"(B) to evaluate the aggregate short- and long-term effects and cost efficiencies across Federal programs under this Act and related Federal preschool, elementary and secondary programs under other Federal law; and

"(C) to strengthen the usefulness of grant recipient evaluations for continuous program progress through improving the quality, timeliness, efficiency, and utilization of program information on program performance.

"(2) **SPECIAL RULE.**—(A) Paragraph (1) shall not apply to any program under title I.

"(B) If funds are made available under any program assisted under this Act (other than a program under title I) for evaluation activities, then the Secretary shall reserve no additional funds pursuant to the authority in subsection (a)(1) to evaluate such program, but shall coordinate the evaluation of such program with the national evaluation described in subsection (b).

"(b) **NATIONAL EVALUATIONS.**—

"(1) **IN GENERAL.**—The Secretary shall use the funds made available under subsection (a) to carry out—

"(A) independent studies of categorical and demonstration programs under this Act and the administrative impact of such programs on schools and local educational agencies, that are coordinated with research supported through the Office of Educational Research and Improvement, using rigorous methodological designs and techniques, including longitudinal designs, control groups, and random assignment, as appropriate, to determine—

THE WHITE HOUSE
Office of the Press Secretary

For Immediate Release

October 25, 1994

October 22, 1994

MEMORANDUM FOR THE SECRETARY OF EDUCATION

SUBJECT: Implementation of the Gun-Free Schools Act
of 1994, and the Safe and Drug-Free Schools
and Communities Act

Our schools are increasingly plagued by violence and crime that is abhorrent to all law-abiding citizens. It is of paramount importance that this Nation's schools be safe, disciplined, and conducive to learning.

Several laws passed this year will promote our effort to make schools safe for learning. The Gun-Free Schools Act of 1994 provides that within one year, every State receiving Federal aid for elementary and secondary education must have a law requiring school districts to expel from school for at least one year any student who brings a gun to school, subject to certain exceptions. The Safe and Drug-Free Schools and Communities Act funds comprehensive violence prevention programs, including those that enhance school security.

To ensure vigorous enforcement, I am directing you to coordinate implementation of these anti-violence measures with appropriate local authorities to the maximum extent possible. Your collaborative efforts should include the States, school districts, law enforcement agencies, and educators. In the case of the Gun-Free Schools Act, enforcement should include termination of Federal assistance if you determine that a State is not in compliance.

You should report to me in writing by December 31 on the specific steps you have taken to implement these statutes.

WILLIAM J. CLINTON

#

November 15, 1994

Note to: Jose Cerda

Subject: Gun Free Schools

Attached is a draft copy of a letter we intend to send to Chief State School Officers and Governors later this week. The initial notice will be followed up with more intensive guidance. I will forward you a copy of the draft guidance later this afternoon. Unfortunately, it is not on my computer (we are working on it at General Counsel's) and it has not been electronically sent over to me yet. I expect it this morning and will fax it to you as soon as I receive it.

Please call me if you have any questions.

Bill

P.S. From a story in the Washington Post it appears that Lamar Alexander has taken a shot at the Gun Free policy. Apparently he feels it is another "Washington" directive that is best addressed at the local level.

DRAFT**DRAFT**

This letter is to provide information concerning changes in the Gun-Free Schools Act of 1994, which was reauthorized on October 20, 1994 as part of the Improving America's Schools Act of 1994 (the reauthorization of the Elementary and Secondary Education Act of 1965 (ESEA)), Public Law 103-382. A copy of the new legislation is enclosed.

The reauthorized version of the Gun-Free Schools Act, although similar to the original legislation, contains several changes that will affect States and local educational agencies. The major changes affecting States are:

- * States must have in effect a State law requiring local educational agencies to expel from school for a period of not less than one year a student who is determined to have brought a weapon to school (certain exceptions apply to the expulsion requirement); and
- * States that have existing laws in conflict with the one year expulsion requirement have a period of one year to come into compliance.

The major change affecting local educational agencies is:

- * Local educational agencies, as a condition of receiving funds under the Improving America's Schools Act, must have a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a firearm or weapon to school.

The new Gun-Free Schools Act becomes effective with the receipt of grants made with funds using the Department's Fiscal Year 1995 appropriations under ESEA competitive grant programs and the Impact Aid program, and for other ESEA programs, July 1, 1995. Consequently, immediate steps must be taken to comply with these new requirements. Specific action steps are discussed below.

Action Steps for States

Each State must take prompt action to enact State legislation requiring local educational agencies to comply with the one year expulsion requirement. States that have existing laws in conflict with the one year expulsion requirement have one year (until October 20, 1995) to come into compliance.

DRAFTAction Steps for local educational agencies

Each local educational agency must promptly take action to implement a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a firearm or weapon to school.

In an October 22, 1994 memorandum to the Secretary, President Clinton emphasized the importance of safe schools in our Nation, and stated:

To ensure vigorous enforcement, I am directing you to coordinate implementation of these anti-violence measures with appropriate local authorities to the maximum extent possible. Your collaborative efforts should include the States, school districts, law enforcement agencies, and educators. In the case of the Gun-Free Schools Act, enforcement should include termination of Federal assistance, if you determine that a State is not in compliance.

A copy of the President's memorandum is enclosed for your information.

We ask that State educational agencies inform local educational agencies about these changes in the Gun-Free Schools Act. We provided guidance to you, dated August 1, 1994, concerning the prior version of the Gun-Free Schools Act. In light of the changes in the new legislation, that guidance is outdated and will need to be revised. We plan to issue a revised guidance package as soon as possible, and we will be providing technical assistance on these issues at the [conference] that will be held in Baltimore on December 1-3, 1994. In addition, the Department will be providing guidance on disciplining children with disabilities. In the meantime, please direct questions concerning implementation of the Gun-Free Schools Act to the Safe and Drug-Free Schools and Communities Program at (202) 260-3954.

Sincerely,

Madeleine Kunin

Thomas W. Payzant

Enclosures

GUIDANCE CONCERNING STATE AND LOCAL
RESPONSIBILITIES UNDER THE
GUN-FREE SCHOOLS ACT OF 1994

This guidance is to provide you with information concerning State and local responsibilities under the Gun-Free Schools Act, which was enacted on March 31, 1994 as part of the Goals 2000: Educate America Act. The Gun-Free Schools Act amends the current Elementary and Secondary Education Act of 1965 (20 USC 2701 et seq.) (ESEA). A copy of the new legislation is attached for your information.

The Gun-Free Schools Act (Act) states that, as a condition of receiving any assistance under the ESEA, a local educational agency (LEA) must have in effect a policy requiring the expulsion from school for a period of not less than one year of any student who brings a firearm to school, except that the LEA's chief administering officer may modify the expulsion requirement on a case-by-case basis. The Department interprets this provision to permit LEAs to discipline students with disabilities in accordance with the requirements of Part B of the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act (Section 504), and thereby maintain eligibility for Federal financial assistance.

The following questions and answers have been prepared to assist State educational agencies (SEAs) and LEAs in implementing these new requirements.

Q. When does the Gun-Free Schools Act take effect?

A. The requirements of the Gun-Free Schools Act took effect on March 31, 1994.

Q. What does the Gun-Free Schools Act require?

A. The Gun-Free Schools Act requires that LEAs, as a condition of receiving ESEA funds: (1) implement a specific discipline policy applicable to students who bring weapons (see the definition of "weapon" in the answer below) to school; (2) provide to the SEA an assurance that the policy is in effect; and (3) submit to the SEA specific reporting information on discipline imposed under the policy.

Policy

The Act states that no ESEA assistance may be provided to any LEA unless that LEA has in effect a discipline policy requiring the expulsion from school for a period of not less than one year of any student who is determined to have brought

a weapon to a school under the jurisdiction of the LEA. The Act states, however, that the LEA's policy may allow the chief administering officer of the LEA to modify the expulsion requirement on a case-by-case basis.

Assurance

An LEA is required to include, in each application to the SEA for assistance under the ESEA, an assurance that the required policy is in effect.

Reporting

An LEA is required to include, in each application to the SEA for assistance under the ESEA, a description of the circumstances surrounding any expulsions imposed under the policy, including --

- (1) the name of the school concerned;
- (2) the number of students expelled from the school; and
- (3) the type of weapons concerned.

Q. How is the term "weapon" defined?

A. For the purposes of the Gun-Free Schools Act, a "weapon" means a firearm as defined in Section 921 of Title 18 of the United States Code. (A copy of this provision is also attached.)

Q. What is meant by the term "expulsion"?

A. The term "expulsion" is not defined by the Act. However, the legislative history of the Act indicates that, at a minimum, expulsion means removal from the regular school program at the location where the violation occurred.

Q. How does the new legislation affect existing disciplinary policies required under the Drug-Free Schools and Communities Act?

A. The requirements of the Gun-Free Schools Act are consistent with the disciplinary policies required under the Drug-Free Schools and Communities Act (DFSCA). All LEAs that receive financial assistance under any Federal program are already required, under Section 5145 of the DFSCA, to have in effect a disciplinary policy that contains a range of sanctions, including expulsion. The DFSCA and regulations at 34 CFR Part 86 (Drug-Free Schools and Campuses) require that the policy and sanctions be applicable to all students. The Gun-Free

Schools Act establishes as a condition of receipt of funds under the ESEA a minimum disciplinary sanction that must be imposed against a student who brings a firearm to school -- i.e., expulsion for at least one year, subject to case-by-case modifications.

Q. Does the Gun-Free Schools Act alter a school district's obligations under the Federal civil rights laws?

A. No. The Gun-Free Schools Act does not amend or create an exception to Federal civil rights laws. In implementing the Gun-Free Schools Act, school districts must comply with the nondiscrimination requirements of Title VI of the Civil Rights Act of 1964 (prohibiting discrimination on the basis of race, color, or national origin), Title IX of the Education Amendments of 1972 (prohibiting discrimination on the basis of gender), Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act (prohibiting discrimination on the basis of disability), and the Age Discrimination Act of 1975 (prohibiting discrimination on the basis of age).

Q. Do the requirements of the Gun-Free Schools Act conflict with requirements that apply to students with disabilities?

A. No. Compliance with the Gun-Free Schools Act may be achieved consistently with the requirements that apply to students with disabilities as long as discipline of such students is determined on a case-by-case basis in accordance with the disability laws. Students with disabilities may be expelled for behavior unrelated to their disabilities as long as the procedural safeguards required by IDEA and Section 504 are followed. Under Section 504, the determination of whether the child's behavior is caused by the disability, however, must be determined through a reevaluation by individuals personally familiar with the child and knowledgeable about special education. In addition, the IDEA requires that educational services must continue, although they may be provided in another setting, for students with disabilities who are properly expelled.

