



William R. Kincaid
06/03/97 11:44:01 PM

Record Type: Record

To: Elena Kagan/OPD/EOP

cc: Michael Cohen/OPD/EOP, Diana Fortuna/OPD/EOP

Subject:



OVERVW2.WPC OVERVW3.WPC

Attached, for your review, are two versions of the one-pager for the press folks; the two differ only in the last section, "Strengthening IDEA for the Future." The longer version (#2) incorporates a document that we prepared back in May and goes into more detail on discipline. The shorter version (#3) is a little closer to the signing statement. I think I prefer #2. I will leave hard copies of both on your chair, along with a copy of the draft signing statement and backup material from Education/Pat Lewis that Diana and I began the evening working with.

THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA)

June 4, 1997

A Strong Commitment to Disabled Children and Their Parents. Today President Clinton will sign legislation reauthorizing the Individuals with Disabilities Education Act (IDEA), strengthening and reaffirming our Nation's 20-year commitment to disabled children and their parents. The IDEA demonstrates the Administration's strong support for people with disabilities, helping ensure that children with disabilities are included in all facets of community life and are able to become independent and productive citizens.

Continuing Progress on Raising Standards in American Education. The new law is a step forward for the President's efforts to raise standards and improve American education. The upgraded IDEA reflects key principles from the Administration's reauthorization proposal, with a stronger emphasis on educational results and better support for parents. The reauthorization also protects the safety of all students in the classroom while retaining the essential rights and protections of disabled students. In addition, the new IDEA has a modified funding formula to reduce incentives to inappropriately identify children as having a disability.

Bipartisan Cooperation to Achieve Important National Goals. In his State of the Union address, the President stated that "politics must stop at the schoolhouse door." The legislation the President is signing today shows what is possible when Democrats and Republicans put aside their differences and work to prepare America for the 21st Century.

IDEA: Building on a History of Success. Prior to enactment of IDEA as the Education for the Handicapped Act in 1975, approximately 1 million children with disabilities were shut out of schools and hundreds of thousands more were denied appropriate services. The legislation has changed the lives of these children. Many are learning and achieving at levels previously thought impossible. As a result, they are graduating from high school, going to college and entering the workforce as productive citizens in unprecedented numbers.

- Nine percent more children with disabilities graduated from high school between 1984 and 1992.
- Nearly half of all adults with disabilities have successfully completed course-work in colleges and universities.
- Youth served under IDEA are employed twice as often as their predecessors, older Americans with similar disabilities who were not served under the law.

Strengthening IDEA for the Future. While IDEA has achieved a great deal, we can and must do better. The new legislation strengthens IDEA in several ways:

- Higher expectations and a stronger emphasis on educational results. The new IDEA revises Individual Education Plans for students to better focus on enabling disabled children to participate and progress in the general curriculum. The new law also

reaffirms that all children with disabilities must be included in State and district assessments of student learning, with appropriate accommodations where necessary. In addition, the reauthorized IDEA ensures regular education teachers will be involved in planning and assessing children's progress and supports quality professional development for all personnel involved in educating children with disabilities.

- More information and better support for parents. Under the new IDEA, schools will be required to include parents in meetings to determine student placements. Moreover, the new law requires that parents receive report cards on the progress of their children as frequently as parents of non-disabled children.
- Protecting the safety of all students in the classroom while retaining the essential rights and protections of disabled students. As proposed by the Administration, the new IDEA expands the authority of school officials to remove a child for up to 45 days for misconduct involving weapons or illegal drugs. The new law gives hearing officers the authority now reserved to courts to remove a child whose continued presence would pose a substantial risk of injury to the child or others. The reauthorization also makes clear that educational services may not be terminated for any child with a disability, overriding a recent 4th Circuit decision on cessation of services.
- Reduced costs, paperwork, and litigation. The new IDEA gives school districts financial relief through new cost-sharing provisions, and reduces paperwork for teachers, school districts and States. In addition, parents and school authorities will be able to resolve disputes through new mediation mechanisms.
- Improved funding formula. As proposed by the Administration, the reauthorization makes changes in the IDEA funding formula to diminish incentives to inappropriately identify children as having a disability, although these changes would only take effect in future years as appropriations reach higher levels.

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Strengthening IDEA for the Future. While IDEA has achieved a great deal, we can and must do better. The new legislation strengthens IDEA in several ways:

- Raises expectations for students with disabilities through greater access to the general curriculum and inclusion in State and districtwide assessments;

- Gives parents more information and a greater role in decisions affecting their children's education;
- Supports quality professional development for all teachers who work with special education students and ensures regular education teachers are involved in planning and assessing children's progress.
- Reduces paperwork and increases administrative flexibility;
- Promotes mediation to resolve disagreements between parents and schools.

WHITE HOUSE STAFFING MEMORANDUM

DATE: _____

6-3

ACTION/CONCURRENCE/COMMENT DUE BY: _____

6-3 2 pm

SUBJECT: _____

IDEA

Written

Signing Statement (not the oral
Remarks)

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☒	☐	McCURRY	☐	☐
BOWLES	☒	☐	McGINTY	☐	☐
McLARTY	☐	☐	NASH	☐	☐
PODESTA	☒	☐	RUFF	☒	☐
MATHEWS	☒	☐	SMITH	☐	☐
RAINES	☐	☐	REED	☒	☐
BAER	☒	☐	SOSNIK	☒	☐
ECHAVESTE	☒	☐	LEWIS	☒	☐
EMANUEL	☒	☐	YELLEN	☐	☐
GIBBONS	☐	☐	STREETT	☐	☐
HALE	☐	☐	SPERTING	☐	☐
RADD	☐	☐	TARULLO	☐	☐
HIGGINS	☐	☐	VERVEER	☐	☐
HILLEY	☒	☐	Waldman	☒	☐
KLAIN	☒	☐	M. Cohen	☒	☐
BERGER	☐	☐		☐	☐
LINDSEY	☐	☐		☐	☐

REMARKS:

Please advise if you have edits.

RESPONSE:

STATEMENT BY THE PRESIDENT

It is with great pleasure that I approve today H.R. 5, the "Individuals with Disabilities Education Act Amendments of 1997." This Act reaffirms and strengthens our national commitment to the education of children with disabilities and their families.

Since the enactment of Public Law 94-142 over 20 years ago, the Individuals with Disabilities Education Act (IDEA) has made it possible for millions of children with disabilities to receive an education that helped them to become productive adults. The bill before me today builds on that success story by:

- putting an even sharper focus on improving educational results for these children through greater access to the general curriculum and inclusion in State and districtwide assessments;
- giving parents more information, including regular reports on their children's progress, and a greater role in decisions affecting their children's education;
- reducing paperwork and increasing administrative flexibility;
- asking schools, teachers, parents, and the children themselves to assume greater responsibility for the success of these children; and
- promoting the use of mediation to resolve disagreements between parents and schools.

H. R. 5 also gives school officials the tools they need to ensure that the Nation's schools are safe and conducive to learning for all children, while scrupulously protecting the rights of children with disabilities. It also includes a substantial commitment from the Federal Government to support the professional development of special and regular education teachers who work with children with disabilities, research and technological innovations to improve their education, the training of parents, and the provision of technical assistance.

This bipartisan legislation is the result of a unique process involving the Congress, the Department of Education, parents, educators, the disability community, and other interested parties. I thank all who played a part in this great achievement. Successful implementation of the revised IDEA is the key to the future for children with disabilities and it will help them become successful and contributing members of their communities.

Please wait for
a copy ASAP,

cc Bill Kincaid
This came from
Pat Lewis.

-Diana

OVERVIEW

The Progress

The Individuals with Disabilities Education Act (IDEA) has a long history. Prior to its implementation in 1975, approximately 1 million children with disabilities were shut out of schools and hundreds of thousands more were denied appropriate services. Since then, the legislation changed the lives of these children. Many are learning and achieving at levels previously thought impossible. As a result, they are graduating from high school, going to college and entering the workforce as productive citizens in unprecedented numbers.

Ninety percent of children with developmental disabilities were previously housed in state institutions. Today, they are no longer in those settings. As compared to their predecessors, three times the number of young people with disabilities are enrolled in colleges or universities, and twice as many of today's twenty-year olds with disabilities are working.

Unfulfilled Promises

While this is significant progress, we can and must do better. The status of children with disabilities still falls short of our expectations for them.

- Twice as many children with disabilities drop out of school.
- Drop outs do not return to school, have difficulty finding jobs and often end up in the criminal justice system.
- Girls who drop out often become young unwed mothers—at a much higher rate than their non-disabled peers.
- Many children with disabilities are excluded from the curriculum and assessments used with their non-disabled classmates, limiting their possibilities of performing to higher standards of performance.

Strategies for Success

The new IDEA legislation is an attempt to remedy these and other problems that contribute to the barriers children with disabilities face.

IDEA will make these changes by:

- Raising expectations for children with disabilities;
- Increasing parental involvement in the education of their children;
- Ensuring that regular education teachers are involved in planning and assessing children's progress;
- Including children with disabilities in assessments, performance goals, and reports to the public;
- Supporting quality professional development for all personnel who are involved in educating children with disabilities.

IDEA Accomplishments

Over the past four decades, special education research has provided practical answers to questions about how best to educate infants, toddlers, children and youth with disabilities. These accomplishments have translated into benefits for all our citizens.

- Over 1 million children, many of whom would have been placed in separate schools and institutions 25 years ago, are being educated in neighborhood schools, saving an average of \$10,000 per child per year.
- Nine percent more children with disabilities graduated from high school between 1984 and 1992.
- Youth served under IDEA are employed twice as often as their predecessors, older American with similar disabilities who were not served under the law.
- Nearly half of all adults with disabilities have successfully completed course-work in colleges and universities.
- Although less than 1% of the annual expenditures to educate children with disabilities is spent on research and development to improve practice, these dollars have had exponential results. They support programs that allow children with disabilities to become independent learners and self-supporting adults.
- New knowledge has resulted in technologies that have enriched all our lives. For example, the Kurtzweil Machine, originally developed for taking written text and translating it into Braille and speech was the forerunner of the fax machine. Captioning, an aid for the deaf, has become a boon for older Americans with poor hearing and for those who are learning to read and speak English.

Final
submitted to
press office

THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA)

May 13, 1997

For over 20 years, the IDEA has guaranteed a free, appropriate public education to students with disabilities; IDEA currently assists over 5.7 million students across the U.S. to reach their full potential. IDEA has greatly increased the number of children in school instead of institutions and has significantly increased the number of young adults with disabilities going on to higher education and employment. The reauthorization legislation approved by the House and Senate today, with the strong support of the President, strengthens and reaffirms our Nation's commitment to disabled children and their parents.

The new legislation improves the IDEA in several ways:

- A stronger emphasis on educational results. The new IDEA revises Individual Education Plans for students to better focus on enabling disabled children to participate and progress in the general curriculum. In addition, the new law reaffirms that all children with disabilities must be included in State and district assessments of student learning, with appropriate accommodations where necessary.
- Better support for parents. Under the new IDEA, schools will be required to include parents in meetings to determine student placements. Moreover, the new law requires that parents receive report cards on the progress of their children as frequently as parents of non-disabled children.
- Protecting the safety of all students in the classroom while retaining the essential rights and protections of disabled students. As proposed by the Administration, the new IDEA expands the authority of school officials to remove a child for up to 45 days for misconduct involving weapons or illegal drugs. The new law gives hearing officers the authority now reserved to courts to remove a child whose continued presence would pose a substantial risk of injury to the child or others. The reauthorization also makes clear that educational services may not be terminated for any child with a disability, overrides a recent 4th Circuit decision on cessation of services.
- Reduced costs, paperwork, and litigation. The new IDEA gives school districts financial relief through new cost-sharing provisions, and reduces paperwork for teachers, school districts and States. In addition, parents and school authorities will be able to resolve disputes through new mediation mechanisms.
- Improved funding formula. As proposed by the Administration, the reauthorization makes changes in the IDEA funding formula to diminish incentives to wrongly identify children as having a disability, although these changes would only take effect in future years as appropriations reach higher levels.

