

16. Education Week

May 20, 1997

House, Senate Easily Approve Spec. Ed. Bill

By Joetta L. Sack
Washington

Even as changes in the nation's main special education law headed to President Clinton last week, some educators worried that the bill was too watered down to resolve difficult discipline problems.

Groups representing principals and teachers complained that the legislation does not go far enough in allowing administrators to remove violent and disruptive disabled children from classrooms.

What's more, they said, a last-minute change may have further weakened administrators' powers.

"The legislation offers no language to let schools immediately remove a seriously disruptive student who is disabled," said Sandra Feldman, the president of the American Federation of Teachers.

Several groups predicted that the discipline issue would have to be revisited soon.

Other educators and advocates for the disabled, meanwhile, hailed the changes to the Individuals with Disabilities in Education Act, which has long been the focus of debate and emotion.

"I can feel the tension oozing out of me," said Joe Ballard, the policy director for the Council for Exceptional Children. "This is a remarkable achievement."

Clinton Pleased

Last week's quick passage of identical bills in the House and the Senate to reauthorize the 1975 law came after months of debate and late-night meetings and compromises. Congressional aides had spent two months rewriting the bill to find a compromise acceptable to all sides. ("IDEA Reauthorization Speeds Through Committees," May 14, 1997.)

The House voted overwhelmingly, 420-3, to pass its bill without any additional amendments. But the Senate first debated several contentious issues, including proposed broader powers for educators to discipline disabled students and limits on federal funding for special education, before passing the bill 98-1.

President Clinton said he was pleased with the final bill and looked forward to signing it into law.

"It strikes the appropriate balance and serves the needs of disabled and nondisabled students," said Judith E. Heumann, the Department of Education's assistant secretary for special education and rehabilitative services.

The bill would give administrators more power to suspend violent disabled students for up to 10 days, or up to 45 days for violations involving weapons, drugs, or controlled substances.

A hearing officer could order a change in educational placement for up to 45 days if a student is deemed to be harmful to himself or herself, or to others. It would allow students who are disciplined for offenses unrelated to their disabilities to receive the same punishment as nondisabled students, except that their education services could not be cut off.

And, in a provision designed to cut down on costly legal battles between parents and school districts, the bill would require states to set up voluntary mediation systems to handle disputes over special education.

Not Enough?

Despite those changes, administrators still need greater power to remove students who endanger school employees or other students, said Stephen R. Yurik, the general counsel for the National Association of Secondary School Principals. Just because a student is not carrying a weapon does not mean he or she may not be dangerous, he said.

The legislation "makes a step forward," Mr. Yurik added. "But we're concerned that it really didn't address the issue that it needed to."

What has some administrators worried is a last-minute technical amendment passed in the House and Senate education committees. It would require that a school prove beyond a "preponderance of evidence" to a special education hearing officer that a student could injure himself, other students, or school officials before suspending the child for more than 10 days.

Sally McConnell, the legislative director for the National Association of Elementary School Principals, said the requirement could hold schools to an unduly high legal standard and hinder their ability to remove violent students.

John Richardson, the principal of Sunnyslope Elementary School in Port Orchard, Wash., said the bill would not adequately protect other students, including other disabled students, who are often the ones harmed by violently disruptive disabled peers.

"We still have our hands tied," he said. "One of the things we need help with is this behavior that is so disruptive, and I don't think the bill adequately deals with that."

But Stevan Kukic, Utah's special education director, said the changes might not have such a dramatic effect. "This is really a pretty good compromise" between parents' concerns and those of schools, he said.

Healing Old Wounds

Healing past wounds between parents and school officials is another hurdle in the IDEA's future, said Michael Resnick, the associate executive director of the National School Boards Association.

"Attorneys will have to recognize that the world has changed and that the mediation process is beneficial," he said. "Unfortunately, [the IDEA] has become a first resort to go to lawyers and litigate."

Sen. Judd Gregg, R-N.H., introduced but later withdrew an amendment that would have mandated increasing IDEA appropriations by about \$1 billion each year until the federal government pays 40 percent of the share of state's special education costs, as many believe the original law intended.

Districts do need more federal money to set up alternative programs for violent disabled students, Mr. Kukic, the Utah official, said.

The reauthorization would effectively quell high-profile battles with the education departments in two states, California and Virginia. In each case, the department threatened to withhold the state's IDEA allocation because the state was deemed to be violating the special education law.

California would win its battle over its refusal to provide special education services to inmates incarcerated in adult correctional facilities for violent crimes.

The bill would not require states to provide services to inmates who were not

previously identified as disabled. And it would allow states to hand over authority for inmate education services to the correctional agency. ("Issue of Spec. Ed. in Prisons Pits Calif., ED," April 30, 1997.)