If it is determined that the student's action in bringing a firearm to school is related to the student's disability, IDEA and Section 504 do not permit the LEA to expel the student. However, under IDEA and Section 504, a student with a disability may be suspended for up to ten days, which permits the LEA to address any immediate threat to the student or the safety of others. LEAs may also seek a court order to remove a student who is considered to be dangerous. In addition, the child's placement may be changed, in accordance with the

procedures under those laws, if it is determined that, in light of the behavior, the child's placement is not appropriate.

Q. Does the Act require LEAs to amend applications for ESEA funds that have already been awarded?

A. No. Although the legislation took effect on March 31, 1994, the assurance required under the Act need not be submitted until an LEA files with the SEA its first application for ESEA funds after that date. However, the SEA may require that the assurance be filed earlier.

Q. When must an LEA revise its disciplinary policies?

A. The Secretary believes that Congress intended that the required policy be implemented immediately. Thus, as a condition of receiving ESEA funds, an LEA must undertake good faith efforts to revise its disciplinary policies immediately unless it already has in effect a policy that meets the new requirements.

Q. What if the revised policy cannot be fully implemented at this time due to conflicting State or local laws, administrative impediments, or other unique circumstances?

A. Receipt of ESEA funds is conditioned upon compliance with the requirements of the Gun-Free Schools Act. The Secretary recognizes that there may be circumstances that adversely affect an LEA's ability to implement fully a discipline policy that meets these requirements. Therefore, an LEA may submit to the SEA the assurance required by the Act if the LEA has:

(1) made a good faith effort to begin promptly the process of implementing a policy that complies with the Act; and

(2) developed a plan to complete the implementation process as soon as possible.

In situations where a conflicting State law prevents full implementation of the required policy, SEAs may accept an LEA's assurance if the SEA determines that the appropriate State officials are making good faith efforts to bring about the revision of the State legislation.

Appropriate documentation must be maintained to demonstrate, upon request, the adequacy of efforts to implement fully the required policy.

Date: 09/14/94 Time: 21:35

President Hails New Ban On Kids Having Guns

(White House) -- President Clinton is campaigning for enforcement of what he calls an important provision of the crime bill he signed yesterday. He told a gathering of attorneys the law's ban on juvenile possession of handguns ``can save children's lives.''

The provision drew little attention during the months of debate on the mammoth crime measure. Clinton says its enforcement will ``make a massive difference in the problem of youth violence.''

He told the attorneys except for hunting or target shooting with a responsible adult, ``young people simply shouldn't be carrying guns, period.''

Clinton has ordered prosecutors to develop a strategy for implementing the provision, which also bans the transfer or sale of handguns to children.

According to F-B-I figures, the number of minors arrested for murder more than doubled between 1983 and 1992, from 11-hundred-75 to 26-hundred-80.

APNP-09-14-94 2134EDT

Schools Getting Tough on Guns in the Classroom

By WILLIAM CELIS 3d

When students in Corpus Christi, Tex., report for school this fall, they will be greeted by dogs trained to sniff out guns. In San Diego, students are reporting to new schools built without lockers, eliminating what school officials say is the most common hiding place for guns. And in Charlotte, N.C., students in some schools will not be able to carry book bags from class to class because they can conceal firearms.

Driven by an increasing number of shootings in classrooms, hallways and on and near campuses, school systems across the country this summer enacted tough and often hotly debated anti-gun regulations to eliminate weapons from most public high schools and some junior high schools.

Under most of these provisions, a student caught with a firearm will automatically be suspended for up to a year, even if the student is not ultimately convicted of a criminal offense.

Once the province of large urban districts — the New York City Board of Education's anti-gun policy, enacted in 1983, is one of the oldest in the nation — these restrictions are now catching on in smaller cities, suburbs and rural areas where problems with guns have developed in recent years.

Enforced by a variety of means, like dogs, metal detectors and surprise locker searches, the new policies have been prodded by the Clinton Administration's Goals 2000: Educate America Act.

Approved in March by Congress, the legislation requires school districts to address the issue of guns in schools by enacting local regulations. Failure to do so may result in the districts' losing money for Federal education programs like Chapter One, the anti-poverty program intended to bring poor students up to their grade levels in reading and math.

"The Federal law was a good way for Congress to get involved," said Michael Casserly, executive director of the Council of Great City Schools, an association of the 50 largest school districts. "But its practical effects have yet to be seen."

Officials of the United States Department of Education acknowledge that the legislation was meant to encourage school districts, even those with no weapons incidents, to take strong measures.

"It is our intent to take an aggressive posture to remove guns from schools," said Bill Modzeleski, director of the Education Department's Drug Planning and Outreach staff, which oversees the department's safe and drug-free schools programs. "We need to make our schools safe, disciplined and drug free."

One of the six goals in the Goals 2000 legislation, the section of the law applying to guns, says: "Every school in America will be free of drugs and violence and will offer a disciplined environment conducive to learning." The legislation does not direct school districts to adopt a specific policy, but the actions of hundreds of school districts this year appear to be a response, out of fear that failure to do so may ultimately cost them Federal money.

The law is thus having the effect of setting a national standard for gun control for a segment of the population, school-age children on school property. Mr. Modzeleski said that

even districts without any violent incidents might need to enact some kind of restriction on guns, if only to have it on the books. The Education Department has not yet established criteria that schools must meet to comply with the Goals 2000's gun provision.

The tough measures come on top of growing preventive efforts to control violence through mediation and conflict resolution programs.

In some urban school districts that have suspended students for gun possession, there is evidence that the threat of suspension works. In Washington, D.C., for instance, suspensions have declined over five years to 27 during the 1993-94 school year from 52 during 1988-89, the first year of the policy.

No one knows exactly how many school districts have adopted these policies, which mostly focus on students in middle and high schools; a handful affect elementary school students.

These anti-gun policies face hurdles, not the least of which are the guns themselves and the students' efficiency in hiding them. About 135,000 guns are brought to the nation's 85,000 public schools every day, according to an estimate by the National School Boards Association. Metal detectors, security forces and locker inspections have only made a dent in that number, school officials across the country say.

Some Skepticism

There is little wonder, then, that school principals and superintendents share the skepticism they say is expressed by some parents and students over whether zero-tolerance policies will be effective.

Some parents and students also raise questions about the new, hard-nosed approach of some school officials. In Eugene, Ore., for example, the principal at Sheldon High School was criticized for tearing out all the student lockers as a precautionary measure.

"I got the hell beat out of me for doing it," said the principal, Jim

No lockers, see-through book bags and aggressive administrators.

Ford.

There are no firm figures on the number of shootings on campuses nationwide, but the seemingly daily diet of gunfire in classrooms, hallways, bathrooms and elsewhere on school grounds has made the policies increasingly popular among many parents, students and school officials, and their numbers are growing. At a minimum, school officials say, the adoption of zero-tolerance gun regulations carrying tough penalties for violations sends no-nonsense messages to students. Although definitive statistics are unavailable, the National School Safety Center, a nonprofit research group in Westlake Village, Calif., says anti-gun efforts have escalated in the last four years.

"Administrators are trying to get a sense of control in the playing field," said the group's legal service director, George E. Butterfield. "Administrators are trying to cut down on the number of places they have to worry about contraband."

And more students than not, he said, seem to support the measures.

"I want to feel safe in school," said Will Hendricks, a 13-year-old eighth grader in Kings Mountain, N.C., who was on the local school task force that in 1992 approved an anti-gun policy that calls for student suspensions. "You never know if someone has a gun in the locker beside you."

Banning Book Bags

Two years ago, when pupils used book bags to bring two pistols into the only middle school in Kings Mountain, a rural town of 8,500 people in the foothills of the Smoky Mountains, administrators responded by banning book bags.

Now, using an approach employed by other school districts, officials use metal detectors once a week to examine at least 10 percent of the students at the middle school and high school. The policy covers all students, from kindergarten through 12th grade, and those caught with firearms are suspended for the rest of the school year.

"We didn't think we were in a crisis situation, but we wanted to keep it from becoming a crisis," said Robert McRae Jr., the Superintendent of Schools. "Our community has let us know it expects us to deal seriously with even one incident of a firearm."

What to do with the suspended students has been a concern in Kings Mountain schools, as it is in other school systems. Alternative classes are being considered, but the district currently offers nothing to occupy students who are suspended under its policy, which was invoked seven times in the last school year.

Addressing the needs of suspended students and the desire to make schools safer has been a difficult juggling act for schools, most of which are required under state laws to offer alternative schooling for suspended students.

Eliminating Lockers

That is the case in the San Diego Unified School District, where an aggressive zero-tolerance gun policy adopted in July 1993 has, according to officials, reduced violence in the schools. The district also eliminated lockers in existing schools in 1982, becoming one of the first districts in the nation to do so, and followed that with a policy that new buildings would be constructed and furnished without them. In some of the district's schools, students are given two sets of books — one for home and one for school.

The combined policies have reduced crime and violence by at least 35 percent since February 1993, said the director of School Police Services for the San Diego Unified School District, Alex Rascon, Jr. "Kids understand punishment," he said.

For all the sentiment to ban guns, however, the movement ran aground in Charlotte, where protests by parents and students forced officials to postpone for at least a year a system-wide ban on book bags in middle schools and high schools; it was to have taken effect on Aug. 22, the first day of the new school year. Students at South Mecklenburg High protested the policy by spray-painting several boulders with the words "Welcome Back to School ... Your Rights End Here."

Pistol Shot in Class

Two middle schools already have a ban, and one middle school allows only mesh or clear bags, but efforts to introduce the policy systemwide did not begin until a pistol went off last May in a seventh-grade social studies class; a 13-year-old boy had used a book bag to smuggle the weapon into the classroom. No one was hurt.

District officials tried to ban such bags in all schools, but the proposal was quickly dropped because of the protests and because some high schools do not have enough lockers, so students carry their books in bags from class to class.

And some students are not sure a ban on bags would have made a difference. Owen Brice, a 13-year-old eighth-grader at Alexander Graham Middle School, one of the schools that does ban bags, said: "It's not the book bag's fault. You can cut the insides out of your book, or hide a gun in your coat pocket. There are a million other ways."

I.R.A. Said to Be Close to Truce To End Violent Ulster Campaign

By JOHN DARTON
Special to The New York Times

AI

LONDON, Aug. 30 — The Irish Republican Army was widely reported today to be ready to announce a cease-fire in a move that might end its 25-year violent campaign to expel British troops from Northern Ireland.

Reports of the I.R.A.'s likely move came from people close to the outlawed organization and also officials in the Irish Government, which has been pressing a peace initiative in the north.

Expectations of a breakthrough in the conflict have been fueled by a string of events over the last few days, including hopeful statements by Gerry Adams, who as head of Sinn Fein, the I.R.A.'s political arm, is generally recognized as its representative.