The new legislation is the product of a consensus-building process involving congressional Democrats and Republicans, the Department of Education, and representatives of the education

and disability communities, and shows how bipartisan cooperation can help achieve important national goals.

Talking Points on the IDEA Reauthorization

May 13, 1997

- The IDEA reauthorization bill that is likely to pass today, with the full support of the President, will strengthen and reaffirm our Nation's 20-year old commitment to disabled children and their parents.
- The new law reflects many of the key principles outlined in the Administration's reauthorization proposal. The upgraded IDEA contains a stronger emphasis on educational results and provides better support for parents. The reauthorization also protects the safety of all students in the classroom while retaining the essential rights and protections of disabled students. In addition, the new IDEA has a modified funding formula to reduce incentives to wrongly identify children as having a disability.
- IDEA legislation died a contentious death at the end of the last Congress, but today's vote shows what is possible when Democrats and Republicans put aside their differences and work to achieve important national goals. We hope to continue in this bipartisan spirit and move forward on the rest of our agenda to improve education and prepare America for the 21st Century.

INTERNAL Q'S AND A'S ON IDEA -- NOT FOR DISTRIBUTION

May 13, 1997

Q: Do you think Majority Leader Lott and his staff deserve the credit for passing this legislation this time?

A: The Majority Leader and his chief of staff, David Hoppe, showed considerable leadership throughout this process, but this accomplishment would not have been possible without the hard work of a number of Democrats and Republicans from both the House and the Senate, and by Secretary Riley and the Administration negotiating team, led by Assistant Secretary Judy Heumann ("HUMAN"). This group worked very closely with education groups and the disability community to get a consensus bill.

Q: What effect does this legislation have on Virginia's dispute with the Administration over services to disabled students who have been suspended or expelled?

A: The new IDEA has important provisions that protect the safety of all students in the classroom while retaining the essential rights and protections of disabled students. For example, the new law expands the authority of school officials to remove a child from the classroom for misconduct involving weapons or illegal drugs, and gives hearing officers authority (previously reserved to courts) to remove a child whose continued presence would pose a substantial risk of injury. With respect to Virginia, the reauthorization adopts the Administration's position, overriding a recent 4th Circuit decision and making clear that educational services may not be terminated for any child with a disability.

Q: Pete Wilson and others have criticized this bill because it still requires that long-term inmates get services, taking funds away from other students. Should Congress have prohibited services to this population?

A: In a compromise supported by California Republican Congressman Frank Riggs, the new IDEA strikes a reasonable balance on the issue of serving disabled youth in adult correctional facilities, allowing the Governor to transfer responsibility for these services to the State correctional agency and relieving the State from certain requirements of the law.

Q: Is this legislation supported by education groups and the disability community?

A: While nearly all groups involved in the negotiating process had to give up something to reach consensus, the new law has remarkably broad support among both education groups and disability rights advocates.

Q: How much does the Federal government spend on special education?

A: For FY 97, appropriations for State grants under IDEA (parts B and H) total \$3.78 billion, up from \$3 billion in FY 96. The Administration has proposed increasing state grants by an additional 4.3%, to a total of \$3.95 billion, for FY 98.

Q: Some Republicans contend that this bill is an unfunded mandate. Do you agree?

A: IDEA is not an unfunded mandate. No state has to participate in IDEA; participation is voluntary, and assists states to meet their constitutional obligations to provide equal access to a public education to children with disabilities. States would have these obligations even if they did not receive IDEA funds. Moreover, IDEA is exempted from coverage by the Unfunded Mandates Reform Act of 1995 signed by the President.

Q: Does the Administration agree with Senator Gregg that the share of IDEA funding should increase to 40% of total costs?

A: The Administration agrees with Senator Gregg that the federal government should contribute more toward meeting the costs of special education, and has consistently sought increases in funding for this program. However, it is important to support a broad range of programs which will improve educational opportunities for all Americans.

STATEMENT ON HOUSE AND SENATE PASSAGE OF INDIVIDUALS WITH
DISABILITIES EDUCATION ACT (IDEA) REAUTHORIZATION LEGISLATION

May 13, 1997

I am pleased that the House and Senate today took a major step toward ensuring high quality educational opportunities for students with disabilities by voting to reauthorize the IDEA. Over the last 20 years, the IDEA has made it possible for millions of young people with disabilities to reach their full potential, and this legislation strengthens and reaffirms our commitment to these children and their parents. This legislation is the result of a remarkable process involving hard work by congressional Democrats and Republicans, the Department of Education, and representatives of the education and disability communities. I look forward to signing this legislation into law, and I hope that we can continue in this bipartisan spirit and move forward on the rest of our agenda to improve education and prepare America for the 21st Century.

INDIVIDUALS WITH DISABILITIES EDUCATION ACT:

Questions & Answers

1. How will the new law help children with disabilities reach higher levels of achievement?

The original "Education for All Handicapped Children Act," signed by President Gerald Ford on November 29, 1975, guaranteed for the first time that the nation's children with disabilities had the right to a "free appropriate education in the least restrictive environment." The 1997 Individuals With Disabilities Education Act which will be signed into law by President Clinton aims to strengthen academic expectations and accountability for the nation's 5.4 million children with disabilities, and bridge the gap that has too often existed between what those children learn and the regular curriculum.

From now on, the Individualized Education Program (IEP) — the plan that spells out the educational goals for each child and the services he will receive for his education — must relate more clearly to the general curriculum that children in regular classrooms receive.

The law will also require regular progress reports to parents, include children with disabilities in state and district assessments and in setting and reporting on performance goals as they do for non-disabled children.

Teachers will benefit from advancements in research through professional development initiatives.

2. What about parents? How are parents involved in decisions about their child's education?

Parental involvement will increase under the new law. In all states, parents will now be included in groups making eligibility and placement decisions about children with disabilities. Previously, in some states, parents only had a right to be included in IEP meetings. Parents also have a right to consent to periodic re-evaluations of their children's program, in addition to initial evaluations. ?

Currently, parents of children with disabilities rarely get regular reports from schools on their child's progress in achieving academic goals set forth in the IEP. The new law aims to increase parental involvement by requiring regular progress reports, that are commonly made for other children.

3. Will more children with disabilities be placed in regular classroom settings under the law?

The new law is designed to remove financial incentives for placing children in (more) ?

separate settings when they could be served in a regular classroom, and it will include regular classroom teachers in the meetings at which the academic goals of children with disabilities are set.

The new law also eases some of the restrictions on how IDEA funding can be used for children served in regular classrooms. Specifically, such funds can be used for providing services to children with disabilities in regular classroom settings even if non-disabled children benefit as well.

4. How does the new law change the roles and responsibilities of regular classroom teachers?

A critically important feature of the new law specifies that regular teachers will be part of the team that develops each child's IEP. That is especially important since the law removes barriers to placing disabled children in regular classroom settings and ties the education of children with disabilities more closely to the regular education curriculum.

The law requires that IEP's include the program modifications and supports for the child and teacher to enable the child to succeed in the classroom.

The law also provides continued federal support to improve teacher training nationwide, and adds support of teacher training programs in geographic areas with acute teacher shortages.

5. How will IDEA 97 prevent inappropriate placements for minority children?

Whether the child is a minority student or not, IDEA 97 emphasizes that for most children with disabilities, special education is not a place. Rather, special education is a set of services to support the needs of children with disabilities to succeed in general education classrooms.

For the first time, states will be required to gather data to ensure that school districts are not disproportionately identifying and placing children with disabilities from minority or limited English proficiency backgrounds in separate educational settings, and that such children are not being disproportionately suspended or expelled. In addition, in determining their education services, schools will be required to address the language needs of students who have limited English proficiency. Teachers will be provided training and research based knowledge to meet the special needs of these children.

6. How will this law help school districts meet the costs of special education?

The new law directs more federal dollars to school districts and allows them greater flexibility to meet the needs of children with disabilities in their schools. States and other public agencies will continue their level of support to school districts. Unnecessary assessments will be eliminated, saving school districts an estimated \$765 million per

year.

7. How does IDEA promote safe, well-disciplined schools?

All children deserve safe and well-disciplined schools. For the first time, the new law sets out and clarifies how school disciplinary rules and the obligation to provide a Free Appropriate Public Education to disabled children fit together.

The law explicitly requires that children who need it receive instruction and services to help them follow the rules and get along in school.

However, the law also recognizes that if students bring a weapon or illegal drugs to school, schools have the right to remove children with disabilities to an alternative educational setting for up to 45 days. The new law permits schools to go to a hearing officer for an injunction to remove a child for up to 45 days if the child is considered substantially likely to injure himself or others. Previously, only a court had that authority. And the law also recognizes the right of schools to report crimes to law enforcement or judicial authorities.

At the same time, the law guarantees that children under suspension or expulsion would still receive special education services elsewhere.

8. How does the law affect infants, toddlers, and preschoolers with disabilities?

The law allows federal funding to rise to \$400 million for infants and toddlers programs from current appropriations of \$315 million. For preschoolers allowable funding is up to \$500 million up from current spending of \$360 million. It clarifies that infants and toddlers should receive services in the home or in other natural settings where possible. It also improves the coordination and transition for children from infant and toddler programs to pre-school programs.

9. Will these changes and new requirements affect the number of lawsuits and due process hearings by parents and legal bills for school districts?

When parents and schools districts collaborate on childrens' education, conflict is minimized. IDEA 97 recognizes and encourages these positive relationships and non-adversarial methods of resolving disputes. The new law includes parents in placement decisions and requires schools to report regularly to parents on their child's progress.

Under IDEA 97 states will make effective voluntary mediation available to parents and school districts as a far less costly alternative to lawsuits. In the rare instances when it is necessary parents can still choose due process procedures.

10. What changes will the new law make in funding for States and school districts?

The new law revises the funding formula for the Grants to States program funded under Part B by eliminating the use of counts of children receiving special education as a basis for distributing Federal funds once funding for the program exceeds \$4.9 billion. The Grants to States program is funded at \$3.1 billion in fiscal year 1997 and the President requested \$3.2 billion for fiscal year 1998.

Once the new formula is triggered, new funds would be distributed on the basis of census data and numbers of children living in poverty. This change in the formula would direct funds where they are needed while allowing States to undertake good practices for addressing the needs of more children with learning problems in the regular classroom without unnecessary labeling – and without risking a loss of Federal special education funds.

The new law also directs more funds to school districts by limiting the amount of funds that can be reserved by the State educational agency for administration of the program and other State-level activities.

11. How will IDEA '97 help a child make a successful transition from school life to adult life?

IDEA '97 adds a new requirement, for children with disabilities beginning at age 14, the IEP team including the child's parents, and when appropriate, the child, identify how the child's course of study will help the reach his or her post-school goals. At age 16 (and younger when appropriate) children's IEPs must also include a statement of the specific transition services that they will receive to enable them to progress in education and employment after they finish secondary school. In addition, IDEA '97 expects schools to help children with disabilities achieve higher standards of performance, which will support parent efforts to project their children into productive, successful futures.

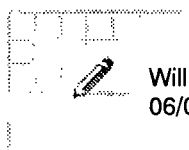
12. How will the research funded by IDEA make a difference in teaching and learning?

IDEA '97 emphasizes the importance of continued federal investments in the development of technology tools and teaching strategies that will help children with disabilities become active, independent learners. These tools have already paid off by decreasing the number of aides required by students, allowing children with disabilities to be taught in regular classrooms with their non-disabled peers, and enabling teachers to modify their lessons to ensure that these children are included in all class activities. This legislation specifies that all these and other innovations will be able to be shared with non-disabled children who can benefit from their use.

13. What activities are supported under the Individuals with Disabilities Education Act?

In Fiscal Year 1997, \$4 billion was appropriated under the Individuals with Disabilities Education Act to help serve children with disabilities. Of this amount, \$3.1 billion was made available under the Grants to States program to assist states in providing special education and related services to children with disabilities ages 3 through 21, and an additional \$360 million was provided under the Preschool Grants program specifically for serving children ages three through five. States were also provided \$315 million under the Grants for Infants and Families program to assist them in making early intervention services available to infants and toddlers with disabilities from birth through age two.