But Virginia would see its victory earlier this year in the U.S. Court of Appeals for the 4th Circuit stripped away. In *Virginia v. Riley*, the state convinced the court that the IDEA did

not bar states from halting educational services to disabled students who have been expelled from school for crimes involving weapons or drugs. ("Court Rejects ED Stance in Spec. Ed. Discipline Case," Feb. 12, 1997.)

Gov. George Allen, a Republican, was quick to voice his displeasure.

"Once it has been determined that the misconduct is unrelated to the disability, it is absolutely ludicrous to mandate that

Virginia and its localities cannot discipline a student with disabilities in the same manner as a student without disabilities," he said in a statement. "A learning disability or hearing impairment is not an excuse for beating up a teacher, selling drugs, or carrying a gun in school."

Staff Writer Jessica L. Sandham contributed to this report. ■

17. CongressDaily/A.M.

05/20/97Section: BUDGET;

Budget Deal Clears Two More Hurdles

The bipartisan budget agreement survived two more legislative hurdles Monday night, as the House Rules Committee sent the measure to the floor and the Senate Budget Committee fought off several attempts to alter the deal and finally approved it intact. The Senate panel approved the budget resolution 17-4, after approving several Sense of the Senate amendments. Voting against the deal were Republican Sens. Phil Gramm of Texas and Rod Grams of Minnesota and Democratic Sens. Ernest Hollings of South Carolina and Paul Sarbanes of Maryland.

The budget resolution is likely to go to the floor in both chambers today, with Senate leaders attempting to limit debate to 15 hours. A key Senate Republican aide said Monday night that if the resolutions remain unchanged from the way they were approved by the House and Senate budget panels, there may be no need for a House-Senate conference committee.

Opening the discussion Monday, Senate Budget Chairman Domenici told senators the agreement is "not a Republican budget. It is not a Democrat budget. It is not a presidential budget." Domenici said the deal represents a response to voters who called on both parties to work together. Budget panel ranking member Frank Lautenberg, D-N.J., said, "While no one should see this as a perfect agreement, everyone should see it as a good agreement." However, Hollings said the resolution is not balanced, since it uses Social Security and other pension trust funds to help balance the budget. The panel defeated on voice vote a Hollings plan to eliminate spending increases and tax cuts in an attempt to balance the budget

without use of the trust funds.

Grams said he would oppose the resolution for other reasons, saying that the size of the federal government will not shrink, that Medicare will not be reformed and that the tax cut is not large enough.

However, Sarbanes said it is "irresponsible" to have any tax cut before the budget is balanced.

The committee approved, 17-4, an amendment by Sen. Kent Conrad, D-N.D., to direct the Senate and president to continue work on entitlement reform and to find an accurate Consumer Price Index measurement.

The panel also defeated a plan by Sen. Ron Wyden, D-Ore., to allow defense cuts to be used for domestic spending and to decrease defense spending.

And the committee rejected, 11-10, a Sense of the Senate amendment by Sen. Patty Murray, D-Wash., to ensure that early childhood education be adequately funded.

Lautenberg, who was one of the budget negotiators, voted against the amendment.

The committee also defeated a proposal by Sen. Don Nickles, R-Okla., to ensure that the children's health initiative be a discretionary, not a mandatory program.

Domenici said that program was vital to the budget deal.

On the House side, five substitute budget resolutions, including substitutes fashioned by the Congressional Black Caucus, the House Conservative Action Team and House Transportation and Infrastructure Chairman Shuster, will be debated on the floor today under the rule adopted Monday night.

The rule calls for five hours of general

debate to be divided equally between House Budget Chairman Kasich and ranking member John Spratt, D-S.C., plus an additional 20 minutes to be controlled by Rep. David Minge, D-Minn., to discuss the concerns of conservative House Democrats known as the "Blue Dogs" that the budget resolution contain some mechanism to ensure the budget is balanced by 2002 and beyond.

Minge had offered a substitute amendment at Monday's Rules Committee meeting that tacked enforcement mechanisms onto the resolution reported out of the budget committee last week, but it was not ruled in order.

Of the five hours of general debate provided for in the rule, one hour is to be devoted to the subject of economic goals and policies.

In addition, of the two-and-a-half hours allotted to Spratt, he will only take one and intends to make the remaining time available to House Minority Leader Gephardt to express another Democratic viewpoint on the budget.

Gephardt is expected to use the time to make his first public statements on the budget resolution.

All of the substitutes would balance the budget by 2002.

The Congressional Black Caucus substitute would do so without tax cuts or Medicaid cuts, reduce defense spending by \$189.9 billion, and produce \$25.5 billion in Medicare savings.