In another sign that movement was afoot in a nine-month-old peace initiative, the United States Government has granted a visa to Joe Cahill, a leading figure in the I.R.A., to visit Noraid, an I.R.A. support group. Mr. Cahill has been on a list of people excluded because of his association with an organization that Washington has listed as terrorist.

In a joint statement Sunday night with John Hume, head of Ulster's main nationalist party and a man who has been pressing for peace talks for 16 months, Mr. Adams said the "essential ingredients" for peace were now at hand. He called upon the British Government to respond favorably to any move by the I.R.A.

Then Mr. Adams indicated on Monday that he had recommended to the I.R.A. leadership that it move toward a peaceful settlement and that he expected a "speedy response." The fact that Mr. Adams went public with such a statement was taken as a sign that he felt that hard-liners on the organization's army council, or top leadership body, were willing to follow the course toward peace.

He declared: "The potential now exists to move the situation toward a democratic and peaceful settlement. I am satisfied that Irish nationalism, if properly mobilized and focused at home and abroad, now has sufficient political confidence, weight and support to bring about the changes which are essential to a just and lasting peace."

"This is the considered position I put to the I.R.A.," he added.

Analysts who have followed the outlawed Irish organization for a decade or more said that it appeared that it was on the brink of a fateful move — ending its 25-year campaign to expel British troops from Ulster by force and relying instead on political developments to achieve its ultimate objective of union with the Irish republic to the south.

Sectarian violence began a quarter of a century ago when Catholics, who are in the minority in Northern Ireland, maintained they were persecuted and without full civil rights. With Protestants and Catholics fighting pitched street battles, British troops entered on Aug. 14, 1969, and rapidly became embroiled in the conflict themselves.

Demographics still favor Protestants but by a dwindling margin; of

the north's 1.6 million people, 57 percent are now Protestant and 43 percent Catholic. The Protestants would be instantly transformed into a minority if the north should join with the overwhelmingly Catholic republic.

Today the British Government sought to calm the fears of Protestant loyalists — who favor continued union with Britain — by having unnamed spokesmen reassert that no concessions were given to the I.R.A. to extract an agreement and that there

Hopeful words and pending visits to the U.S.

had been no change in policy toward Northern Ireland. The cornerstone of that policy is still that there can be no change in the status of Ulster without the consent of those who live there, the spokesmen said.

But the reassurances did not sit easily with some Protestant leaders, who asserted that they were being sold out. Among them was the fiery Rev. Ian Paisley, who accused the Government of "caving in" to Sinn Fein and said an agreement taken against the "democratic wish" of the people of Northern Ireland was "a recipe for civil war" there.

A Visit to the U.S.

A militant, illegal loyalist group, the Ulster Freedom Fighters, which has been assassinating Catholics, warned on Monday night that it would not "sit back and allow ourselves to be coerced and persuaded into an all-Ireland."

One reliable report today said that a delay in announcing the cease-fire had come about because a special American visa had to be arranged for Mr. Cahill, who was charged with illegal entry into the United States in 1984, when he used an Irish passport belonging to someone else. His mission this time is to explain the situation giving rise to a cease-fire to supporters of Noraid, or the Northern Aid Committee, in the United States. The visa was granted to him today.

Mr. Cahill, who is 74 years old, is believed to be a founder of the provisional I.R.A. and of Noraid, whose members in the United States had previously disavowed a connection to the I.R.A. and maintained that their money had gone only to help families of imprisoned I.R.A. members. In 1973, Mr. Cahill was convicted of gun-running in the Irish republic and belonging to the outlawed provisional I.R.A. In 1981, Noraid stationery contained Mr. Cahill's name.

Today speculation that a breakthrough was close was heard everywhere, from people close to the I.R.A. in Belfast, in the corridors of Whitehall in London and in Dublin, where the Irish Prime Minister, Albert Reynolds, held a Cabinet meeting, to discuss details of the initiative.

Afterwards the Irish Prime Minister said, "I believe we are poised for peace and in a very short time we will be able to make an entirely new beginning on this island."

On Sunday the Irish Prime Minister declared that an opportunity for peace was present and he called it "the best opportunity since partition" seven decades ago.

Much of today's speculation centered on the critical question of not just whether a cease-fire would be announced but of how long it would be proclaimed for. Some commentators

went so far as to suggest that the I.R.A. might publicly call a halt to the violence, which, on all sides, has taken 3,168 lives over the last 25 years.

In a joint declaration to try to get peace talks going in December, the British and Irish Governments pledged that Sinn Fein would have a place at the negotiating table if it publicly renounced violence. Afterward, Prime Minister John Major said that a cease-fire lasting three months would be sufficient to open the door to talks.

In that context, a strong I.R.A. statement giving up violence would put considerable pressure upon the British Government to come forward with a dramatic countermove, like reducing British troops or cutting back on the ubiquitous street patrols of Belfast and other areas. There are now 17,500 British troops, backed up by 13,000 police officers.

The I.R.A. has tried truces before but for the most part they have been limited to the Christmas period, lasting 72 hours. The last lengthy cease-fire occurred in 1975, when a Christmas truce from the previous year was extended into the middle of January, called off and then resumed in February. But killings continued and the cease-fire dissolved by the middle of the year.

An earlier cease-fire was declared in June 1972, but it fell apart after 13 days. In July, 95 people were killed, the highest toll for a single month in the last 25 years.

Unlike the earlier cease-fires, however, this one, should it materialize, would happen at a time when the Irish Government has joined in the search for peace and there is a specific initiative under way in the form of the declaration of principles agreed to by Britain and Ireland.

Split in U.S. Policy

Special to The New York Times

WASHINGTON, Aug. 30 — The decision to grant a visa to Mr. Cahill called attention once again today to a split in the American I.R.A. policy.

The White House ordered that the visa be issued, overruling objections from the State Department, Administration officials said.

A White House official accompanying President Clinton in Martha's Vineyard said today that the President approved Mr. Cahill's visa Monday night so that he could "build support in the United States for an end to violence in Northern Ireland."

The division was similar to what occurred when Mr. Adams was given a visa to visit the United States in February after having been denied for many years on the ground that he was a terrorist.

At that time, Anthony Lake, President Clinton's national security adviser, recommended that the Adams visa be granted. He also recommended Mr. Cahill's visa, the official said.

The White House official said that the Administration would consider providing more money to the International Fund for Ireland, a multinational organization that administers development aid to both the Republic of Ireland and Northern Ireland.

The United States currently gives \$20 million a year to the fund. The official would not say how much more the United States might contribute.

Representative Peter T. King, a Long Island Republican who is an officer of the Congressional Ad Hoc Committee on Irish Affairs, said: "The fact that Cahill has been given a visa is very important. It shows that the Clinton Administration is serious about the peace process and is an active player."

3

Date: 09/05/94 Time: 13:05

In Vogue This Fall: More Gun Control Measures in Classrooms

It's back to school time, which means new clothes, new classes and in these violent times more metal detectors, surveillance cameras, gun-sniffing dogs, book-bag bans and locker searches to keep kids from toting guns.

Seventy percent of the nation's 50 largest school districts have installed metal scanners to detect firearms, up from 25 percent two years ago, according to the National School Safety Center. But preventative measures are also becoming the norm in suburban and rural areas.

"There is no school district now that is immune, whether you're rural, suburban or city," said Peter Blauvelt of the National Association of School Safety and Law Enforcement Officers.

No national figures exist to underscore the depth of gun-related killings in schools, although a study is due in January by the U.S. Centers for Disease Control and Prevention.

Just as it tracks outbreaks of flu, the CDC is tracking the rate of death in schools from guns. And preliminary numbers show 102 homicides and suicides in and around schools in the past two years a number that suggests an epidemic.

"An epidemic is what public health officials use whenever there is an unprecedented increase in the rate of death. Clearly, the increase in rates of firearm-related injury and death in and around schools warrants calling it an epidemic," said Patrick Kachur, an epidemiologist in the CDC's Division of Violence Prevention.

"It's clear to most people the problem is significant and it's on the increase."

In a 1993 survey by the Metropolitan Life Insurance Co., more than one in 10 teachers and one in four students reported they had been victims of violence in or around school. Thirteen percent of the students said they had brought a weapon to school at least once.

Educators are fighting back, not only with equipment, but with programs such as peer intervention and conflict resolution to prevent disagreements from turning deadly.

Such programs are now being used, for example, in Upper Perkiomen High School outside Philadelphia. In 1993, a 10th grader pulled a 9mm Ruger from his book bag and killed a classmate during first period biology class because, as he told police, "he punches me and kicks me and makes me look like an ass."

Conflict-resolution programs are also in place at the Margaret Leary Elementary School in Butte, Mont. Last April, an 11-year-old boy was killed in the schoolyard by a 10-year-old classmate, who fired a gun at another youth following an argument.

"It used to be you'd go to school and have a fist fight. Now you have gun fight," said Ronald Stephens of the National School Safety Center in Westlake Village, Calif. "A large part of the country has just had it with kids bringing guns to school."

More schools adopted tougher policies for the new school year after Congress passed legislation in March requiring them to address the issue of guns or risk losing federal money.

While the goal may be zero-tolerance for guns in school, metal detectors alone won't work.

New York City began using scanners in 1988, but last year, 3,905 weapons were seized in schools including four rifles in addition to 3,349 weapons detected by scanners. And officials stress that conflict resolution must be part of the cure.

"The real solution is not turning schools into fortresses where

you have to search students before they come to school. Schools are part of society. We can't prevent the problems of society from seeping into school doors," said Robert Terete, spokesman for the NYC Board of Education.

One of the sticking points is that cash-strapped districts must spend money on crime control instead of academics.

In Georgia, about \$21 million in proceeds from the state lottery was made available to schools for anti-gun measures.

Ware County High School in Waycross, Ga., used lottery money to buy four walk-through and eight hand-held metal detectors, bought hand-held radios and installed surveillance cameras in hallways and buses.

"We think it will pay dividends as a deterrent," said Ricky Brantley, assistant superintendent.

School districts in San Diego and Eugene, Ore., have gone a different route. They've removed student lockers that they feel are likely hiding places for weapons. Some schools in Charlotte, N.C., and Norristown, Pa., prohibit students from carrying book bags which may conceal weapons.

And in Prince George's County, Md., students returning to fall classes encountered more surveillance cameras, more metal detectors and more security guards. The extra security was planned even before a teacher was shot and wounded last April by a student, who brought the service revolver of his police officer father to school in an attempt to sell it.

"Shot in the line of duty. We used to use that phrase for policemen and soldiers. Now we're having to use it for teachers," said Sandra Farnham, president of the county's Federation of Teachers.