A total of \$262 million was appropriated for a variety of research, demonstration, personnel preparation, technical assistance, dissemination, and other activities to support the States in their efforts to serve children with disabilities.



William R. Kincaid
06/04/97 12:29:25 AM

Record Type: Record

To: Jordan Tamagni/WHO/EOP
cc: Michael Cohen/OPD/EOP, Diana Fortuna/OPD/EOP, Lucia A. Wyman/WHO/EOP, William H. White Jr./WHO/EOP
Subject: Re: Draft

I have reviewed Diana's comments and for the most part think they are right on target. I have some added comments below, in bold, that begin towards the end of the second page.

It is very important for Mike C. to review the paragraph on standards in the morning.

Thank you, Joshua Bailey, for that introduction, and for sharing your story. I also want to thank the other children, their families and teachers, and all of you who have joined us here today. I thank Secretary Riley for his leadership, and the Department of Education. I especially want to thank Assistant Secretary of Education Judy Heumann, for her personal strength and commitment to help disabled children reach their highest potential. And I want give special recognition to the many parents, disability advocates, and education leaders who worked together to make IDEA a reality.

To the bipartisan leadership in Congress, especially Senator Jeffords and Representative Goodling; Senator Kennedy, Senator Harkin, Representatives Clay, Martinez, and Riggs, to David Hoppe [HOP-ee], Senator Lott's Chief of Staff, and Bobby Silverstein [silver-steen] on Senator Harkin's staff, and to all the members here today: You are proving once and for all that politics must stop at the school house door, and I thank you for coming together to expand the IDEA.

We have come a long way since the days Judy just described -- days when President Franklin Roosevelt felt he had to hide his disability from the public; days when children like Joshua and the other young people here today had to fight for their right to equal opportunity.

For 22 years, the IDEA has been the driving force behind that progress. Because of that landmark legislation, disabled children all over our country have a better chance than ever before to reach their highest potential. And we have the same obligation to help them make the most of that God-given potential as we do for every other child in America.

We are here today to do exactly that. The expanded IDEA will give our disabled children the educational opportunity that is at the very heart of the American Dream.

Education is the embodiment of everything we must do to prepare our country -- and all our people -- for the 21st century. That is why I have made education my number one priority as President. Last month, I was proud to reach a bipartisan agreement to balance the budget for the first time since President Johnson was in the White House. This budget brings the deficit down to zero over the next five years, but it also reflects our values, preserving Medicare and Medicaid, expanding health care coverage to five million uninsured children, and helping move people from welfare to work.

Most important, this balanced budget makes an historic investment in education -- the most significant increase in education funding in 30 years. It funds the America Reads program that will mobilize a citizen army of one million volunteers to help children all over the country learn to read. It will give millions of families a tax cut to help pay for college. It will give hundreds of thousands more students Pell Grant college scholarships; and it will help tens of thousands of schools across America to wire their classrooms to the Internet.

We know that education is the key to opportunity. But as we just heard from Judy, for far too long, disabled children were closed out of the classroom by ignorance, fear, and just plain prejudice. Their parents were forced to wander in a system without guideposts, a system influenced by stereotypes that disabled children could not be taught to higher standards, could not learn on a par with their peers, and could not become productive, successful members of society.

Then, in 1975, Congress enacted the IDEA. For millions of families across America, it meant the difference between seeing their children's potential languish, and watching it flourish.

For millions of children, it has meant the right to receive the education they deserved: to sit in the same classrooms with their peers, to be held to the same expectations, and to dream the same dreams. And for the millions of students who sat next to them in those classrooms, it has meant the end of ignorance -- and the damaging stereotypes it has produced -- and the beginning of understanding.

Since then, 90% fewer developmentally disabled children are living in institutions. Hundreds of thousands of disabled children are attending public school in regular classrooms. Three times as many disabled young people are enrolled in colleges and universities. And twice as many disabled people in their 20s are in the American workplace, helping to keep our economy growing and maintaining their sense of self-worth.

We must continue to do everything we can to encourage our disabled children, not only to dream of achieving great things, but to achieve those great dreams. Because our job is not yet done. Despite our progress, disabled young people still drop out of high school -- and into uncertain futures -- at twice the rate of their peers. For those who stay in school, lowered expectations and exclusion are still far too common. And too many parents still find themselves fighting for educational resources and services that are their children's right . . . and their hope for a brighter future. We have to do better than this.

Today, I am proud to say that we are taking the next step, and making a good law even better. The expanded IDEA reaffirms and strengthens our national commitment to providing a world class education for all of our children. And it ensures that our nation's schools are safe and conducive to learning while scrupulously protecting the rights of our disabled children.

Should lead instead with the higher expectations/greater focus on results point. Not sure what the following paragraph is referring to in terms of the reauthorization).

First, this bill makes it clear once and for all that disabled children have a right to be in the classroom, and to be included in school activities like class trips and special outings. It requires states and school districts to help get disabled children ready to come to school, and to accommodate them once they are there with services ranging from preschool therapy to interpreters to special education tutors.

Second, this legislation mandates (don't use **mandates**; maybe **calls for disabled children to** or **acknowledges that disabled children can.**) that disabled children learn the same things, with the same curricula, and the same assessments, as all of our children. We know that children rise to the expectations we set for them -- and disabled children are no exception. I have called for high national standards for all of our children, and so far, ## school systems from California to North Carolina have agreed to adopt those standards. (Not accurate; could say, **and so far, education leaders in six states from California to North Carolina have endorsed this initiative.**) Today, I call on those states -- and every other state -- to hold every child who has the capacity to meet those same high standards. (Suggest: **to help every child who has the capacity to meet high standards.** **Public is receptive to all students reaching much higher standards or challenging standards, but even with your qualification will balk at same high standards.**)

Third, we know our children's success depends on the quality of their teachers, and the involvement of their parents. This legislation will help more regular (omit **regular** -- **the legislation is supposed to improve quality for all those who teach special ed kids**) classroom teachers get the full range of teaching skills they need to teach disabled children. And it will require teachers to develop (the legislation already requires this; suggest **ensure that regular education teachers help prepare**) individual educational plans to help disabled children to succeed in the regular classroom. This legislation will also give parents a greater voice in their children's education. And at long last, it will give them something else that other parents have expected from their schools for decades: regular report cards on their children's progress. **Could split this into one graph on teachers, one on parents.**

High school is a make or break time for all young people, but disabled teenagers often need more help to succeed as they make the transition from school to work. This legislation will require schools to give them that help by developing individual plans that may include independent living skills, job training, and preparation for higher education. And because acquiring these skills may take extra time, these plans must be in place by the time disabled students reach the age of 14.

That is what the expansion of the IDEA will achieve, and in a few moments, I will sign this vitally important legislation into law. As I do, I want all of you to think about what we are accomplishing here today. To the millions of children whose futures are in the balance, we are saying: we believe in your potential and we will do everything in our power to develop it. To the millions of families who are depending on us to help them prepare their children to take their place in the world, we are saying: we will help you meet that challenge. To the American people, we are saying that we will not rest until we have conquered the ignorance and prejudice that hurt us all. And to the world we are sending a message, the same message that the FDR Memorial I was honored to dedicate last month makes so clear: in America, you are measured by what you are and what you have achieved. In America, the American dream is alive for all of our people.

And now I invite the Members of Congress here with us today, and Tom Hehir [hair], the Director of the Office of Special Education, to join me as I sign into law the Individuals with Disabilities Education Act Amendments of 1997.



Diana Fortuna

06/03/97 11:24:48 PM

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Record Type: Record

To: Jordan Tamagni/WHO/EOP

cc: Michael Cohen/OPD/EOP, William R. Kincaid/OPD/EOP, Lucia A. Wyman/WHO/EOP, William H. White Jr./WHO/EOP

Subject: Speech draft comments 

Here are my specific line comments on the speech draft in bold. In a more general vein, it would be good to highlight how this agreement was the result of an extraordinary bipartisan process that augurs well for future bipartisan efforts, and how this furthers the President's overall efforts to improve standards and excellence in education.

Thank you, Joshua Bailey, for that introduction, and for sharing your story. I also want to thank the other children, their families and teachers, and all of you who have joined us here today. I thank Secretary Riley for his leadership, and the Department of Education. I especially want to thank Assistant Secretary of Education Judy Heumann, for her personal strength (**could offend, as disabled don't like implication that they are stronger/braver than others; I would recommend "lifetime of leadership" or something like that instead**) and commitment to help disabled children reach their highest potential. And I want give special recognition to the many parents, disability advocates, and education leaders who worked together to make IDEA a reality. (**say: "these improvements to IDEA a reality"**)

To the bipartisan leadership in Congress, especially Senator Jeffords and Representative Goodling; Senator Kennedy, Senator Harkin, Representatives Clay, Martinez, and Riggs, to David Hoppe [HOP-ee], Senator Lott's Chief of Staff, and Bobby Silverstein [silver-steen] on Senator Harkin's staff, and to all the members here today: You are proving once and for all that politics must stop at the school house door, and I thank you for coming together to expand (I would say "**strengthen**"; not clear what "**expand**" means) the IDEA.

Lucia: We're not thanking Lott himself?

We have come a long way since the days Judy just described -- days when President Franklin Roosevelt felt he had to hide his disability from the public; days when children like Joshua and the other young people here today had to fight for their right to equal opportunity. (**Advocates say they still have to fight for this today but now law is on their side; in the old days, they couldn't even fight; say instead "days when children...had no opportunity to reach their full potential" or something like that**)

For 22 years, the IDEA has been the driving force behind that progress. Because of that landmark legislation, disabled children all over our country have a better chance than ever before to reach their highest potential. And we have the same obligation to help them make the most of that God-given potential as we do for every other child in America.

We are here today to do exactly that. The expanded IDEA will give our disabled children the educational opportunity that is at the very heart of the American Dream.

Education is the embodiment of everything we must do to prepare our country -- and all our people -- for the 21st century. That is why I have made education my number one priority as President. Last month, I was proud to reach a bipartisan agreement to balance the budget for the first time since President Johnson was in the White House. This budget brings the deficit down to zero over the next five years, but it also reflects our values, preserving Medicare and Medicaid, expanding health care coverage to five million uninsured children, and helping move people from welfare to work.

Most important, this balanced budget makes an historic investment in education -- the most significant increase in education funding in 30 years. It funds the America Reads program that will mobilize a citizen army of one million volunteers to help children all over the country learn to read. It will give millions of families a tax cut to help pay for college. It will give hundreds of thousands more students Pell Grant college scholarships; and it will help tens of thousands of schools across America to wire their classrooms to the Internet. **(It is a VERY sore point in the disability community that the President's education budget priorities to not extend to IDEA, since we have proposed modest increases in IDEA vs. the huge increases in regular ed. Last year, Congress increased IDEA spending by 25%, but everyone knew it was their doing, not ours. So not sure this point works.)**

We know that education is the key to opportunity. But as we just heard from Judy, for far too long, disabled children were closed out of the classroom by ignorance, fear, and just plain prejudice. Their parents were forced to wander in a system without guideposts, a system influenced by stereotypes that disabled children could not be taught to higher standards, could not learn on a par with their peers, and could not become productive, successful members of society.

Then, in 1975, Congress enacted the IDEA. For millions of families across America, it meant the difference between seeing their children's potential languish, and watching it flourish.

For millions of children, it has meant the right to receive the education they deserved: to sit in the same classrooms with their peers, to be held to the same expectations, and to dream the same dreams. And for the millions of students who sat next to them in those classrooms, it has meant the end of ignorance -- and the damaging stereotypes it has produced -- and the beginning of understanding.

(FYI, this makes it sound like everything was fine as soon as IDEA passed in 1975. In fact, all it meant was kids could go to segregated classrooms. Things have slowly gotten better since then, with disabled kids moving into regular ed classrooms. That "inclusion" is the new frontier in IDEA that we are still working on.)

Since then, 90% fewer developmentally disabled children are living in institutions. Hundreds of thousands of disabled children are attending public school in regular classrooms. Three times as many disabled young people are enrolled in colleges and universities. And twice as many disabled people in their 20s are in the American workplace, helping to keep our economy growing and maintaining their sense of self-worth.