The CATs substitute would reduce nondefense discretionary spending by \$109.3 billion over the amount called for in the budget resolution and would use that money to provide another \$109.3 billion in tax cuts, in addition to the

off students and make it easier to concentrate on class work.

Uniforms have drawn criticism, however, as government intrusions that

force conformity and strip students of their individuality.

Yates said she would have liked a chance to allow a handful of schools,

probably elementary, to start a pilot project with uniform policies. However, she said, there was not enough time to resolve the questions she cited. ■

30. Chicago Tribune

05/18/97; Edition: DU PAGE FINAL; D; Section: TEMPO DU PAGE; Page 3

DuPage Spotlight.

GROWING AND LEARNING: SPECIAL EDUCATION STUDENTS SPEND VALUABLE TIME WORKING IN THE GARDEN

By Carolyn C. Armistead
Special to the Tribune.

Digging one's hands into the soil can be a therapeutic and educational experience, says teacher Maria Anesi. On a recent afternoon, eight special education students at Lake Park East High School in Roselle joined her behind the school to prepare a garden plot for vegetables and to plant seedlings in their outdoor greenhouse.

A sudden shriek disturbed the tranquility as student Kara Smiley, 15, decided her encounter with nature had become too intimate.

"There was a worm by my foot," said Smiley, shuddering. "Worms are icky and slimy and gross."

"They're good for fishing. They're good for the earth," offered student Angela Salemi, 14, who worked beside Smiley turning the earth and yanking out weeds.

Shrugging amiably, Smiley turned back to her work and reflected on the vegetables planned for the area. "We're going to put in tomatoes, peppers, onions, potatoes and corn," she said proudly.

Most of the vegetables and flowers tended by Anesi's special education class throughout the year will be sold either at their spring plant sale or during the summer months, with the proceeds going to the continuation of the self-supported program, which they call The Green Scene. Anesi has involved the students in all aspects of the program, from sweeping up dirt and watering plants to planning school beautification projects.

"We refer to it as a business, not a class," Anesi stressed, underscoring the program's main objective, which is "to provide a meaningful work experience, life skills, a hands-on job," she said. In

addition to learning how to follow directions and complete tasks, the students also fill out mock job application forms and time cards and are integrating the use of self-evaluation sheets. Because the gardens will require year-round care, a few students will continue to work there during the summer for pay.

The special education students in Anesi's class are considered mildly mentally challenged, delayed academically, she said. "We work to overcome that by providing challenge in their lives." With the help of The Green Scene and other skills learned at school, Anesi said, she is confident that every student will be employed after graduation.

During the cooler months, the program is moved inside, to a small indoor greenhouse tucked behind a chemistry lab on the second floor of the high school. When the gardening project was launched last year, Anesi and her students adopted the neglected greenhouse, which hadn't been used for several years, and gave it a thorough cleaning as well as painting wood trim. The students then set about collecting financial donations and supplies and seeking information from local greenhouses. The class also has attended the Flower and Garden Show in Chicago for the past two years. "They came back with a million ideas," Anesi said.

"This has been a great program for the kids, one that has really given them a sense of purpose," said Ron Wolstenholm, assistant principal at Lake Park High School's east campus. "I think it makes them feel special, too, because they're the only ones in the district who are doing this."

The program has added a welcome

touch of green to the school's interior as well, the result of a vow by the students to place a plant in every office and classroom at the east and west campuses of the high school. "They see that their work has rewards and makes people happy," Wolstenholm said.

In addition to the joys of being outdoors during school time, Anesi observed that the students view the greenhouses and gardens as sanctuaries: "When they come here, they can relax. This is a positive part of the day when their defenses come down and they can open up and communicate."

"It's nice to be away from other people," Smiley said with a grin as she took a break from her weeding. Earthworms notwithstanding, Smiley affirmed that she enjoys gardening. "I like being with the plants and watering them," she said. "I feel like they're my own children."

Meanwhile, Angela Stirmell, 15, filled commercial plastic plant pouches with soil, then inserted small begonia plugs into openings in the plastic. The result, when the flowers mature and blossom, will be a unique hanging plant to be offered at their spring plant sale. "I really like being outside and working with plants," Stirmell said as she contemplated her soil-caked fingers. "And I don't mind getting dirty hands."

Anesi, who came up with The Green Scene idea when seeking something different to teach employment skills, is also writing a handbook on setting up a greenhouse-based curriculum as a master's degree project at National-Louis University. She has discovered a handful of similar programs across the country. One of them, at Page Park School in Rockford, has established an informal partnership with the Lake Park High

\$500,000.