APNP-09-05-94 1304EDT

UNITED STATES DEPARTMENT OF EDUCATION**OFFICE OF LEGISLATION AND CONGRESSIONAL
AFFAIRS**

Date: 10/7/94 Fax #: 456 7028 ⁷⁴³¹

Sent to: JOSE CERDA

Attention: _____

From: LOUIE CASTRO

Number of Pages (including cover sheet): 2

If there are any problems with this transmission, please
contact me at: (202) 401-1028



COMMENTS: HEY, JOSE - HOPE ALL'S GOING WELL
HERE'S THE GUNFREE SCHOOLS PROVISION YOU WERE
LOOKING FOR.
GIVE ME A CALL IF YOU HAVE ANY QUESTIONS.

[Signature]

400 Maryland Avenue SW, Room 3153
Washington, DC 20202-3100

Office Number: (202) 401-1028
Fax Number: (202) 401-1438

September 28, 1994

CONGRESSIONAL RECORD—HOUSE

H10111

in effect until the Secretary determines, in consultation with such agency or consortium and representatives of the affected private school children, teachers, or other educational personnel that there will no longer be any failure or inability on the part of such agency or consortium to meet the applicable requirements of section 14503 or any other provision of this Act.

"(c) **PAYMENT FROM STATE ALLOTMENT.**—When the Secretary arranges for services pursuant to this section, the Secretary shall, after consultation with the appropriate public and private school officials, pay the cost of such services, including the administrative costs of arranging for those services, from the appropriate allocation or allocations under this Act.

"(d) **PRIOR DETERMINATION.**—Any by-pass determination by the Secretary under this Act as in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994 shall remain in effect to the extent the Secretary determines that such determination is consistent with the purpose of this section.

"SEC. 14507. PROHIBITION AGAINST FUNDS FOR RELIGIOUS WORSHIP OR INSTRUCTION.

"Nothing contained in this Act shall be construed to authorize the making of any payment under this Act for religious worship or instruction.

"SEC. 14508. APPLICABILITY TO HOME SCHOOLS.

"Nothing in this Act shall be construed to affect home schools.

"SEC. 14509. GENERAL PROVISION REGARDING NONRECIPIENT NONPUBLIC SCHOOLS.

"Nothing in this Act shall be construed to permit, allow, encourage, or authorize any Federal control over any aspect of any private, religious, or home school, whether or not a home school is treated as a private school or home school under State law. This section shall not be construed to bar private, religious, or home schools from participation in programs or services under this Act.

"SEC. 14510. SCHOOL PRAYER.

"Any State or local educational agency that is adjudged by a Federal court of competent jurisdiction to have willfully violated a Federal court order mandating that such local educational agency remedy a violation of the constitutional right of any student with respect to prayer in public schools, in addition to any other judicial remedies, shall be ineligible to receive Federal funds under this Act until such time as the local educational agency complies with such order. Funds that are withheld under this section shall not be reimbursed for the period during which the local educational agency was in willful noncompliance.

"SEC. 14511. GENERAL PROHIBITIONS.

"(a) **PROHIBITION.**—None of the funds authorized under this Act shall be used—

"(1) to develop or distribute materials, or operate programs or courses of instruction directed at youth that are designed to promote or encourage, sexual activity, whether homosexual or heterosexual;

"(2) to distribute or to aid in the distribution by any organization of legally obscene materials to minors on school grounds;

"(3) to provide sex education or HIV prevention education in schools unless such instruction is age appropriate and includes the health benefits of abstinence; or

"(4) to operate a program of condom distribution in schools.

"(b) **LOCAL CONTROL.**—Nothing in this section shall be construed to—

"(1) authorize an officer or employee of the Federal Government to mandate, direct, review, or control a State, local educational agency, or schools' instructional content, curriculum, and related activities;

"(2) limit the application of the General Education Provisions Act;

"(3) require the distribution of scientifically or medically false or inaccurate materials or to

prohibit the distribution of scientifically or medically true or accurate materials; or

"(4) create any legally enforceable right.

"SEC. 14512. PROHIBITION ON FEDERAL MAN-DATES, DIRECTION, AND CONTROL.

"Nothing in this Act shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's curriculum, program of instruction, or allocation of State or local resources, or mandate a State or any subdivision thereof to spend any funds or incur any costs not paid for under this Act.

"SEC. 14513. REPORT.

"The Secretary shall report to the Congress not later than 180 days of the date of enactment of the Improving America's Schools Act of 1994 regarding how the Secretary shall ensure that audits conducted by Department employees of activities assisted under this Act comply with changes to this Act made by the Improving America's Schools Act of 1994, particularly with respect to permitting children with similar educational needs to be served in the same educational settings, where appropriate.

"SEC. 14514. REQUIRED PARTICIPATION PROHIBITED.

"Notwithstanding any other provision of law, no State shall be required to participate in any program under the Goals 2000: Educate America Act, or to have content standards or student performance standards approved or certified under such Act, in order to receive assistance under this Act.

"PART F—GUN POSSESSION

"SEC. 14601. GUN-FREE REQUIREMENTS.

"(a) **SHORT TITLE.**—This section may be cited as the 'Gun-Free Schools Act of 1994'.

"(b) REQUIREMENTS.—

"(1) **IN GENERAL.**—Except as provided in paragraph (3), each State receiving Federal funds under this Act shall have in effect a State law requiring local educational agencies to expel from school for a period of not less than one year a student who is determined to have brought a weapon to a school under the jurisdiction of local educational agencies in that State, except that such State law shall allow the chief administering officer of such local educational agency to modify such expulsion requirement for a student on a case-by-case basis.

"(2) **CONSTRUCTION.**—Nothing in this title shall be construed to prevent a State from allowing a local educational agency that has expelled a student from such a student's regular school setting from providing educational services to such student in an alternative setting.

"(3) **SPECIAL RULE.**—(A) Any State that has a law in effect prior to the date of enactment of the Improving America's Schools Act of 1994 which is in conflict with the not less than one year expulsion requirement described in paragraph (1) shall have the period of time described in subparagraph (B) to comply with such requirement.

"(B) The period of time shall be the period beginning on the date of enactment of the Improving America's Schools Act and ending one year after such date.

"(4) **DEFINITION.**—For the purpose of this section, the term 'weapon' means a firearm as such term is defined in section 921 of title 18, United States Code.

"(c) **SPECIAL RULE.**—The provisions of this section shall be construed in a manner consistent with the Individuals with Disabilities Education Act.

"(d) **REPORT TO STATE.**—Each local educational agency requesting assistance from the State educational agency that is to be provided from funds made available to the State under this Act shall provide to the State, in the application requesting such assistance—

"(1) an assurance that such local educational agency is in compliance with the State law required by subsection (b); and

"(2) a description of the circumstances surrounding any expulsions imposed under the State law required by subsection (b), including—

"(A) the name of the school concerned;

"(B) the number of students expelled from such school; and

"(C) the type of weapons concerned.

"(e) **REPORTING.**—Each State shall report the information described in subsection (c) to the Secretary on an annual basis.

"(f) **REPORT TO CONGRESS.**—Two years after the date of enactment of the Improving America's Schools Act of 1994, the Secretary shall report to Congress if any State is not in compliance with the requirements of this title.

"SEC. 14602. POLICY REGARDING CRIMINAL JUSTICE SYSTEM REFERRAL.

"(a) **IN GENERAL.**—No funds shall be made available under this Act to any local educational agency unless such agency has a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a firearm or weapon to a school served by such agency.

"(b) **DEFINITIONS.**—For the purpose of this section, the terms 'firearm' and 'school' have the same meaning given to such terms by section 921(a) of title 18, United States Code.

"SEC. 14603. DATA AND POLICY DISSEMINATION UNDER IDEA.

"The Secretary shall—

"(1) widely disseminate the policy of the Department in effect on the date of enactment of the Improving America's Schools Act of 1994 with respect to disciplining children with disabilities;

"(2) collect data on the incidence of children with disabilities (as such term is defined in section 602(a)(1) of the Individuals with Disabilities Education Act) engaging in life threatening behavior or bringing weapons to schools; and

"(3) submit a report to Congress not later than January 31, 1995, analyzing the strengths and problems with the current approaches regarding disciplining children with disabilities.

"PART G—EVALUATIONS

"SEC. 14701. EVALUATIONS.

"(a) **EVALUATIONS.**—

"(1) **IN GENERAL.**—Except as provided in paragraph (2), the Secretary is authorized to reserve not more than 0.50 percent of the amount appropriated to carry out each program authorized under this Act—

"(A) to carry out comprehensive evaluations of categorical programs and demonstration projects, and studies of program effectiveness, under this Act, and the administrative impact of such programs on schools and local educational agencies in accordance with subsection (b);

"(B) to evaluate the aggregate short- and long-term effects and cost efficiencies across Federal programs under this Act and related Federal preschool, elementary and secondary programs under other Federal law; and

"(C) to strengthen the usefulness of grant recipient evaluations for continuous program progress through improving the quality, timeliness, efficiency, and utilization of program information on program performance.

"(2) **SPECIAL RULE.**—(A) Paragraph (1) shall not apply to any program under title I.

"(B) If funds are made available under any program assisted under this Act (other than a program under title I) for evaluation activities, then the Secretary shall reserve no additional funds pursuant to the authority in subsection (a)(1) to evaluate such program, but shall coordinate the evaluation of such program with the national evaluation described in subsection (b).

"(b) **NATIONAL EVALUATIONS.**—

"(1) **IN GENERAL.**—The Secretary shall use the funds made available under subsection (a) to carry out—

"(A) independent studies of categorical and demonstration programs under this Act and the administrative impact of such programs on

OCTOBER 7, 1994

NOTE TO: JOSE CERDA

SUBJECT: GUN-FREE SCHOOLS ACT

ATTACHED AS REQUESTED IS A COPY OF THE ABOVE NAMED ACT. PLEASE CALL ME IF YOU HAVE ANY QUESTIONS REGARDING IT. I UNDERSTAND THAT BILL GALSTON HAS ASKED ED TO PREPARE A LETTER THAT WILL GO FROM THE PRESIDENT TO SEC RILEY ASKING FOR STRICT ENFORCEMENT OF THIS PROVISION. LETTER IS BEING DRAFTED AS I WRITE.

CALL ME IF YOU HAVE ANY QUESTIONS. I CAN BE REACHED AT 260-1856.

BILL MODZELESKI

September 28, 1994

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H10111

in effect until the Secretary determines, in consultation with such agency or consortium and representatives of the affected private school children, teachers, or other educational personnel that there will no longer be any failure or inability on the part of such agency or consortium to meet the applicable requirements of section 14513 or any other provision of this Act.

"(c) PAYMENT FROM STATE ALLOTMENT.—When the Secretary arranges for services pursuant to this section, the Secretary shall, after consultation with the appropriate public and private school officials, pay the cost of such services, including the administrative costs of arranging for those services, from the appropriate allocation or allocations under this Act.