We must continue to do everything we can to encourage our disabled children, not only to dream of achieving great things, but to achieve those great dreams. Because our job is not yet done. Despite our progress, disabled young people still drop out of high school -- and into uncertain futures -- at twice the rate of their peers. For those who stay in school, lowered expectations and exclusion are still far too common. And too many parents still find themselves fighting for educational resources and services that are their children's right . . . and their hope for a brighter future. We have to do better than this.

Today, I am proud to say that we are taking the next step, and making a good law even better. The expanded IDEA reaffirms and strengthens our national commitment to providing a world class education for all of our children. And it ensures that our nation's schools are safe and conducive to

learning while scrupulously protecting the rights of our disabled children.

First, this bill makes it clear once and for all that disabled children have a right to be in the classroom **(I would check this with Heumann; I don't think the prior law was unclear on this)**, and to be included in school activities like class trips and special outings. It requires states and school districts to help get disabled children ready to come to school, and to accommodate them once they are there with services ranging from preschool therapy to interpreters to special education tutors. **(This was true of prior law, too; and it stresses the mandate on states. I would say instead "ensures kids with disabilities have the supports they need in the classroom to learn, such as tutors or interpreters or preschool therapy...")**

Second, this legislation mandates that disabled children learn the same things, with the same curricula, and the same assessments, as all of our children **(say "can learn"? Because some students have cognitive impairments)**. We know that children rise to the expectations we set for them -- and disabled children are no exception. I have called for high national standards for all of our children, and so far, ## school systems from California to North Carolina have agreed to adopt those standards. Today, I call on those states -- and every other state -- to hold every child who has the capacity to meet those same high standards.

Third, we know our children's success depends on the quality of their teachers, and the involvement of their parents. This legislation will help more regular classroom teachers get the full range of teaching skills they need to teach disabled children. And it will require teachers to develop individual educational plans to help disabled children to succeed in the regular classroom. **(Check with Heumann; IEP's have long been required; I think the change is that regular ed teachers have to be involved?)** This legislation will also give parents a greater voice in their children's education. And at long last, it will give them something else that other parents have expected from their schools for decades: regular report cards on their children's progress.

High school is a make or break time for all young people, but disabled teenagers often need more help to succeed as they make the transition from school to work. This legislation will require schools to **(safer to drop phrase "require schools to"?)** give them that help by developing individual plans that may include independent living skills, job training, and preparation for higher education. And because acquiring these skills may take extra time, these plans must be in place by the time disabled students reach the age of 14.

That is what the expansion of the IDEA will achieve, and in a few moments, I will sign this vitally important legislation into law. As I do, I want all of you to think about what we are accomplishing here today. To the millions of children whose futures are in the balance, we are saying: we believe in your potential and we will do everything in our power to develop it. To the millions of families who are depending on us to help them prepare their children to take their place in the world, we are saying: we will help you meet that challenge. To the American people, we are saying that we will not rest until we have conquered the ignorance and prejudice that hurt us all. And to the world we are sending a message, the same message that the FDR Memorial I was honored to dedicate last month makes so clear: in America, you are measured by what you are and what you have achieved. **(The disabled protested that the FDR memorial does not make that point clear; President called for modifications because he agreed.)** In America, the American dream is alive for all of our people.

And now I invite the Members of Congress here with us today, and Tom Hehir [hair], the Director of the Office of Special Education, to join me as I sign into law the Individuals with Disabilities Education Act Amendments of 1997.

05/09/97

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FAX



U.S. DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

OFFICE OF SPECIAL EDUCATION PROGRAMS

OFFICE OF THE DIRECTOR

FAX No: (202) 260-0416

Phone: (202) 205-5507

Switzer Building - Room 3090

Switzer Building - Room 3086

DATE:

5/8/97

TO

Bell Kencan

FROM

Tom Heller

Number of Pages (NOT including this cover page):

7

DRAFT
May 7, 1997
9:30 AM

INDIVIDUALS WITH DISABILITIES EDUCATION ACT
AMENDMENTS OF 1997 (SUBSTITUTE FOR H.R. 5 AND S. 216)

KEY CHANGES TO THE IDEA MADE BY THE PROPOSED BILL

Improvements to the IEP Process

As proposed by the Administration, the bill would revise the content of the IEP to better focus it on enabling a child to participate and progress in the general curriculum.

As proposed by the Administration, the regular education teacher would be required to participate in the IEP meeting, starting with school year 1998-1999.

The IEP would have to explain the extent to which the child is not participating with nondisabled children in the regular classroom and in extracurricular and other activities.

The bill would amend the IEP requirements to explicitly require consideration of braille for blind children, and the provision of assistive technology, and behavioral interventions, where appropriate.

The bill would amend the IDEA to give teachers the option of establishing benchmarks for progress, instead of short-term objectives required by current law. (The Administration had proposed to eliminate short-term objectives as unnecessary burden, but parent groups vigorously objected.)

The bill would require schools to provide for the participation of parents in the meeting to determine a child's placement. Currently, parents must participate in the IEP meeting, but not the placement decision, which is often handled separately.

As proposed by the Administration, the bill would require schools to report periodically to parents on the progress of their children toward achieving their annual goals, at least as frequently as parents receive reports on nondisabled children.

Discipline

As proposed by the Administration, the bill would expand the authority of school officials to remove a child for up to 45 days (which now applies only in the case of guns) to include misconduct involving other weapons or illegal drugs.

As proposed by the Administration, the bill would give hearing officers the authority currently held only by the courts to remove a child whose continued presence would

pose a substantial risk of injury to the child or others.

The bill would also amend the IDEA to specify how schools are to make a "manifestation determination" to determine whether a child's behavior is related to the child's disability. This determination must be made before a school can suspend a child for more than 10 days or expel a child.

Finally, the bill would explicitly require a school district to continue to make available special education and related services, even to children who have been suspended or expelled from school. This provision would effectively override the recent decision in the Virginia case, which would have permitted cessation of services, and codify the Department's long-standing understanding of current law.

Private School Children

The bill would clarify in law the Department's position that States and school districts are required to use only a proportionate amount of Federal funds to provide special education services to children whose parents voluntarily placed them in private schools. (Unlike services under Title I of the ESEA, which are fully paid for by the Federal Government, the Department provides only about 8 percent of the cost of providing special education.) The inclusion of this language should dispose of a number of conflicting Federal appellate court decisions, three of which are awaiting possible Supreme Court review, in which parents assert that the IDEA makes public schools responsible for the full the costs of special education for children whose parents choose to have them attend private schools. The bill also affirmatively states that services provided to these children may be provided on-site at the private school to the extent consistent with law (i.e., the Establishment Clause).

Prisons

The bill would authorize the Governor to transfer, from State and local educational agencies to another agency (such as a State correctional agency), responsibility for educating juveniles with disabilities who have been convicted as adults and incarcerated in adult prisons. The bill would also relieve the State from complying with certain requirements relating to assessments and transition services, and, for legitimate security or penological reasons, would permit modification to such a student's IEP or placement.

Due Process/Mediation

As proposed by the Administration, the bill would require States to offer parents the opportunity for mediation when they have requested a due process hearing.

Mediation would be voluntary on the part of both parents and school officials.

If parents declined to participate in mediation, they could be required to attend a

meeting with a third-party representative designated by a Parent Training Center or other alternative dispute resolution entity who would explain the benefits of mediation.

The bill would clarify that attorneys' fees are not available for an IEP meeting (except if conducted as a result of due process) or, if a State chooses, for pre-complaint mediation. The bill would clarify when a partially prevailing parent may get attorneys' fees. (These amendments codify current case law and clarify current statutory provisions.)

The bill would clarify what information must be included in a complaint and would require either party to disclose an evaluation to be used at a hearing 5 days in advance of the hearing.

Evaluation

The bill would require parental consent for all evaluations.

As proposed by the Administration, the bill would eliminate unnecessary testing by allowing schools to dispense with unneeded testing at the "triennial evaluation" (the evaluation required every 3 years) to determine whether the child still needs special education, unless the parents disagree.

The bill would also clarify the importance of using evaluation methods that produce information that is instructionally-relevant during the evaluation process.

Assessments

As proposed by the Administration, the bill would require States to provide for the participation of children with disabilities in all State and district-wide assessments and, by July 1, 2000, to provide alternate assessments for children for whom regular assessments would be inappropriate. (The Administration's 1995 proposal called for these assessments by July 1, 1999.)

Non-educational services

The bill amplifies and strengthens the current requirement relating to interagency agreements by requiring States to establish written mechanisms to ensure that non-educational agencies that are otherwise obligated by State or Federal law to provide for or pay for services (such as health-related services) that are called for in a child's IEP do so.

Maintenance of effort (MOE)

The bill would require States to maintain State financial support for the costs of special education at the prior-year level, but would permit a waiver in exceptional circumstances, such as natural disasters. Current law does not require States to

maintain fiscal effort.

The bill would also provide some relief to LEAs by permitting them to replace local expenditures with up to 20 percent of new Federal dollars each year, once the appropriation reaches \$4.1 billion. (The FY 1997 level is \$3.1 billion and the President's request for fiscal year 1998 is for \$3.25 billion.)

The bill would also include other exceptions to the current local maintenance-of-effort requirement, such as when a teacher retires or a student who was being provided a high-cost program leaves the area.

Formula

As proposed by the Administration, the formula would be modified to eliminate the use of counts of children with disabilities receiving services as a basis for distributing funds among the States. This change would occur once the appropriation provides about \$850 per child (about \$4.9 billion). The new formula would first allocate to each State an amount equal to its allocation in the prior year. Additional funds would be distributed on the basis of total population of children (85 percent of the new funds) and number of children in poverty (15 percent of the new funds). The formula would include caps and floors to avoid abrupt redistribution among the States, including a small-State minimum. All States would be guaranteed additional funding in any year in which the funding for the program increased over the prior year.

Performance Goals and Indicators

As proposed by the Administration, all States would be required to establish performance goals and indicators for children with disabilities and to report regularly on their performance to the public and the Secretary.

Placement-neutral funding

As proposed by the Administration, each State would be required to ensure that their formula for distributing State funds for special education does not violate the least-restrictive-environment requirements if its formula uses the type of placement in which a child is educated to determine the amount of State funding for the child (a common situation).

Personnel standards/use of paraprofessionals

As proposed by the Administration, the bill would clarify that nothing in the IDEA prohibits the use of paraprofessionals who are appropriately trained and supervised in meeting the requirements of Parts B and H (the program for infants and toddlers).

The bill would also clarify that in the case of shortages of personnel who meet State standards, the State would be required to hire the most highly qualified available

personnel who would, in turn, have to undertake the necessary coursework within 3 years to meet those standards.

Racial disproportionality

The bill would require States to monitor racial disproportionality in the identification and placement of children with disabilities and examine and revise their procedures and policies as necessary to comply with the IDEA.

Suspensions and Expulsions

The bill would require States to monitor LEA data on suspensions and expulsions.

State set-aside

The bill would "cap" the amount of funds that could be set aside by the SEA for administration and other State-level activities at the amount authorized in FY 1997, plus inflation.

The bill would require SEAs to set aside funds for grants to LEAs in years in which the appropriation increases by more than the rate of inflation. These grants would be used primarily to stimulate best practices.

Charter Schools

The bill would require an LEA to provide IDEA funding to charter schools in the same manner as it provides funding to other public schools, and to serve children with disabilities in charter schools in the same manner as it serves children in other public schools. Charter schools that, under State law, are LEAs would be entitled to subgrants from the State under Part B. Charter schools would also be eligible to apply for discretionary grants.

Schoolwide Projects

The bill would permit an LEA to use IDEA funds to carry out a schoolwide project under Title I of the ESEA, except that the amount of the IDEA contribution would be limited to the number of children with disabilities in the school multiplied by the Federal per-child share. IDEA requirements could not be waived for children participating in Title I schoolwide programs.

Local Flexibility

As proposed by the Administration, the bill would permit IDEA funds to be used to provide special education and related services for children with disabilities in the regular classroom, even if one or more nondisabled children benefit from those services.