"(d) PRIOR DETERMINATION.—Any by-pass determination by the Secretary under this Act as in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994 shall remain in effect to the extent the Secretary determines that such determination is consistent with the purpose of this section.

"SEC. 14507. PROHIBITION AGAINST FUNDS FOR RELIGIOUS WORSHIP OR INSTRUCTION.

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prohibit the distribution of scientifically or medically true or accurate materials; or

"(4) create any legally enforceable right.

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"Nothing in this Act shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's curriculum, program of instruction, or allocation of State or local resources, or mandate a State or any subdivision thereof to spend any funds or incur any costs not paid for under this Act.

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"The Secretary shall report to the Congress not later than 180 days of the date of enactment of the Improving America's Schools Act of 1994 regarding how the Secretary shall ensure that audits conducted by Department employees or activities assisted under this Act comply with changes to this Act made by the Improving America's Schools Act of 1994, particularly with respect to permitting children with similar educational needs to be served in the same educational settings, where appropriate.

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"(2) CONSTRUCTION.—Nothing in this title shall be construed to prevent a State from allowing a local educational agency that has expelled a student from such a student's regular school setting from providing educational services to such student in an alternative setting.

"(3) SPECIAL RULE.—(A) Any State that has a law in effect prior to the date of enactment of the Improving America's Schools Act of 1994 which is in conflict with the not less than one year expulsion requirement described in paragraph (1) shall have the period of time described in subparagraph (B) to comply with such requirement.

"(B) The period of time shall be the period beginning on the date of enactment of the Improving America's Schools Act and ending one year after such date.

"(4) DEFINITION.—For the purpose of this section, the term 'weapon' means a firearm as such term is defined in section 921 of title 18, United States Code.

"(c) SPECIAL RULE.—The provisions of this section shall be construed in a manner consistent with the Individuals with Disabilities Education Act.

"(d) REPORT TO STATE.—Such local educational agency requesting assistance from the State educational agency that is to be provided from funds made available to the State under this Act shall provide to the State, in the application requesting such assistance—

"(1) an assurance that such local educational agency is in compliance with the State law required by subsection (b), and

"(2) a description of the circumstances surrounding any expulsions imposed under the State law required by subsection (b), including—

"(A) the name of the school concerned;

"(B) the number of students expelled from such school; and

"(C) the type of weapons concerned.

"(e) REPORTING.—Each State shall report the information described in subsection (c) to the Secretary on an annual basis.

"(f) REPORT TO CONGRESS.—Two years after the date of enactment of the Improving America's Schools Act of 1994, the Secretary shall report to Congress if any State is not in compliance with the requirements of this title.

"SEC. 14602. POLICY REGARDING CRIMINAL JUSTICE SYSTEM REFERRAL.

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"(3) submit a report to Congress not later than January 31, 1995, analyzing the strengths and problems with the current approaches regarding disciplining children with disabilities.

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"SEC. 14701. EVALUATIONS.

"(a) EVALUATIONS.—

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"(B) to evaluate the aggregate short- and long-term effects and cost efficiencies across Federal programs under this Act and related Federal preschool, elementary and secondary programs under other Federal law; and

"(C) to strengthen the usefulness of grant recipient evaluations for continuous program progress through improving the quality, timeliness, efficiency, and utilization of program information on program performance.

"(2) SPECIAL RULE.—(A) Paragraph (1) shall not apply to any program under title I.

"(B) If funds are made available under any program assisted under this Act (other than a program under title I) for evaluation activities, then the Secretary shall reserve no additional funds pursuant to the authority in subsection (a)(1) to evaluate such program, but shall coordinate the evaluation of such program with the national evaluation described in subsection (b).

"(D) NATIONAL EVALUATIONS.—

"(1) IN GENERAL.—The Secretary shall use the funds made available under subsection (a) to carry out—

"(A) independent studies of categorical and demonstration programs under this Act and the administrative impact of such programs on

PATSY T. MINK
SECOND DISTRICT, HAWAII

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Congress of the United States
House of Representatives
Washington, DC 20515-1102

November 2, 1994

COMMITTEE ON STEERING
AND POLICY
COMMITTEE ON BUDGET
COMMITTEE ON EDUCATION
AND LABOR
SUBCOMMITTEES:
ELEMENTARY, SECONDARY & VOCATIONAL EDUCATION
POSTSECONDARY EDUCATION
LABOR MANAGEMENT RELATIONS
COMMITTEE ON NATURAL RESOURCES
COMMITTEE ON GOVERNMENT OPERATIONS
(on leave)

The Honorable Richard W. Riley
Secretary of Education
U.S. Dept. of Education
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Dear Secretary Riley:

I am writing to express my strong opposition to the President's Memorandum dated October 22, 1994, regarding the implementation of the Gun Free Schools Act.

The instructions in the memorandum that federal funds be withheld from any state not in compliance with the Gun Free Schools Act is in direct contradiction to legislative intent and history of this provision.

The original provisions of the Feinstein/Dorgan Amendment to S. 1513 included specific language denying federal funds to any local educational agency unless it has a policy requiring a 1-year expulsion of any student who brings a weapon to a school.

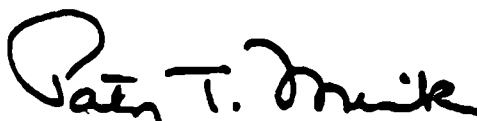
The provision failed in the House-Senate Conference by a vote of 7 to 19 of the House Conferees. The most objectionable language to the House Members was the language requiring the withholding of federal funds. A carefully crafted compromise negotiated by Congressman George Miller, myself and Senators Feinstein and Dorgan removed the language which linked this provision to federal funds.

The elimination of this language was essential in achieving House support for the Gun Free Schools Act. It was only because of the elimination of this language that many Members, including myself, voted for this provision. I can unequivocally say that had the language regarding withholding of federal funds remained in the provision, the Gun Free Schools Act would not be law today.

The Honorable Richard W. Riley
November 2, 1992
Page Two

This deliberate attempt to circumvent Congressional intent is highly offensive. Should the Department take steps to enforce this provision by withholding federal funds, I intend to propose legislation to reinstate the original agreement between the House and Senate Conferees on the Gun Free Schools Act.

Very truly yours,


PATSY T. MINK
Member of Congress

**GUIDANCE CONCERNING STATE AND LOCAL
RESPONSIBILITIES UNDER THE
GUN-FREE SCHOOLS ACT OF 1994**

This guidance is to provide information concerning State and local responsibilities under the Gun-Free Schools Act (GFSA), which was enacted on October 20, 1994 as part of the Improving America's Schools Act of 1994 (the reauthorization of the Elementary and Secondary Education Act of 1965 (ESEA)), Public Law 103-382. Preliminary information, including a copy of this new legislation, was mailed to Governors and Chief State School Officers in a letter dated November 28, 1994.

The GFSA states that each State receiving Federal funds under ESEA must have in effect, by October 20, 1995, a State law requiring local educational agencies to expel from school for a period of not less than one year a student who is determined to have brought a weapon to school. Each State's law also must allow the chief administering officer of the local educational agency (LEA) to modify the expulsion requirement on a case-by-case basis.

The legislation explicitly states that the GFSA must be construed to be consistent with the Individuals with Disabilities Education Act (IDEA). Therefore, by using the case-by-case exception, LEAs will be able to discipline students with disabilities in accordance with the requirements of Part B of the IDEA and Section 504 of the Rehabilitation Act (Section 504), and thereby maintain eligibility for Federal financial assistance. The Department intends to issue separate, more detailed guidance on discipline of students with disabilities, which will include clarification of the implementation of the GFSA consistent with IDEA and Section 504.

The following questions and answers have been prepared to assist States, State educational agencies (SEAs), and LEAs in implementing these new requirements.

- Q1. What entities are affected by the provisions of the Gun-Free Schools Act?**
 - A. Each State, as well as its State educational agency and local educational agencies, has responsibilities under the GFSA.
- Q2. Are private schools subject to the requirements of the Gun-Free Schools Act?**
 - A. Private schools are not subject to the provisions of the GFSA, but private school students who participate in LEA programs or activities are subject to the one-year expulsion requirement to the extent that such students are under the supervision and control of the LEA as part of their participation in the LEA's programs. For example, a private school student who is

enrolled in a Federal program, such as Title I, is subject to a one-year expulsion, but only from Federal program participation, not a one-year expulsion from the private school. Of course, nothing prohibits a private school from imposing a similar expulsion from the private school on a student who brings a weapon to school.

Q3. Will SEAs and LEAs have a period of time to comply with the requirements of the Gun-Free Schools Act?

A. States must take prompt action to implement the requirements of the GFSA, including prompt action to initiate the legislative process. States have until October 20, 1995 to enact and make effective the one year expulsion legislation required by Section 14601. States that have not enacted and made effective legislation by this date risk losing ESEA funds.

In order to be eligible to receive ESEA funds, LEAs must have an expulsion policy consistent with the required State law.

LEAs must take immediate action to implement the referral policy required by Section 14602, because the GFSA directs that no ESEA funds shall be made available to an LEA unless that LEA has the required referral policy.

Q4. Is compliance with the requirements of the Gun-Free Schools Act a condition for the receipt of Federal financial assistance under the ESEA?

A. Yes, compliance with the requirements of the GFSA is a condition for the receipt of funds made available to the State under the ESEA.

Q5. Will failure to comply with the requirements of the Gun-Free Schools Act result in the termination or withholding of funds made available to the State under the ESEA?

A. Failure to comply with the requirements of the GFSA could result in the withholding, under the provisions of the General Education Provisions Act, of funds made available to the State under the ESEA; however, it is anticipated that technical assistance provided to States will result in timely compliance and make withholding of funds unnecessary.

Q6. May a State request a waiver of the requirements of the Gun-Free Schools Act?

- A. Yes. The ESEA authorizes the Secretary to waive the requirements of the GFSA if that action will increase the quality of instruction for students or will improve the academic performance of students. However, it is not anticipated that the requirements of the GFSA will be waived except in unusual circumstances.

Q7. Does the Gun-Free Schools Act's one-year expulsion requirement preclude any due process proceedings?

- A. No. Students facing expulsion from school are entitled under the U.S. Constitution and most State constitutions to the due process protection of notice and an opportunity to be heard. If, after due process has been accorded, a student is found to have brought a weapon to school, the GFSA requires an expulsion for a period of not less than one year (subject to the case-by-case exception discussed below).

Q8. What does the Gun-Free Schools Act require of States?

- A. The GFSA requires that each State receiving Federal funds under the ESEA must, by October 20, 1995: (1) have in effect a State law requiring LEAs to expel from school for a period of not less than one year a student who is determined to have brought a weapon to school; (2) have in effect a State law allowing the LEA's chief administering officer to modify the expulsion requirement on a case-by-case basis; and (3) report to the Secretary on an annual basis concerning information submitted by LEAs to SEAs. SEAs must also ensure that no ESEA funds are made available to an LEA that does not have a referral policy consistent with Section 14602.

One Year Expulsion Requirement

Each State's law must require LEAs to comply with a one-year expulsion requirement; that is, subject to the exception discussed below, any student who brings a weapon to school must be expelled for not less than one year.

Case-by-Case Exception

Each State's law must allow the chief administering officer of an LEA to modify the one year expulsion requirement on a case-by-case basis.

Annual Reporting

Each State must report annually on LEA compliance with the one year expulsion requirement, and on expulsions imposed under

enrolled in a Federal program, such as Title I, is subject to a one-year expulsion, but only from Federal program participation, not a one-year expulsion from the private school. Of course, nothing prohibits a private school from imposing a similar expulsion from the private school on a student who brings a weapon to school.

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One Year Expulsion Requirement

Each State's law must require LEAs to comply with a one-year expulsion requirement; that is, subject to the exception discussed below, any student who brings a weapon to school must be expelled for not less than one year.

Case-by-Case Exception

Each State's law must allow the chief administering officer of an LEA to modify the one year expulsion requirement on a case-by-case basis.

Annual Reporting

Each State must report annually on LEA compliance with the one year expulsion requirement, and on expulsions imposed under

the State law, including the number of students expelled in each LEA and the types of weapons involved.

Q9. What does the Gun-Free Schools Act require of LEAs?

- A. The GFSA requires that LEAs (1) comply with the State law requiring the one-year expulsion; (2) provide an assurance of compliance to the SEA; (3) provide descriptive information to the SEA concerning the LEA's expulsions; and (4) adopt a referral policy for students who bring weapons to school.

One Year Expulsion Requirement

LEAs must comply with the State law requiring a one-year expulsion; that is, subject to the case-by-case exception, any student who brings a weapon to school must be expelled for not less than one year.

LEA Assurance

An LEA must include in its application to the State educational agency for ESEA assistance an assurance that the LEA is in compliance with the State law requiring the one-year expulsion.

Descriptive Report to SEA

An LEA must include in its application for ESEA assistance a description of the circumstances surrounding expulsions imposed under the one-year expulsion requirement, including:

- (A) the name of the school concerned;
- (B) the number of students expelled from the school; and
- (C) the type of weapons concerned.

Referral Policy

LEAs must also implement a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a weapon to school.

Q10. When must an LEA implement its referral policy?

- A. LEAs must take immediate action to implement a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a weapon to school. The GFSA directs that no ESEA funds shall be made available to an LEA unless that LEA has the required referral policy.

Q11. When must an LEA submit the required assurance?

- A. In its first application to the State educational agency for ESEA funds after the date that the State enacts and makes effective the required one year expulsion legislation, the LEA must include an assurance that the LEA is in compliance with the State law.

Q12. What is the role of the SEA in determining whether an LEA is in compliance with the Gun-Free Schools Act?

- A. The GFSA requires States to report to the Secretary on an annual basis concerning LEA compliance. Therefore, before awarding any ESEA funds to an LEA, the SEA must ensure that the LEA has: (1) implemented a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a weapon to school; and (2) included in its application for ESEA funds the assurance and other information required by the GFSA. SEAs must ensure that the LEA application contains:

(1) an assurance that the LEA is in compliance with the State law requiring the one-year expulsion; and

(2) a description of the circumstances surrounding expulsions imposed under the one-year expulsion requirement, including:

- (A) the name of the school concerned;
- (B) the number of students expelled from the school; and
- (C) the type of weapons concerned.

Q13. Who is an LEA's "chief administering officer"?

- A. The term "chief administering officer" is not defined by the GFSA. Each LEA should determine, using its own legal framework, which chief operating officer or authority (e.g., Superintendent, Board, etc.) has the power to modify the expulsion requirement on a case-by-case basis.

Q14. Can any individual or entity other than the LEA's "chief administering officer" modify the one-year expulsion requirement on a case-by-case basis?

- A. No. However, the chief administering officer may allow another individual or entity to carry out preliminary

information gathering functions, and prepare a recommendation for the chief administering officer.

Q15. Is it permissible for an LEA to use the case-by-case exception to avoid compliance with the one-year expulsion requirement?

A. No, this exception may not be used to avoid over-all compliance with the one-year expulsion requirement.

Q16. How is the term "weapon" defined?

A. For the purposes of the GFSA, a "weapon" means a firearm as defined in Section 921 of Title 18 of the United States Code (copy attached).

According to Section 921, the following are included within the definition:

- any weapon which will or is designed to or may readily be converted to expel a projectile by the action of an explosive
- the frame or receiver of any weapon described above
- any firearm muffler or firearm silencer
- any explosive, incendiary, or poison gas
 - (1) bomb,
 - (2) grenade,
 - (3) rocket having a propellant charge of more than four ounces,
 - (4) missile having an explosive or incendiary charge of more than one-quarter ounce,
 - (5) mine, or
 - (6) similar device
- any weapon which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter
- any combination of parts either designed or intended for use in converting any device into any destructive device described in the two immediately preceding examples, and from which a destructive device may be readily assembled

According to Section 921, the following are not included in the definition:

- an antique firearm
- a rifle which the owner intends to use solely for sporting, recreational, or cultural purposes
- any device which is neither designed nor redesigned for use as a weapon
- any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device
- surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of section 4684(2), 4685, or 4686 of title 10

In addition, we have been advised by the Bureau of Alcohol, Tobacco, and Firearms that Class-C common fireworks are not included in the definition of weapon.

Q17. Does the Gun-Free Schools Act preclude classes such as hunting or military education, or activities such as hunting clubs or rifle clubs, which may involve the handling or use of weapons?

A. No, the GFSA does not prohibit the presence at school of rifles that the owners intend to use solely for sporting, recreational, or cultural purposes.

Q18. Are knives considered weapons under the Gun-Free Schools Act?

A. No, for the purposes of the GFSA, the definition of weapon does not include knives. State legislation or an SEA or LEA may, however, decide to broaden its own definition of weapon to include knives.

Q19. What is meant by the term "expulsion"?

A. The term "expulsion" is not defined by the GFSA; however, at a minimum, expulsion means removal from the student's regular school program at the location where the violation occurred.

Q20. Is a State, SEA, or LEA required to provide alternative educational services to students who have been expelled for bringing a weapon to school?

A. The GFSA neither requires nor prohibits the provision of alternative educational services to students who have been expelled. Other Federal, State, or local laws may, however,

require that students receive alternative educational services in certain circumstances.

Q21. What is an "alternative setting" for the provision of educational services to an expelled student?

A. An alternative setting is one that is clearly distinguishable from the student's regular school placement.

Q22. Is Federal funding available to provide alternative educational services?

A. Yes, formula grants awarded under the Safe and Drug-Free Schools and Communities Act may be used for alternative educational services. In addition, other Federal funds may be available for alternative educational services, consistent with each program's statutory and regulatory requirements.

Q23. Do the requirements of the Gun-Free Schools Act conflict with requirements that apply to students with disabilities?

A. No. Compliance with the GFSA may be achieved consistently with the requirements that apply to students with disabilities, so long as discipline of such students is determined on a case-by-case basis in accordance with the IDEA and Section 504. The Department intends to issue separate, more detailed guidance on discipline of students with disabilities, which will include clarification of the implementation of the GFSA consistent with IDEA and Section 504.

Q24. Is it permissible to expel a student for a "school year" rather than a year?

A. No. The statute explicitly states that expulsion shall be for a period of not less than one year.

Q25. Does the expulsion requirement apply only to violations occurring in the school building?

A. No. The one-year expulsion requirement applies to students who bring weapons to any setting that is under the control and supervision of the LEA.

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COMMITTEE ON EDUCATION AND LABOR

U.S. HOUSE OF REPRESENTATIVES

2181 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6100

November 18, 1994

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The Honorable Richard W. Riley
The Secretary
United States Department of Education
400 Maryland Avenue, S.W.
Washington, D.C. 20202-0100

Dear Mr. Secretary:

It has come to our attention that the President has issued a memorandum instructing you to implement the provisions of the Gun-Free Schools Act of 1994 in an expeditious manner and to vigorously enforce its provisions. As you are no doubt aware, many Members on both sides of the aisle had serious reservations about this legislation. While supportive of removing guns and other weapons from our schools and keeping them out, we question the need for Federal involvement in this area.

While this is neither the forum nor the time to continue a debate over the wisdom of this policy, efforts to implement it do raise several concerns on our part. Attached to this letter are a number of questions relating to implementation of the Gun-Free Schools Act of 1994 that we would like you to address.

As is evident from the scope of these questions, we feel that there are a number of significant issues raised by the implementation of this statute. Perhaps most significant are the disparities in the treatment of students covered by the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act as compared to those students who do not enjoy the same level of Federal protection. It is possible that this issue alone could create an endless litany of litigation for local school districts.

We appreciate your timely attention to these questions and look forward to your reply.

Sincerely,

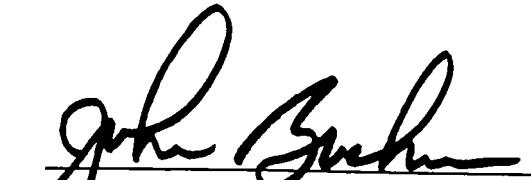
Bill Goodling

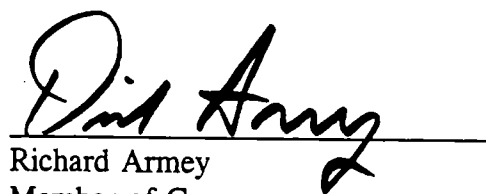
Bill Goodling
Ranking Republican Member

Pat Williams

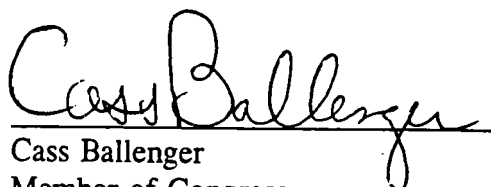
Pat Williams
Member of Congress

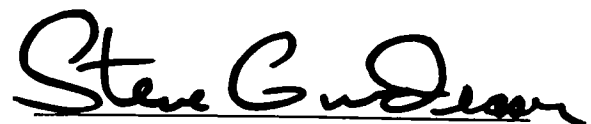

Bill Barrett
Member of Congress


John Boehner
Member of Congress

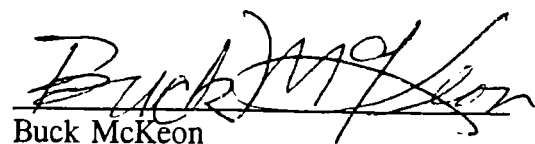

Richard Armey
Member of Congress

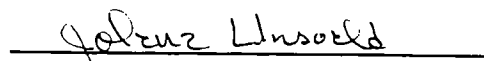

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Buck McKeon
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Jolene Unsoeld
Member of Congress

1. The Individuals with Disabilities Education Act (IDEA), as amended, allows a student with a disability who brings a firearm to school to be placed in an alternative educational placement up to 45 days, if the action is related to his or her disability. In addition, if there are legal proceedings between the parent and the school over a proposed change in educational placement, the student will remain in the alternative placement during the pendency of the proceedings, and will not be returned to the original educational placement. This disparity in discipline between students with disabilities and those who are non-disabled raises several interesting questions that need to be addressed.