As proposed by the Administration, the bill would allow LEAs to use up to 5 percent of their IDEA allocation, in conjunction with other funds, to develop and implement a system of coordinated services for all children and their families, including both disabled and non-disabled children.

Paperwork

As proposed by the Administration, the bill provides that SEA and LEA applications must be submitted only once to the Department and the SEA, respectively, and thereafter only necessary amendments would be required.

Grants for Infants and Families

The bill would require the State to have policies and procedures to ensure, that to the maximum extent appropriate, early intervention services are provided to the child and family in natural environments.

Discretionary Grant Programs

The bill would consolidate the existing 14 programs into 6 new authorities--a State Improvement Grants program, as proposed by the Administration, and authorities for Research and Innovation, Personnel Preparation, Parent Training and Information Services, Technical Assistance and Dissemination, and Technology Development and Media Services. The consolidation provides the Department with a much more coherent and flexible set of authorities for carrying out critical national activities.

The bill also authorizes the Secretary to set aside funds under the State-grant programs to conduct a much-needed national assessment of the IDEA and other studies and evaluations.

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

May 13, 1997

STATEMENT BY THE PRESIDENT
ON HOUSE PASSAGE OF INDIVIDUALS WITH
DISABILITIES EDUCATION ACT (IDEA) REAUTHORIZATION

I am pleased that the House today took a major step toward ensuring high quality educational opportunities for all students with disabilities by voting to reauthorize the Individuals with Disabilities Education Act (IDEA). I am hopeful that the Senate will do the same shortly.

Over the last 20 years, the IDEA has made it possible for young people with disabilities to reach their full potential. This legislation strengthens and reaffirms our commitment to these children and their parents, and I look forward to signing it into law.

This legislation is the result of a bipartisan process that involved hard work not only by both Democrats and Republicans in the Congress but also by the Department of Education and representatives of the education and disability communities. I hope that we can continue in this bipartisan spirit and move forward on the rest of our agenda to improve education and prepare America for the 21st Century.

-30-30-30-

3. The Wall Street Journal

05/14/97 Section: Politics & Policy; *Educators Say Proposed Law Boosting Ability To Punish Disabled Kids Doesn't Go Far Enough*

By June Kronholz

Staff Reporter of The Wall Street Journal

As Principal E. Don Brown tells it, a 17-year-old junior terrorized L.D. Bell High School outside Dallas last year, throwing punches, brawling and, finally, breaking the nose of a male teacher-aide.

But because the youngster was diagnosed as emotionally disturbed, under the law Mr. Brown couldn't suspend him, couldn't expel him and couldn't send him to a special school for children with discipline problems. Instead, at a cost of \$40,000, he hired a full-time teacher and a full-time aide for the student; the three spent the rest of the year in a classroom isolated from the rest of the school.

When the Individuals with Disabilities Education Act was passed in 1975, it sounded, as its acronym suggests, like an idea whose time had come. The IDEA law guarantees an education to all disabled children until age 21 and requires that they attend school in the "least restrictive setting," usually a regular classroom. But, with violence increasing in schools, educators complain the law has a dangerous flaw: It also restricts the ability to discipline special-education students, even those caught bringing weapons and drugs to school.

A rewritten law that would tighten discipline guidelines passed the House yesterday and is expected to pass the Senate today. But teachers' and principals' groups remain alarmed, saying the changes don't go far enough.

"Congress hasn't done anything to help us," says Michael Brown, principal of Hope High School in Hope, Ark. "They haven't helped education. They haven't helped the children." Meantime, the program has ballooned to 13% of all public-school children, and to a cost of perhaps \$39 billion a year, according to the U.S. Education Department.

Discipline restrictions were written into the original IDEA law because advocates for the disabled feared schools might use behavior problems as an excuse to get rid of special-education children. At most, special-education youngsters could be sent home for 10 days in any school year, no matter how serious their offenses.

But children arrive at school these days with problems far more serious than in 1975, teachers say — drug and child abuse and the effects from fetal alcohol syndrome — and learning defects are being diagnosed earlier. Children with learning, speech or language problems account for about 72% of the 5.4 million special-education youngsters now. Children with crippling disabilities account for only 1.2%.

When the law was written, moreover, no one foresaw the problems of guns and violence in the schools. The Education Department, which tracks reports of school violence, doesn't break out incidents by special-education students. But the United Federation of Teachers, the New York City teachers' union, says there were 4,712 criminal "incidents" against its members last year — assaults, sex offenses, robbery — and that half were committed by special-education students.

Two years ago, to bring special education into line with the gun laws for general-education children, Congress amended IDEA to allow schools to suspend a disabled child who brings a gun to school. But while general-education children face a one-year suspension under the federal Safe and Gun-Free Schools law, a disabled child can face only a 45-day suspension. And during the suspension, the school district must continue educating special-education students.

So when three Hope High School students, one with learning disabilities, robbed a pawnshop, beat the owner and then brought stolen guns to a school basketball game two years ago, all three were arrested and two were expelled. But the school district couldn't expel the disabled student and was required to send a tutor to jail for the next year to educate him while he was awaiting trial.

Recent revisions now allow for youngsters whose disabilities didn't cause their behavior problems to receive the same discipline as other children, as long as they continue to be taught. That has set up double and even triple standards of discipline in schools. When David Hoekel, principal of Fort Zumwalt North High in O'Fallon, Mo., found four of his students using methamphetamines, he immediately suspended the two general-education students for a year.

The third was a learning-disabled student; a special hearing officer ruled that his disability wasn't linked to his behavior, so he was suspended for a year, but given home tutoring. The fourth was a student with behavior problems that a hearing officer ruled caused him to act inappropriately; he got the maximum 10-day suspension for special-education students and returned to school.

Rewriting IDEA is delicate because the law is widely seen as having extended education to children who once were shut out of the public schools. Advocates for the disabled also have lobbied heavily against most changes in the discipline provisions. "We call that the slippery slope for pulling large numbers of children out of class," says Joseph Ballard, policy director for the Council of Exceptional Children.

Judith Heumann, assistant secretary of education, insists that with better training, particularly in behavior problems, teachers "can work with most children." And dealing with discipline problems in school, she adds, is a lot cheaper than dealing with them, later on, in the juvenile court system.

The new law would toughen discipline guidelines by broadening the 45-day suspension for special-education youngsters who bring guns to school to also cover other weapons and drugs. Disability advocates and teachers' and principals' groups all support the provision.

But teachers and principals say the new law doesn't go far enough. It sets up such complicated rules before a youngster can be disciplined for assault that it doesn't deal with one of their major problems: special-education youngsters who attack their teachers, or each

other, with fists.

"Teeth and feet and hands can be weapons just as much as knives can," says Linda Gruehn, principal of Baker Elementary in Acworth, Ga., who recently ordered up hepatitis shots for a teacher who was bitten by a special-education student.

Teachers also are dismayed that the law doesn't strengthen their ability to deal with disruptive special-education children. Advocates for the handicapped opposed any sanctions on disruptive behavior because, says Mr. Ballard, "it could be used against a large population of children."

But Sid Graham, principal of West Elementary in Knoxville, Iowa, describes a 180-pound sixth grader who "wreaked havoc" for a year, fighting and stopping classroom work with his outbursts before he finally moved to another school. A former special-education teacher himself, Mr. Graham says the child left him "desperate," and he fears the rest of the class lost learning time because of the disabled child.

"I fought hard for the disabled," he says, "but we haven't got this thing right."■

School instead of institution

THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA)

DRAFT -- May 13, 1997

For over 20 years, the IDEA has guaranteed a free, appropriate public education to students with disabilities; IDEA currently assists over 5.7 million students across the U.S. to reach their full potential. *IDEA has greatly decreased the number of children in institutions and has significantly increased the number of young adults with disabilities going on to higher education and employment.* The reauthorization legislation approved by the House and Senate today, with the strong support of the President, strengthens and reaffirms our Nation's commitment to disabled children and their parents.

^{strongly improves}
The new legislation ~~upgrades~~ the IDEA in several ways:

- for state to*
• A stronger emphasis on educational results. The new IDEA revises ~~the content of student~~ Individual Education Plans to better focus on enabling disabled children to participate and progress in the general curriculum. In addition, the new law reaffirms that all children with disabilities must be included in State and district assessments, with appropriate accommodations where necessary. *teaching and learning and on* *of student learning*
- panel must on school conferences*
• Better support for parents. Under the new IDEA, ~~Parents~~ parents will be more fully involved in student placement decisions. Moreover, the new law requires that parents receive report cards on the progress of their children as frequently as parents of non-disabled children. *?*
- Protecting the safety of all students in the classroom while retaining the essential rights and protections of disabled students. As proposed by the Administration, the new IDEA expands the authority of school officials to remove a child for up to 45 days for misconduct involving weapons or illegal drugs. The new law gives hearing officers the authority now reserved to courts to remove a child whose continued presence would pose a substantial risk of injury to the child or others. However, the reauthorization overrides *also* *a recent 4th Circuit decision on cessation of services,* making clear that educational services may not be terminated for any child with a disability, *overriding a*
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- Improved funding formula. As proposed by the Administration, the reauthorization makes changes in the IDEA funding formula to diminish incentives to wrongly identify children as having a disability, although these changes would only take effect in future years as appropriations reach higher levels.

The new legislation is the product of a consensus-building process involving congressional Democrats and Republicans, the Department of Education, and representatives of the education and disability communities, and shows how bipartisan cooperation can help achieve important

national goals.

Talking Points on the IDEA Reauthorization - DRAFT May 12, 1997

- The IDEA reauthorization bill that is likely to pass today, with the full support of the President, will strengthen and reaffirm our Nation's 20-year old commitment to disabled children and their parents.
- The new law reflects many of the key principles outlined in the Administration's reauthorization proposal. The upgraded IDEA contains a stronger emphasis on educational results and provides better support for parents. The reauthorization also protects the safety of all students in the classroom while retaining the essential rights and protections of disabled students. In addition, the new IDEA has a modified funding formula to reduce incentives to wrongly identify children as having a disability.
- IDEA legislation died a contentious death at the end of the last Congress, but today's vote shows what is possible when Democrats and Republicans put aside their differences and work to achieve important national goals. We hope to continue in this bipartisan spirit and move forward on the rest of our agenda to improve education and prepare America for the 21st Century.

INTERNAL Q'S AND A'S ON IDEA -- NOT FOR DISTRIBUTION
DRAFT -- May 13, 1997

Q: Do you think Majority Leader Lott and his staff deserve the credit for passing this legislation this time?

A: The Majority Leader and his chief of staff, David Hoppe, showed considerable leadership throughout this process, but this accomplishment would not have been possible without the hard work of a number of Democrats and Republicans from both the House and the Senate, *and by Secretary Riley* and the Administration negotiating team, led by Assistant Secretary Judy Heumann ("HUMAN"). This group worked very closely with education groups and the disability community to get a consensus bill.

Q: What effect does this legislation have on Virginia's dispute with the Administration over services to disabled students who have been suspended or expelled?

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Q: Is this legislation supported by education groups and the disability community?

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Q: How much does the Federal government spend on special education?

A: For FY 97, appropriations for State grants under IDEA (parts B and H) total \$3.78 billion, up from \$3 billion in FY 96. The Administration has proposed increasing state grants by an additional 4.3%, to a total of \$3.95 billion, for FY 98.

more since FY 92?

Q: Some Republicans contend that this bill is an unfunded mandate. Do you agree?

A: IDEA is not an unfunded mandate. No state has to participate in IDEA; participation is voluntary, and assists states to meet their constitutional obligations to provide equal access to a public education to children with disabilities. States would have these obligations even if they did not receive IDEA funds. Moreover, IDEA is exempted from coverage by the Unfunded Mandates Reform Act of 1995 signed by the President.

Q: Does the Administration agree with Senator Gregg that the share of IDEA funding should increase to 40% of total costs?