For a student who is disabled and brings a gun to school, but the action is determined to be unrelated to the student's disability, the student will be subject to expulsion. How will the school determine whether or not the action is related to the disability? If the school does expel the student with a disability, will it still be required by the IDEA to provide educational services to the student? If IDEA requires educational services to be provided to the student, how will the requirement for education in the Least Restrictive Environment be applied?

2. If a student not previously identified as disabled brings a firearm to school, he or she will be subject to the one year expulsion policy. It is conceivable that a parent, in order to avoid the student being subject to a one-year expulsion and possible loss of educational services, would file a motion to determine that the student has a disability.
Under normal procedures for disabled students, during the pendency of due process hearings, the student must be returned to the original educational placement after 10 days. Which standards would apply for a student that had not previously been identified as disabled, the return to the original placement after 10 days, or the 45-day alternative placement and alternative placement during the pendency of hearings?
3. The statute allows the chief administering officer of an LEA to "modify such expulsion requirement for a student on a case-by-case basis." Is it not possible, despite Federal requirements to institute a policy mandating a one-year expulsion, that this provision would allow LEAs to maintain current policy regarding students who bring guns to school? Does the Department anticipate limiting through regulation an LEAs ability to use this provision in a way that preserves the status quo?
4. During the Conference consideration of the Elementary and Secondary Act reauthorization, the House voted 19 to 7 to retain House language on the guns in schools provision. This language did not link loss of Federal funds with non-compliance with the guns in schools provisions. The language ultimately accepted in Conference with the Senate also does not link loss of Federal funds with non-compliance. Yet, the memorandum from the President includes a specific reference to loss of Federal funds for non-compliance. What is the statutory basis for denying Federal funds to States or LEAs that do not comply with the Gun-Free Schools Act of 1994?
5. The Gun-Free Schools Act of 1994 relies on the definition of "firearm" found in Sec. 921 of Title 18 of the U. S. Code. This is a broad definition that also includes the term "destructive device," which is defined in a way that could include certain firecrackers. What guidance will the Department provide to States and LEAs regarding what weapons and destructive devices fall under this definition?

6. If an expelled student is under a State compulsory age of attendance and alternative education is required, are the child's parents, the school district or the State responsible for paying for such child's alternative education and related costs if this issue is not addressed in State law? If the financial burden for an alternative placement falls on the State or LEA, would this violate the language on unfunded mandates also contained in H.R. 6?
7. Do you assume a role for the federal government in providing funds for the alternative education of students who are expelled if such expulsion is the result of federal action and if the lack of State action to adopt the one-year expulsion policy could result in the loss of federal assistance?
8. H.R. 6 as passed by Congress did not directly outline the penalty for failure to comply with the one-year expulsion law. The President, however, has ordered the Secretary to withhold federal assistance from States which are not in compliance. He did not, however, specify which "federal assistance" would be affected. Would it be limited to funds received by States under H.R. 6 or would it include funds for special education, vocational education, higher education, etc.?
9. As enacted by Congress, H.R. 6 contains broad waiver provisions. Since the "Gun Free Schools" provisions are not specifically exempt from the waiver provisions, will States and local educational agencies be able to request and have considered, waivers from compliance from these provisions if they can demonstrate they are having a direct impact on their ability to provide a quality education to their student body?
10. One of the National Education Goals enacted and signed into law during the 103rd Congress was an increase in the high school graduation rate. Since there is evidence that those students who are expelled often do not return to school and complete their education, how do you propose to balance the impact of this provision with the goal of a higher high school completion rate?
11. The Supreme Court has now heard arguments in the *U.S. v. Lopez* case, which will determine the validity of a federal law which outlaws the possession of a gun within 1,000 feet of a school. If the Court finds that the law is unconstitutional, how do you see such a decision affecting your implementation of the Gun-Free Schools Act?



UNITED STATES DEPARTMENT OF EDUCATION

THE SECRETARY

Honorable William Goodling
Chairman
Committee on Education and Labor
US House of Representatives
Washington, DC 20500

Dear Mr. Chairman:

I have enclosed detailed guidance developed by the Department of Education to assist States in implementing the Gun-Free Schools Act provisions. This detailed guidance responds to many of the questions raised by you and your colleagues in your November 18, 1994 letter to me.

While the attached guidance provides basic information with regard to consistent interpretation of the Gun-Free Schools Act provisions and the provisions of the Individuals with Disabilities Education Act (IDEA), it does not respond to all the questions raised in your letter. The Department intends to issue separate, more detailed guidance on discipline of students with disabilities, which will include clarification of the implementation of the Gun-Free Schools Act consistent with IDEA and Section 504. We anticipate issuing that guidance by February 15.

Your letter also expresses a concern about the potential impact of expulsions under the Gun-Free Schools Act provisions on high school completion rates. Although we believe that the issue of removing weapons from schools is critically important, and that the problem is pervasive, we do not expect that the volume of expulsions occurring as a result of the Gun-Free Schools Act provisions will have a significant impact on our national goal of improving the school completion rate.

Of course, I share your concern about the effect of long-term expulsions on educational achievement and high school completion of those removed from their regular educational program. However, the Gun-Free Schools Act provisions do not require that student access to educational services be denied. Local educational agencies must remove students from their regular educational placement if they have been found to have brought a weapon to school, but may certainly continue to provide educational services if they desire. Additionally, the statutory provisions require that State law allow the chief administering officer of a local educational agency to make exceptions to the expulsion requirement on a case-by-case basis.

Page 2 - Honorable William Goodling

Finally, with regard to your question about the effect of the Supreme Court decision in United States v. Lopez on implementation of the Gun-Free Schools Act provisions, it is difficult to speculate on the content of that decision and its possible implications for our administration of the Gun-Free Schools Act. Of course, I would be pleased to provide information in response to this question after the decision is issued and we have had an opportunity to evaluate the impact, if any, of that decision on programs we are administering.

I hope that the attached guidance and supplemental information contained in this letter responds to the concerns expressed by you and your colleagues. I would be happy to discuss these issues with you or respond to any other concerns you may have about our implementation of the Gun-Free Schools Act provisions.

Yours sincerely,

Richard W. Riley

Enclosure

educational personnel that there will no longer be any failure or inability on the part of such agency or consortium to meet the applicable requirements of section 14503 or any other provision of this Act.

"(c) **PAYMENT FROM STATE ALLOTMENT.**—When the Secretary arranges for services pursuant to this section, the Secretary shall, after consultation with the appropriate public and private school officials, pay the cost of such services, including the administrative costs of arranging for those services, from the appropriate allocation or allocations under this Act.

"(d) **PRIOR DETERMINATION.**—Any by-pass determination by the Secretary under this Act as in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994 shall remain in effect to the extent the Secretary determines that such determination is consistent with the purpose of this section.

"SEC. 14507. PROHIBITION AGAINST FUNDS FOR RELIGIOUS WORSHIP OR INSTRUCTION.

"Nothing contained in this Act shall be construed to authorize the making of any payment under this Act for religious worship or instruction.

"SEC. 14508. APPLICABILITY TO HOME SCHOOLS.

"Nothing in this Act shall be construed to affect home schools.

"SEC. 14509. GENERAL PROVISION REGARDING NONRECIPIENT NONPUBLIC SCHOOLS.

"Nothing in this Act shall be construed to permit, allow, encourage, or authorize any Federal control over any aspect of any private, religious, or home school, whether or not a home school is treated as a private school or home school under State law. This section shall not be construed to bar private, religious, or home schools from participation in programs or services under this Act.

"SEC. 14510. SCHOOL PRAYER.

"Any State or local educational agency that is adjudged by a Federal court of competent jurisdiction to have willfully violated a Federal court order mandating that such local educational agency remedy a violation of the constitutional right of any student with respect to prayer in public schools, in addition to any other judicial remedies, shall be ineligible to receive Federal funds under this Act until such time as the local educational agency complies with such order. Funds that are withheld under this section shall not be reimbursed for the period during which the local educational agency was in willful noncompliance.

"SEC. 14511. GENERAL PROHIBITIONS.

"(a) **PROHIBITION.**—None of the funds authorized under this Act shall be used—

"(1) to develop or distribute materials, or operate programs or courses of instruction directed at youth that are designed to promote or encourage, sexual activity, whether homosexual or heterosexual;

"(2) to distribute or to aid in the distribution by any organization of legally obscene materials to minors on school grounds;

"(3) to provide sex education or HIV prevention education in schools unless such instruction is age appropriate and includes the health benefits of abstinence; or

"(4) to operate a program of condom distribution in schools.

"(b) **LOCAL CONTROL.**—Nothing in this section shall be construed to—

"(1) authorize an officer or employee of the Federal Government to mandate, direct, review, or control a State, local educational agency, or schools' instructional content, curriculum, and related activities;

"(2) limit the application of the General Education Provisions Act;

"(3) require the distribution of scientifically or medically false or inaccurate materials or to prohibit the distribution of scientifically or medically true or accurate materials; or

"(4) create any legally enforceable right.

"SEC. 14512. PROHIBITION ON FEDERAL MANDATES, DIRECTION, AND CONTROL.

"Nothing in this Act shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's curriculum, program of instruction, or allocation of State or local resources, or mandate a State or any subdivision thereof to spend any funds or incur any costs not paid for under this Act.

"SEC. 14513. REPORT.

"The Secretary shall report to the Congress not later than 180 days of the date of enactment of the Improving America's Schools Act of 1994 regarding how the Secretary shall ensure that audits conducted by Department employees of activities assisted under this Act comply with changes to this Act made by the Improving America's Schools Act of 1994, particularly with respect to permitting children with similar educational needs to be served in the same educational settings, where appropriate.

"SEC. 14514. REQUIRED PARTICIPATION PROHIBITED.

"Notwithstanding any other provision of law, no State shall be required to participate in any program under the Goals 2000: Education Act, or to have content standards or student performance standards approved or certified under such Act, in order to receive assistance under this Act.

"PART F—GUN POSSESSION

"SEC. 14601. GUN-FREE REQUIREMENTS.

"(a) **SHORT TITLE.**—This section may be cited as the 'Gun-Free Schools Act of 1994'.