A: The Administration agrees with Senator Gregg that the federal government should contribute more toward meeting the costs of special education, and has consistently sought increases in funding for this program. *However, it is important to support a broad range of programs which will improve educational opportunities for all Americans.*

DRAFT STATEMENT ON HOUSE AND SENATE PASSAGE OF INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA) REAUTHORIZATION LEGISLATION

I am pleased that the House ^(and Senate) today took a major step toward ensuring high quality educational opportunities for all students with disabilities by voting to reauthorize the Individuals with Disabilities Education Act (IDEA). *I am hopeful that the Senate will do the same*

Over the last 20 years, the IDEA has made it possible for young people with disabilities to reach their full potential. This legislation strengthens and reaffirms our commitment to these children and their parents, and I look forward to signing it into law.

This legislation is the result of a bipartisan process that involved hard work not only by both Democrats and Republicans in the Congress but also by the Department of Education and representatives of the education and disability communities. I hope that we can continue in this bipartisan spirit and move forward on the rest of our agenda to improve education and prepare America for the 21st Century.



Carol_Cichowski @ ed.gov
05/13/97 07:21:00 AM

Record Type: Record

To: William R. Kincaid

cc:

Subject: Re: IDEA

Message Creation Date was at 12-MAY-1997 17:04:00

Carol--

If we were going to say that over the past 20 years IDEA "has made it possible for X young people with disabilities to reach their full potential," what would the proper number be? Millions?

Thanks

-- Bill Kincaid

Yes, millions. The program is currently serving 5.8 million children, aged 3-21.



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

June 2, 1997

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 5 - Individuals with Disabilities Education Act
Amendments of 1997
Sponsors - Rep. Goodling (R) PA and 18 others

Last Day for Action

Purpose

Authorizes appropriations and clarifies, strengthens, and improves the Individuals with Disabilities Education Act (IDEA) to better educate children with disabilities.

Agency Recommendations

Office of Management and Budget	Approval
Department of Education	Approval (Signing statement attached)
Office of Government Ethics	Approval
National Council on Disability	Approval
Department of the Interior	Defers to Education (Informally)
Department of Defense	Defers to Education (Informally)
Department of Health and Human Services	Defers to Education (Informally)
Office of Personnel Management	No objection (Informally)
Office of National Drug Control Policy	No objection (Informally)
Department of Commerce	No comment (Informally)
Department of Justice	No comment (Informally)
Social Security Administration	No comment (Informally)

Discussion

As you noted in a press release upon House passage of H.R. 5, the bill is the product of a bipartisan process that involved Congress, the Administration, and representatives of the education and disability communities who worked hard to reauthorize the IDEA. You stated that House passage is "a major step toward ensuring high quality educational opportunities for all students with disabilities," and that you looked forward to signing the bill into law.

The IDEA authorizes assistance to States to educate children with disabilities. This assistance is provided through various grant programs to help States provide special education and related services, develop and implement systems to provide early intervention services, and support research and technical services. In order to receive IDEA grant funds, States must provide for a free and appropriate public education to each child with a disability. The IDEA also provides procedural safeguards to protect the rights of children with disabilities and their families.

In 1995, the Administration transmitted legislation to the 104th Congress to reauthorize and strengthen the IDEA, but the legislation was not enacted. H.R. 5 contains many features embodied in the Administration's earlier proposal, and the Administration strongly supported H.R. 5 while it was being considered by the 105th Congress.

Major Provisions of H.R. 5

H.R. 5 would amend the IDEA in various respects. According to the report of the House Committee on Education and the Workforce, the intent of the bill is to improve the IDEA through provisions that would: (1) emphasize what is best educationally for children with disabilities; (2) give professionals, especially teachers, more influence and flexibility in the delivery of education to children with disabilities; (3) enhance the role of parents in decision-making that affects their child's education; (4) make schools safe and describe how school officials may discipline children with disabilities; and (5) consolidate and target discretionary programs so schools can more effectively serve children with disabilities, including infants and toddlers.

The major provisions of H.R. 5 are summarized below. A more detailed description of the bill's provisions is attached to the Department of Education's (ED) enrolled bill views letter.

Discipline. Under current law, school officials may remove a disabled child who is disruptive from the classroom for up to 45 days for misconduct involving guns. H.R. 5 would expand this authority to apply to other weapons or illegal drugs. School system hearing officers would be given the authority, currently held only by courts, to remove a child whose continued presence would pose a substantial risk of injury to the child or others. School districts would be prohibited from terminating special education and related services, even to children who have been suspended or expelled from school because of significant behavioral and disciplinary problems. Such services could be provided in an "appropriate interim alternative educational setting".

Funding Formula. H.R. 5 would change the Federal formula for allocating special education funds, which currently gives schools an incentive to classify students as disabled. It would maintain the current formula, which allocates Federal funding according to the number of disabled children in a school district, until appropriations of \$4.9 billion are allocated. Funds appropriated above \$4.9 billion (the FY 1997 appropriation was \$4 billion) would be allocated under a new formula. Under this new formula, 85 percent of new funds would be allocated to States on the basis of their total population of school-age children. Fifteen percent of any remaining funds would be allocated based on the number of children in poverty in the State.

Including Children with Disabilities in the General Curriculum. H.R. 5 contains several provisions to enhance the inclusion of children with disabilities in the general curriculum, rather than in a separate special education program. This would promote the Administration's goal of ensuring that children with disabilities meet the same high standards that have been set for all children. The bill, for example, would: (1) require that individualized education plans for children with disabilities explain any exclusion of the child from participation with nondisabled children in regular classroom and extracurricular activities; (2) require States to include children with disabilities in general student assessments and performance reports; and (3) provide for sufficient personnel and adequate training of classroom teachers to meet the needs of children with disabilities.

Local Contribution. The enrolled bill would require local school districts to contribute at least as much funding to the program as they had the previous year, until Federal appropriations reach \$4.1 billion. After the Federal appropriation exceeds \$4.1 billion, school districts would be able to use up to 20 percent of their increased allocation to supplant local funds.

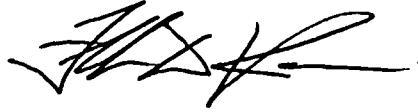
Legal Proceedings. H.R. 5 would eliminate the requirement for school districts to pay the fees of attorneys who represent parents of a student with disabilities in meetings that involve the student's individualized education plan, unless the meetings are convened as the result of an administrative proceeding or judicial action. It would also require States to offer voluntary mediation -- in lieu of costly litigation -- to parents of children with disabilities when they have requested a due process hearing.

Conclusion and Recommendations

In its enrolled bill views letter, ED strongly recommends the approval of H.R. 5 as a bill that "will do much to help improve educational results for the 5.8 million children with disabilities who are served under the IDEA." ED states that the "enrolled bill achieves all of the significant goals, and includes a very high percentage of the specific provisions, that this Administration has actively pursued since we submitted our legislative proposal to Congress nearly two years ago."

The National Council on Disability (NCD), while recommending the approval of H.R. 5, notes that some members of the disability community are very concerned about certain features of the bill. Specifically, they are concerned that the provisions allowing removal of disabled children from the classroom for disciplinary reasons may be abused by school administrators. To assuage these concerns, NCD recommends that a signing statement specify that ED will "give careful attention to monitoring its implementation so that every child receives a quality education in the most appropriate setting for that child." ED objects to the inclusion of this language because it could imply that ED will conduct an unrealistic level of monitoring. ED also believes that such language would detract from the otherwise positive tone of a signing statement. We agree with ED.

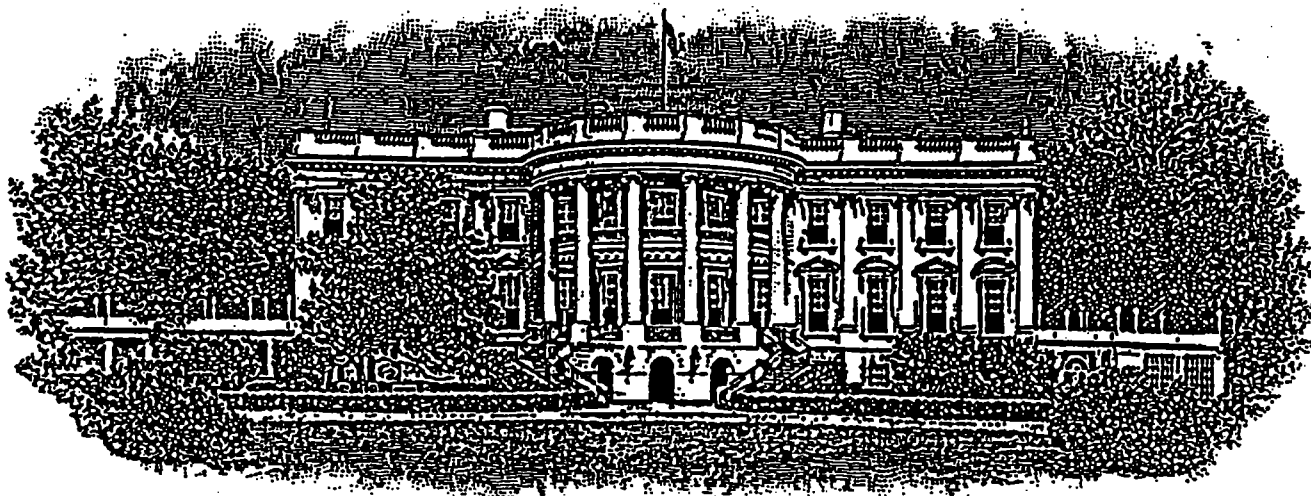
We join ED, NCD, and the Office of Government Ethics in recommending the approval of H.R. 5, which passed the House by a vote of 420-3 and the Senate by a vote of 98-1. ED has prepared a signing statement, which is attached to its enrolled bill views letter, for your consideration. The statement, which highlights the bill's positive features, has been reviewed and approved by NCD, the Domestic Policy Council, and this Office.

A handwritten signature in black ink, appearing to read 'Franklin D. Raines', with a stylized flourish at the end.

Franklin D. Raines
Director

Enclosures

The White House



Domestic Policy Council
Old Executive Office Building, Room 220
Washington, DC 20502

Telephone Number: (202) 456-2857
Alternate: (202) 456-2216

FAX Number: (202) 456-7028
Alternate FAX: (202) 456-7431

FAX COVER SHEET

TO: Josh Silverman

FAX: 6-6210

FROM: BILL KINCAID

THIS FAX INCLUDES THE COVER SHEET PLUS 4 PAGES.

IF YOU DID NOT RECEIVE THE COMPLETE FAX, PLEASE CALL (202) 456-2857.

MESSAGE:

IDEA weekly - DRAFT

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DRAFT -- May 12, 1997

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The new legislation upgrades the IDEA in several ways:

- A stronger emphasis on educational results. The new IDEA revises the content of student Individual Education Plans to better focus on enabling disabled children to participate and progress in the general curriculum. In addition, the new law reaffirms that all children with disabilities must be included in State and district assessments, with appropriate accommodations where necessary.
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[Q: Some Republicans contend that this bill is an unfunded mandate. Do you agree?]

[A: IDEA is clearly not an unfunded mandate as defined by the Unfunded Mandates Reform Act signed by the President.]

School districts have the responsibility of providing FAPE (Free Appropriate Public Education) to children with disabilities regardless of whether they participate in the program.

[Q: Does the Administration agree with Senator Gregg that the share of IDEA funding should increase to 40% of total costs?]

[A: The Administration agrees with Senator Gregg in principle that the federal government should pay a greater share of the costs of special education, and has consistently sought increases in funding for this program.]

Increased funding is needed to improve services

*Pls. get
funding?*

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DISABILITIES EDUCATION ACT (IDEA) REAUTHORIZATION LEGISLATION --
DRAFT -- May 13, 1997

I am pleased that the House and Senate today took a major step toward ensuring high quality educational opportunities for students *with disabilities* by voting to reauthorize the IDEA. Over the last 20 years, the IDEA has made it possible for *millions of* young people with disabilities to reach their full potential, and this legislation strengthens and reaffirms our commitment to these children and their parents. This legislation is the result of a remarkable process involving hard work by congressional Democrats and Republicans, the Department of Education, and representatives of the education and disability communities. I look forward to signing this legislation into law, and I hope that we can continue in this bipartisan spirit and move forward on the rest of our agenda to improve education and prepare America for the 21st Century.



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

FAX COVER SHEET

Number of pages 1
(excluding cover sheet)

Date 5/12/97

Time 5 30 am pm

TO: SAP DISTRIBUTION LIST

FROM: OMB LEGISLATIVE AFFAIRS
Phone: 395-4790

SUBJECT OF SAP:

H.R. 5 - Individuals with
Disabilities Education Act (IDEA)
Improvement Act of 1997



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

May 12, 1997
(House)

STATEMENT OF ADMINISTRATION POLICY

(THIS STATEMENT HAS BEEN COORDINATED BY OMB WITH THE CONCERNED AGENCIES.)

H.R. 5 - Individuals with Disabilities Education Act (IDEA) Improvement Act of 1997 (Rep. Goodling (R) PA and 18 others)

The Administration strongly supports House passage of H.R. 5 as a major step towards ensuring high-quality educational opportunity for all students. Reauthorization of the Individuals with Disabilities Education Act (IDEA) reaffirms and strengthens this commitment to children with disabilities and their parents. This legislation is the product of comprehensive bipartisan negotiations involving both chambers of the Congress and the Administration, with broad public input from many individuals and organizations. It places a strong emphasis on teaching and learning, and will do much to help improve educational results for the 5.8 million children with disabilities who are served under the IDEA.

* * * * *



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

(O) 202-205-5465

(F) 202-205-9252

DATE: 5/13/97NUMBER OF PAGES: 6
(including cover)TO: Bill Kenaid

AGENCY: _____

PHONE: 456 - 7028

FAX: _____

FROM:

_____Veronica Hogan_____Prudence Lezy_____Cathy Dawkins_____Howard Moses_____Dianne Hardy_____☒ Judith Heumann_____Joyce Brown-Moore_____Elizabeth McCulley

COMMENTS: _____

IDEA as an Unfunded Mandate

Question: Isn't IDEA an expensive, unfunded mandate that puts tremendous burdens on states?

Answer:

- As a former governor, I am very sensitive to the unfunded mandate question. In the past 2 years I have worked hard to make education laws more flexible and less burdensome. But, I do not believe that this department imposes any significant unfunded mandates on states or communities.
- First, to the extent that the Department imposes any requirements, they are conditions of federal assistance or duties arising from participation in voluntary federal programs. No state has to participate in Department programs – and thus can always avoid the requirements.
- Second, many of the Department's programs and many of the requirements the Department enforces are designed to implement civil and constitutional rights.

IDEA is an example of this.

No state has to participate in IDEA – and if a state wanted to avoid the particular requirements of the IDEA it could do so by declining to participate.

However, students with disabilities have a Constitutional right to equal access to a public education. This right was determined by landmark court cases before IDEA was ever passed. The state and local responsibility to educate individuals with disabilities would exist even in the absence of federal legislation, federal programs, or federal funding.

Repealing IDEA could well increase rather than decrease state and local costs. While the federal government currently allocates to states only 8 percent of the excess cost of educating children with disabilities, if IDEA were repealed states and districts would bear the total cost themselves.

Of course, we are concerned about Federal requirements that impose unnecessary burdens or that divert resources from the teaching and learning of students. In developing our reauthorization proposal we are examining IDEA with a view to reduce unnecessary burdens and to strengthen the capacity of schools to help students with disabilities reach higher standards.

Revised 6/15/95

IDEA IS NOT AN UNFUNDED MANDATE

- The IDEA's requirement to provide appropriate educational services to students with disabilities is not an "unfunded mandate".
- The IDEA is a Federal grant statute under which States voluntarily and with their eyes open accept Federal money in exchange for an agreement to meet specific conditions that are known to them when they apply and that may be in addition to what State law requires.
- States may choose not to participate in the IDEA program.
- The IDEA itself is not an "unfunded mandate" even though some complain that the Federal Government has not assumed the maximum portion of the costs of educating children with disabilities allowed under the Act.
- Under the Constitution, the primary responsibility for providing and paying for the services that are guaranteed by the IDEA lies with the States, as it does for nondisabled children.
- IDEA funds generally are available to ASSIST the State in providing equal educational opportunities to disabled children--a responsibility they would have EVEN IF THEY DID NOT RECEIVE IDEA FUNDS.

Judy

INSERT ON "UNFUNDED MANDATE" FOR
HARKIN FLOOR STATEMENT

Mr. President, some of my colleagues ^{refer to} ~~are still asserting that~~ IDEA is
an unfunded mandate. ~~That assertion is simply not correct.~~

I would like to set the record straight, ~~once and for all that~~ ^P part B of the
IDEA is not an unfunded mandate:

The notion that Congress imposed a mandate on States and school
districts to educate children with disabilities, and then refused to pay for it is
not ~~the case~~ ^{the case}.

The truth is that the right of children with disabilities to a free
appropriate public education is a constitutional right established in the early
1970s by two landmark federal district court cases—Pennsylvania Association
for Retarded Children v. Commonwealth in 1971 and Mills v. Board of
Education of the District of Columbia in 1972.

The House and Senate Reports that accompanied the Education for All
Handicapped Children Act of 1975 (P.L. 94-142), which established the basic

provisions of Part B of IDEA, clearly attribute the impetus for the Act to these two federal court judgements.

As the Senate Report states, passage of the Act "followed a series of landmark court cases establishing in law the right to education of all handicapped children."

Following these federal district court decisions, some 50 court challenges were filed throughout the country alleging violations of the equal protection clause of the 14th Amendment.

Thus, IDEA was enacted for two reasons: First, to establish a consistent policy of what constitutes compliance with the equal protection clause so that there would be no need to continue pursuing separate court challenges around the country. Second, to help States meet their constitutional obligations.

The United States Supreme Court reiterated this position in Smith v. Robinson, 468 U.S. 992, by recognizing that Part B of IDEA "is a

comprehensive scheme set up by Congress to aid States in complying with their constitutional obligations to provide public education for handicapped children."

The Court cited a portion of the 1975 Senate report on Public Law 94-142, which stated:

It is the intent of the Committee to establish and protect the right to education for all handicapped children and to provide assistance to the States in

carrying out their responsibilities under State law and the Constitution of the United States to provide equal protection under the law.

The Court then explained that "The [IDEA] was an attempt to relieve the fiscal burden placed on the States and localities by their responsibility to provide education for all handicapped children."

Therefore, IDEA is a program that is exempted from coverage under the Unfunded Mandate Reform Act of 1995. The Congressional Budget Office explicitly recognized this fact in the House and Senate reports accompanying the IDEA reauthorization bills.

So, let us be clear about IDEA. I know that special education is more expensive for some disabled children than for nondisabled children. No one works harder than I do to increase federal funding to assist the States to meet their constitutional responsibilities. But the guarantee in the IDEA of a free appropriate public education is not an unfunded federal mandate. It is a basic right guaranteed by the federal and State constitutions of this Country.

of the CBO letter and a copy

Mr. President, I would like unanimous consent that a copy of a memorandum from the American Law Division of the Library of Congress concluding that IDEA is not considered an unfunded mandate under the Unfunded Mandated Reform Act of 1995 be included the Record.

URGENTTotal Pages: 5

LRM ID: CJB37

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Wednesday, May 7, 1997

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: *Constance J. Bowers for*
Janet R. Forsgren (for) Assistant Director for Legislative Reference
OMB CONTACT: Constance J. Bowers
PHONE: (202)395-3803 FAX: (202)395-6148

SUBJECT: EDUCATION Press Statement on S216/HR5 Individuals with Disabilities
Education Act of 1997

DEADLINE: 11:30 a.m. Wednesday, May 7, 1997

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: Sec. Riley plans to hold a press conference following House and Senate Committee markups this morning of the IDEA legislation.

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James C. Murr

**RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM**

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

DRAFT

**Statement of
Richard W. Riley
U.S. Secretary of Education**

**On the Legislative Agreement on the Individuals
with Disabilities Education Act
May 7, 1997**

I am very pleased to join Senator Lott and Senator Harkin, Cong. Goodling and Cong. Clay and the many Senators and Congressmen who have worked so hard to make this agreement possible. Many of them are here with us today.

I want to thank Senator Lott for making the Department a full and equal partner in shaping this agreement. His openness to such an approach, is another tangible expression of the new bipartisan commitment to getting the job done for the American people. I am very pleased that I was able to send one of my best -- Assistant Secretary Judy Heumann -- to participate in negotiating the agreement.

This is a strong, bipartisan agreement that has the full support of the President and this Administration. We will work very hard to make sure that it gets to the President's desk for his signature. This agreement places a strong emphasis on teaching and learning, and on improving educational results for over 5.7 million disabled children served under the IDEA. I am very pleased by the results, and every segment of the education community should find satisfaction in this agreement.

Parents of disabled children get the support they need. They will be more fully involved in placement decisions, and they will get report cards on the progress

their children are making as frequently as the parents of non-disabled children.

Parents will also have the satisfaction of knowing that the regular education teachers who teach their children will now be part of the team developing and reviewing the child's educational program -- the IEP. This should give disabled children more of an opportunity to succeed in regular classrooms.

To ensure that children with disabilities learn to high standards, the bill reaffirms that all children with disabilities must be included in State and district assessments, with appropriate accommodations where necessary.

The agreement expands the authority of teachers and principals to protect the safety of all children in the classroom, while retaining the essential rights and protections for children with disabilities. The bill also makes clear that educational services may not be terminated for any child with a disability.

Schools districts will get financial relief because of new cost-sharing provisions, and there will be less paperwork for teachers, school districts, and States. We also clarify the requirements for providing services to children whose parents voluntarily place them in private schools.

Finally, this agreement is important in another way as well. The agreement will help us heal the divisiveness that has grown up over the years that sometimes has divided the parents of disabled children and school authorities. I believe everyone, for example, will benefit from the new mediation mechanisms to

3

resolve disputes between parents and school officials.

As a result, I think we will be able to get back to a strong focus on the learning process; to making sure that all of these young people reach their full potential.

Thank you.



FAX TRANSMISSION

U.S. DEPARTMENT OF EDUCATION
Office of Legislation and Congressional Affairs

600 INDEPENDENCE AVENUE, SW, ROOM 6337

WASHINGTON, DC 20202-3100

(202) 401-1028

FAX: (202) 401-1438

Date: 5/9/97

Fax #: 456-7028

Sent to: Bill Knead

Office: W7H

From: Charlotte Fross

Number of Pages (including cover sheet): 2

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

COMMENTS: _____

I am writing to strongly encourage your support for H.R. 5/S.717, The Individuals with Disabilities Education Act Amendments of 1997. This strong, bipartisan legislation resulted from months of intense bicameral and bipartisan negotiations, which included Administration representation, to come up with a balanced approach to reauthorizing this sensitive legislation. The bill before you has the full support of the President and this Administration. I am committed to seeing that it gets to the President intact for his signature.

H.R. 5/S.717 represents a balanced approach that places a strong emphasis on teaching and learning, and improved educational results for almost 5.8 million disabled children. ~~But~~, every segment of the education community should find satisfaction in this agreement.

Parents of disabled children would get the support they need. They would be more fully involved in placement decisions and get report cards on the progress their children are making as frequently as the parents of non-disabled children. Parents would also have the satisfaction of knowing that the regular education teachers who teach their children would be part of the team developing and reviewing the child's educational program — the IEP. This should give disabled children more of an opportunity to succeed in the regular classroom.

I am also pleased that the legislation envisions high expectations and standards for children in special education by requiring that they participate in state and district assessments, with appropriate accommodations where necessary.

H.R. 5/S. 717 would expand the authority of school officials to protect the safety of all children in the classroom. Parents of disabled children and non-disabled children alike need to know that school officials can act quickly to avoid situations that involve weapons and drugs that can put children in harm's way. But the bill would reinforce the essential rights and protections for children with disabilities facing disciplinary actions. The bill affirms that educational services may not be terminated for any child with a disability.

Schools districts would get financial relief under H.R. 5/S. 717 with new cost-sharing provisions, and reduced paperwork required from teachers, school districts, and states. The legislation would also clarify the responsibilities for school districts to provide services to children whose parents voluntarily place them in private schools.