"(b) **REQUIREMENTS.**—

"(1) **IN GENERAL.**—Except as provided in paragraph (3), each State receiving Federal funds under this Act shall have in effect a State law requiring local educational agencies to expel from school for a period of not less than one year a student who is determined to have brought a weapon to a school under the jurisdiction of local educational agencies in that State, except that such State law shall allow the chief administering officer

of such local educational agency to modify such expulsion requirement for a student on a case-by-case basis.

"(2) **CONSTRUCTION.**—Nothing in this title shall be construed to prevent a State from allowing a local educational agency that has expelled a student from such a student's regular school setting from providing educational services to such student in an alternative setting.

"(3) **SPECIAL RULE.**—(A) Any State that has a law in effect prior to the date of enactment of the Improving America's Schools Act of 1994 which is in conflict with the not less than one year expulsion requirement described in paragraph (1) shall have the period of time described in subparagraph (B) to comply with such requirement.

"(B) The period of time shall be the period beginning on the date of enactment of the Improving America's Schools Act and ending one year after such date.

"(4) **DEFINITION.**—For the purpose of this section, the term 'weapon' means a firearm as such term is defined in section 921 of title 18, United States Code.

"(c) **SPECIAL RULE.**—The provisions of this section shall be construed in a manner consistent with the Individuals with Disabilities Education Act.

"(d) **REPORT TO STATE.**—Each local educational agency requesting assistance from the State educational agency that is to be provided from funds made available to the State under this Act shall provide to the State, in the application requesting such assistance—

"(1) an assurance that such local educational agency is in compliance with the State law required by subsection (b); and

"(2) a description of the circumstances surrounding any expulsions imposed under the State law required by subsection (b), including—

"(A) the name of the school concerned;

"(B) the number of students expelled from such school;

and

"(C) the type of weapons concerned.

"(e) **REPORTING.**—Each State shall report the information described in subsection (c) to the Secretary on an annual basis.

"(f) **REPORT TO CONGRESS.**—Two years after the date of enactment of the Improving America's Schools Act of 1994, the Secretary shall report to Congress if any State is not in compliance with the requirements of this title.

"SEC. 14602. POLICY REGARDING CRIMINAL JUSTICE SYSTEM REFERRAL.

"(a) **IN GENERAL.**—No funds shall be made available under this Act to any local educational agency unless such agency has a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a firearm or weapon to a school served by such agency.

"(b) **DEFINITIONS.**—For the purpose of this section, the terms 'firearm' and 'school' have the same meaning given to such terms by section 921(a) of title 18, United States Code.

"SEC. 14603. DATA AND POLICY DISSEMINATION UNDER IDEA.

"The Secretary shall—

"(1) widely disseminate the policy of the Department in effect on the date of enactment of the Improving America's Schools Act of 1994 with respect to disciplining children with disabilities;

"(2) collect data on the incidence of children with disabilities (as such term is defined in section 602(a)(1) of the Individuals With Disabilities Education Act) engaging in life threatening behavior or bringing weapons to schools; and

"(3) submit a report to Congress not later than January 31, 1995, analyzing the strengths and problems with the current approaches regarding disciplining children with disabilities.

"PART G—EVALUATIONS

"SEC. 14701. EVALUATIONS.

"(a) **EVALUATIONS.**—

"(1) **IN GENERAL.**—Except as provided in paragraph (2), the Secretary is authorized to reserve not more than 0.50 percent of the amount appropriated to carry out each program authorized under this Act—

"(A) to carry out comprehensive evaluations of categorical programs and demonstration projects, and studies of program effectiveness, under this Act, and the administrative impact of such programs on schools and local educational agencies in accordance with subsection (b);

"(B) to evaluate the aggregate short- and long-term effects and cost efficiencies across Federal programs under this Act and related Federal preschool, elementary and secondary programs under other Federal law; and

"(C) to strengthen the usefulness of grant recipient evaluations for continuous program progress through improving the quality, timeliness, efficiency, and utilization of program information on program performance.

"(2) **SPECIAL RULE.**—(A) Paragraph (1) shall not apply to any program under title I.

"(B) If funds are made available under any program assisted under this Act (other than a program under title I) for evaluation activities, then the Secretary shall reserve no additional funds pursuant to the authority in subsection (a)(1) to evaluate such program, but shall coordinate the evaluation of such program with the national evaluation described in subsection (b).

"(b) **NATIONAL EVALUATIONS.**—

"(1) **IN GENERAL.**—The Secretary shall use the funds made available under subsection (a) to carry out—

"(A) independent studies of categorical and demonstration programs under this Act and the administrative impact of such programs on schools and local educational agencies, that are coordinated with research supported through the Office of Educational Research and Improvement, using rigorous methodological designs and techniques, including longitudinal designs, control groups, and random assignment, as appropriate, to determine—

THE WHITE HOUSE

WASHINGTON

October 22, 1994

MEMORANDUM FOR THE SECRETARY OF EDUCATION

SUBJECT: Implementation of the Gun-Free Schools Act of 1994, and the Safe and Drug-Free Schools and Communities Act

Our schools are increasingly plagued by violence and crime that is abhorrent to all law-abiding citizens. It is of paramount importance that this Nation's schools be safe, disciplined, and conducive to learning.

Several laws passed this year will promote our effort to make schools safe for learning. The Gun-Free Schools Act of 1994 provides that within one year, every State receiving Federal aid for elementary and secondary education must have a law requiring school districts to expel from school for at least one year any student who brings a gun to school, subject to certain exceptions. The Safe and Drug-Free Schools and Communities Act funds comprehensive violence prevention programs, including those that enhance school security.

To ensure vigorous enforcement, I am directing you to coordinate implementation of these anti-violence measures with appropriate local authorities to the maximum extent possible. Your collaborative efforts should include the States, school districts, law enforcement agencies, and educators. In the case of the Gun-Free Schools Act, enforcement should include termination of Federal assistance if you determine that a State is not in compliance.

You should report to me in writing by December 31 on the specific steps you have taken to implement these statutes.

William J. Clinton



UNITED STATES DEPARTMENT OF EDUCATION

THE SECRETARY

The President
The White House
Washington, DC 20500

Dear Mr. President:

In response to your memorandum of October 22 requesting a December 31, 1994, report on the steps we have taken to implement the Safe and Drug-Free Schools and Communities Act and the Gun-Free Schools Act, I am pleased to provide the following information.

Safe and Drug-Free Schools and Communities Act

The Safe and Drug-Free Schools and Communities Act (SDFSCA), enacted as Title IV of Title I of the Improving America's Schools Act of 1994, expands the scope of the pre-existing Drug-Free Schools and Communities Act to authorize activities related to violence prevention. The SDFSCA will provide support for formula grants for a broad range of drug and violence prevention activities by State and local educational agencies, as well as Governors. The SDFSCA also supports national discretionary activities, including direct grants, training and technical assistance, and information development and dissemination.

Funds will be made available to the States under the SDFSCA formula grant program on July 1, 1995. Although your budget for Fiscal Year (FY) 1995 requested \$480 million for the formula grant program and \$80 million for National Programs, Congress appropriated \$457 million for the formula grant program and \$25 million for National Programs. While most of the \$25 million provided for National Programs will be used to meet continuation obligations for existing grants, approximately \$6 million has been set aside to provide assistance and leadership on issues related to implementation of the Gun-Free Schools Act discussed below.

Your October 22 memorandum directed us to coordinate, to the maximum extent possible, with States, school districts, law enforcement agencies, and educators as we began implementation of the violence prevention programs. Accordingly, we provided assistance to States in understanding and implementing the new law at a Department-sponsored conference in December that included representatives from every State. To ensure that we are aware of issues that concern our customers, we are holding five regional consultation sessions that will allow State and local educational agency personnel, as well as representatives from Governor's offices, to discuss their needs and concerns and make suggestions that would facilitate the development of the most

effective drug and violence prevention programs and strategies in their States.

In keeping with the Administration's emphasis on flexibility, we have decided to administer the formula grant program without issuing any new regulations. We will use only the Education Department General Administrative Regulations (EDGAR) and non-regulatory guidance to administer the formula grant program. We are currently developing an application package that will allow States to submit a consolidated application for FY 1995 funding under the SDFSCA formula grant program and other elementary and secondary education formula grant programs.

Gun-Free Schools Act

The Gun-Free Schools Act (GFSA), enacted as Title XIV (Part F) of Title I of the Improving America's Schools Act, requires that States pass laws requiring local educational agencies to expel for at least one year students found to have brought a weapon to school. The GFSA provides flexibility by permitting a local educational agency's chief administering officer to modify the expulsion requirement on a case-by-case basis. States with laws in conflict with the GFSA requirements (virtually all States, we believe) have until October 20, 1995 to comply. The GFSA also requires that local educational agencies refer students found to have brought a weapon to school to the criminal justice or juvenile delinquency system.

On November 28, 1994, we notified each Governor and Chief State School Officer about the new law and shared your memo to me outlining your interest in implementation of the requirements. We indicated that more detailed guidance would be provided as quickly as possible.

In order to develop appropriate guidance, we have consulted with a number of interested parties to hear their views on the important and difficult implementation issues. We have met with representatives of the State Attorney Generals Association, the National Council of State Legislatures, the National School Boards Association, the Council of Chief State School Officers, the National Education Association, the American Federation of Teachers, the PTA, the Police Foundation, and the International Association of Chiefs of Police. These meetings and briefings have demonstrated that there exists a significant level of concern on the part of State and local education officials about the implementation of these provisions. Many believe that the GFSA intrudes upon the rights of States, and object to the one-year expulsion requirement in particular.

We plan to take the following actions in order to minimize controversy and difficulties in implementation:

- o Develop and disseminate detailed implementation guidance on a number of issues that require interpretation of the

statutory language. Our approach is to provide the maximum amount of flexibility to States and local educational agencies, while maintaining an appropriate emphasis on the importance of safe and disciplined schools and the statutory requirements. The guidance will be disseminated to Governors, Chief State School Officers, and selected legislators within 30 days.

- o Develop and implement an initiative, funded with \$6 million from the FY 1995 SDFSCA National Programs appropriation that responds to the most common concern voiced about implementation of the GFSA provisions -- the negative effect of removing students from school without addressing their continuing education needs. The initiative will include:

- a small grant program for the development and testing of innovative alternatives to expulsion;

- technical assistance to local educational agencies concerning existing strategies designed to provide educational and other needed services to students in alternative placements;

- development and broad dissemination of information about existing strategies designed to provide educational and other needed services to students in alternative placements.

I believe that our efforts to implement the GFSA provisions represent a comprehensive plan to identify and address concerns expressed by educators and others affected by the provisions, while continuing to emphasize the importance of removing weapons from our Nation's schools. Please be assured that we will continue to move as quickly as possible to complete the course of action laid out in this letter.

If you have any questions regarding our plan, or desire additional information, please contact me.

Yours sincerely,

Richard W. Riley