I believe that with the enactment of this bill, we will heal divisions that have developed among parents of disabled children, the disability community, teachers, and school officials. I believe everyone, for example, will benefit from the new mediation mechanisms to resolve disputes between parents and school officials.

I urge you to support passage of this Act which has a strong focus on teaching and learning, making sure that all young people — disabled and non-disabled — reach their full potential.

Sincerely,

Richard W. Riley

Fraas -- May 8, 1997

Wee hours--

Tuesday -- Boxer press release that would exempt all inmates in adult correctional facilities from special ed

Kennedy/DOJ in the mix

Discipline provisions re: hearing officer for a kid who was a danger to self or other-- standards was substantial evidence -- adv groups thought too low --wanted preponderance

via Bobbie Silverstein

Riggs staff called 9 pm

2 am worked out--

- accepted Kennedy for the most part--something statutory and in report language on DOJ referral
- accepted change in due process -- substantial evidence, defined as preponderance
- prison language beefed up--not clear whether satisfies Boxer
-- if a kid, upon entering, if not previously identified or served under IEP just before going in, than didn't have to be served
-- effectively negates child-find once they get into prison for those 18 and over

Only outstanding issue in the Senate was Gregg that S. 1 authorization levels, up to 40%, not included.

Convinced not to intro amendment in committee--so none offered. Warner convinced not to intro on cessation.

House, Owens (all defeated) and McIntosh (withdrew some).

Gregg withdrew his under and agreement with Jeffords that they would get together with Porter and Specter to try to get an agreement for an additional Billion for 98 for Part B, if he doesn't, will take the issue to the floor.

Authorization levels had been in the bill.-- House Republicans took it out

Danger on budget agreement--what if they cannibalize our other programs.

Jeffords complimented.

Parent groups met with Kennedy staff (Littl last night--saying suspension language not enough.

New Jersey issues fell out

3 issues--if likely to come up, will be in Senate

Kennedy

Gregg

Boxer--Miller going to talk to

slight difference in the two bills--on the prison language

Senate -- if not receiving services

House -- two way language

House would go first, would hold Senate bill at the desk, take up House bill when it comes over.

Casstevens and Frass -- met with DPC on the Senate -- anxious to get going with message on the good things that came out of the budget agreement--

GOP's backing off -- keep feet to fire best

Raines statement in Dem caucus meeting Mon or Tues night that we are still going to be supporting--then backtracked

Mosely-Braun still wants to pursue

Need to get guidance on what to do on school construction

Dems need credit on IDEA
only because of D-involvement could we do something for children

After House mark--Fraas-- spoke to Riggs

wouldn't it be good to have this kind of bipartisanship-- on reauthorizing America Reads

Is going to call

DRAFT -- IDEA REAUTHORIZATION

Wednesday the House Education and the Workforce Committee and the Senate Labor and Human Resources committee approved nearly identical bills reauthorizing the Individuals with Disabilities Education Act (IDEA). The legislation embodies much of the Administration's reauthorization proposal, which was designed to place a stronger emphasis on teaching and learning and improving educational results for disabled children. For example, the bill requires that Individualized Education Plans (IEP's) be focused on enabling the child to participate in the general curriculum, and reaffirms that disabled students must be included in state and district assessments, with appropriate accommodations where necessary.

The legislation also reflects reasonable compromises on many of the stickiest issues left over from the last Congress, protecting the rights of disabled students and their families while also expanding the authority of teachers and principles to protect the safety of all children in the classroom. On discipline, for example, the new law would make it easier to remove a student from the classroom for bringing a weapon or drugs to school but would overturn the 4th Circuit's decision and require that disabled students continue to receive services even if they have been suspended or expelled. The legislation would also make changes in the IDEA funding formula, using census and poverty counts in order to diminish incentives to wrongly identify children as having a disability (although formula changes would only take effect at substantially increased appropriations levels).

This week's committee action was the culmination of an intensive bipartisan negotiating process, convened by Majority Leader Lott's staff, involving key House and Senate Democrats and Republicans, Administration officials, and education and disability groups, which methodically addressed outstanding issues left over from the last Congress. The legislation is expected to be approved by the House on Tuesday, and could be given final approval by the Senate as early as Wednesday. There is a very good chance the bill will be ready for signature by the end of month.

DRAFT -- IDEA REAUTHORIZATION

Wednesday the House Education and the Workforce Committee and the Senate Labor and Human Resources committee approved nearly identical bills reauthorizing the Individuals with Disabilities Education Act (IDEA). The new legislation places increased emphasis on improving educational results for disabled children, while also reflecting key compromises that preserves the rights of disabled students and their families while also expanding the authority of teachers and principles to protect the safety of all children in the classroom. On discipline, for example, the new law would make it easier to remove a student from the classroom for bringing a weapon or drugs to school but would overturn the 4th Circuit's decision and require that disabled students continue to receive services even if they have been suspended or expelled.

This week's smooth committee action resulted from an intensive bipartisan negotiating process, involving key House and Senate Democrats and Republicans, Administration officials, and education and disability groups. The legislation is expected to be approved by the House on Tuesday, and could be given final approval by the Senate as early as Wednesday. There is a very good chance the bill will be ready for signature by the end of month.

DRAFT -- NOT FOR RELEASE

May 8, 1997
(House)

H.R. 5 - IDEA Improvement Act of 1997
(Rep. Goodling (R) PA and 18 others)

The Administration strongly supports House passage of H.R. 5 as a major step towards ensuring high-quality educational opportunity for all students. Reauthorization of the IDEA reaffirms and strengthens this commitment to children with disabilities and their parents. This legislation is the product of comprehensive bipartisan negotiations involving both chambers of the Congress and the Administration, with broad public input from many other individuals and organizations. It places a strong emphasis on teaching and learning, and will do much to help improve educational results for the 5.8 million children with disabilities who are served under the IDEA.

* * * * *

URGENT

Total Pages: 4

LRM ID: CJ839

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Thursday, May 8, 1997

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: *Constance J. Bowers for*
Janet R. Forsgren (for) Assistant Director for Legislative Reference
OMB CONTACT: Constance J. Bowers
PHONE: (202)395-3803 FAX: (202)395-6148
SUBJECT: Statement of Administration Policy on HR5 IDEA Improvement Act of 1997

DEADLINE: 4:00 p.m. Thursday, May 8, 1997

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: HR 5 is scheduled for consideration next week in the House under Suspension of the Rules. The bill was ordered reported by the House Education and Workforce Committee on May 7th. A copy of the substitute version is not yet available. If you are unable to obtain a copy in a timely fashion, please let us know. The earlier version is available on the world wide web. You might try accessing the Committee's homepage for updates.

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Larry R. Matlack

SUBJECT: Statement of Administration Policy on HR6 IDEA Improvement

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

(2) sending us a memo or letter

Please include the LRM number shown above, and the subject shown below.

TO: Constance J. Bowers Phone: 395-3803 Fax: 395-6148
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant): 395-7362

FROM: _____ (Date)
 _____ (Name)
 _____ (Agency)
 _____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

Concur

 No Objection

No Comment

See proposed edits on pages

Other:

FAX RETURN of _____ pages, attached to this response sheet

DRAFT -- NOT FOR RELEASE

May , 1997
(House)

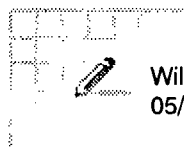
H.R. 5 - IDEA Improvement Act of 1997
(Rep. Goodling (R) PA and Others)

The Administration strongly supports House passage of H.R. 5. This legislation is the product of comprehensive bipartisan negotiations involving both chambers of the Congress and the Administration, with broad public input from many other individuals and organizations. It places a strong emphasis on teaching and learning, and will do much to help improve educational results for the 5.8 million children with disabilities who are served under the IDEA.

DRAFT

**STATEMENT ON HOUSE AND SENATE COMMITTEE PASSAGE OF INDIVIDUALS
WITH DISABILITIES EDUCATION ACT (IDEA) REAUTHORIZATION LEGISLATION --
DRAFT**

I am pleased that the House and Senate education committees today took a major step toward ensuring high quality educational opportunities for all students by voting to send legislation reauthorizing the IDEA to the full House and Senate. Over the last 20 years, the IDEA has made it possible for young people with disabilities to reach their full potential, and this legislation strengthens and reaffirms our commitment to these children and their parents. This legislation is the result of a remarkable process involving hard work by congressional Democrats and Republicans, the Department of Education, and representatives of the education and disability communities. I hope we can continue in this bipartisan spirit to pass IDEA and move forward on the rest of our agenda to improve education and prepare America for the 21st Century.



William R. Kincaid
05/07/97 03:28:03 PM

Record Type: Record

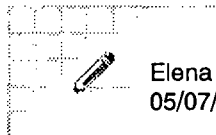
To: Diana Fortuna/OPD/EOP
cc: Michael Cohen/OPD/EOP
Subject: IDEA

Suggestions for fine-tuning?

**STATEMENT ON HOUSE AND SENATE COMMITTEE PASSAGE OF INDIVIDUALS
WITH DISABILITIES EDUCATION ACT (IDEA) REAUTHORIZATION LEGISLATION
-- DRAFT**

I am pleased that today the House and Senate education committees have taken a major step towards ensuring high quality educational opportunities for all students. Today's votes come after much hard work by congressional Democrats and Republicans alike, along with tireless efforts by Secretary Riley and the Department of Education. This legislation is critical to helping parents and local schools work together in order to improve teaching and learning for students with disabilities, and to help all our young people reach their full potential. I hope we can continue in this bipartisan spirit to pass IDEA and move forward on the rest of our agenda to improve education and prepare America for the 21st Century.

----- Forwarded by William R. Kincaid/OPD/EOP on 05/07/97 03:27 PM



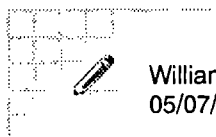
Elena Kagan
05/07/97 02:58:25 PM

Record Type: Record

To: Michael Cohen/OPD/EOP
cc: William R. Kincaid/OPD/EOP
Subject: IDEA

could you guys work up a presidential statement for tomorrow? thanks.

----- Forwarded by Elena Kagan/OPD/EOP on 05/07/97 03:02 PM



William R. Kincaid
05/07/97 02:43:49 PM

STATEMENT ON HOUSE AND SENATE COMMITTEE PASSAGE OF INDIVIDUALS
WITH DISABILITIES EDUCATION ACT (IDEA) REAUTHORIZATION LEGISLATION --
DRAFT

I am pleased that ^{today, took} today the House and Senate education committees ~~have taken~~ a major step towards ensuring high quality educational opportunities for all students by voting to send legislation reauthorizing the IDEA to the full House and Senate. This legislation is critical to strengthening our commitment to children with disabilities and their parents -- a commitment that has made it possible for so many young people to reach their full potential since IDEA was first enacted 20 years ago. This legislation is the result of a remarkable process involving hard work by congressional Democrats and Republicans, the Department of Education, and representatives of the education and disability communities. I hope we can continue in this bipartisan spirit to pass IDEA and move forward on the rest of our agenda to improve education and prepare America for the 21st Century.

Over the last 20 years, the IDEA has made it possible for young people with disabilities to reach their full potential, and this legislation reauthorizes strengthening our commitment to these children and their parents.

sep doc.

Ek - note for COS her

Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP
cc: Michael Cohen/OPD/EOP
Subject: IDEA

----- Forwarded by William R. Kincaid/OPD/EOP on 05/07/97 02:47 PM

 05/07/97 02:34:42 PM

Record Type: Record

To: William R. Kincaid/OPD/EOP
cc:
Subject: Re: Sec. Riley's Statement on IDEA

----- Forwarded by Diana Fortuna/OPD/EOP on 05/07/97 02:39 PM

 Lucia A. Wyman
05/07/97 11:50:55 AM

Record Type: Record

To: Diana Fortuna/OPD/EOP
cc:
Subject: Re: Sec. Riley's Statement on IDEA 

A few minor and not so minor problems w/IDEA this morning but all worked out and passed out of both the House and Senate Committees. Should go to floor next week. Press Conference at 3pm. Lott goes first/then Sec Riley, then members. Would you let folks know. I've got another bill on floor today. Thanks.