Although that debt was forgiven last year as part of an archdiocese-wide program, the realization that next year's contribution by the archdiocese would have to be \$230,000 made the decision clear.

"Mathematically, it was just impossible," said Rotunno, who announced the decision in an April 22 letter to parents. "The parishioners understood how hard I've been working to keep this going. If the slide continued, it would have pulled the parish with it."

Rotunno, who came to Our Lady of the Valley three years ago, said the parish postponed raising tuition for too long. Tuition is \$1,750, and Rotunno said it would have to rise to more than \$3,000 to cover expenses, more than families could bear. ■

28. Houston Chronicle

05/18/97; Edition: 4 STAR; Section: A; Page 45

Teens walk out of classes to protest new dress code

Staff

SAN ANTONIO - Teen-agers upset about a new dress code walked out of classes and tore down and threatened to burn the U.S. and Texas flags to protest the changes that are to take effect this fall.

The demonstration at Holmes High School on Friday came three days after the Northside school district's board adopted the changes, which will affect 30,000 middle and high school students.

The revamped dress code bans shorts, body piercing jewelry except for earrings, oversized clothing and multicolored or spiked hair.

School administrators requested the changes, claiming they spend too much time enforcing the current dress code. It allows mid-thigh shorts and does not address the popular loose-fitting jeans or body piercing trends.

More than 200 of the 3,200 Holmes students walked out during class to protest the new policy. Some carried signs that read "Kiss my assets" and shouted "Hell no, we won't go!" when Holmes administrators told them to get back to class.

Others pulled down the flags, as students shouted "Burn 'em both! Burn

'em both!"

One of the protest organizers rushed into the fray to save the banners.

"What they did with the flags is wrong. It's totally disrespectful to have it brought down in shame," said ninth-grader Eric Escue.

He plans to wear shorts on the first day of school next year as a sign of protest.

"The way we dress does not affect our education," said Escue, adding that several students are circulating petitions calling on the board to rescind the policy. ■

29. Houston Chronicle

05/18/97; Edition: 4 STAR; Section: A; Page 45

School district rejects plan to OK uniforms: Parents had backed campus-based choice

By PATTI MUCK

Staff

ROSENBERG - Despite strong parental support for letting campuses decide on uniform-dress policies, trustees for the Lamar Consolidated Independent School District have rejected the idea.

In a 4-2 vote Thursday night, trustees said no to a plan that would have allowed individual schools in the Richmond/Rosenberg area to decide whether to adopt uniform-dress policies. The decision would have been based on recommendations from the campus administration, the site-based decision-making team and a community survey.

The vote came despite a parent survey - which drew an unprecedented 40 percent response from the 10,000 forms mailed out - in which respondents overwhelmingly agreed with the idea.

"The community told us 3-1 what to do, and we didn't do it," said trustee Bill McClellan. "I was appalled at the reaction."

Of the 4,037 surveys returned in both English and Spanish, 2,932 parents approved of uniform dress while 1,105 disapproved.

McClellan said the idea would have allowed options for student dress, with cost estimates ranging from \$150 to \$200 a year to clothe a child.

By law, parents must have 90 days' notice before a uniform dress policy takes effect, and that deadline for the Lamar district is May 26.

Trustee Sally Yates said the matter boiled down to timing.

"I don't think it was a vote against uniforms," she said. "I think it was a vote more as a postponement and a statement that a lot of really valid

questions had been brought up."

Those questions include how students from low-income families would fare with a uniform policy, whether the required clothing would be durable, and whether uniforms would be required at extracurricular events.

Yates said some parents called her to oppose uniforms because they considered them an example of schools taking away their children's freedom of choice.

"I want parents to know I was listening," Yates said of the strong survey results. "But I was also listening to parents who have what I consider legitimate concerns."

Many Houston-area districts - including the neighboring Fort Bend school district - have allowed individual campuses to adopt uniform dress policies. Many have reported good results, saying the uniforms take pressure

School class.

Although the students at Page Park School are more severely physically and mentally handicapped than her class, Anesi said they have been able to complement one another. "We've been writing letters and sharing things we have that they need," she said. Occasionally, "we bring our kids out there, and they help as consultants. We

help each other, provide inspiration."

Eventually, Anesi said, she would like to expand the program, to offer it to the more seriously handicapped special education students at the high school. To achieve this, it would be necessary to extend paved wheelchair-accessible walks to the outdoor greenhouse and construct raised garden beds. For now, however, budget constraints are forcing

Anesi and her students to tighten their belts, she said. The limited funds, gained only through donations and plant sales, can be a frustrating roadblock for her enthusiastic students.

"The hardest part for me is saying no," she said. "I have to tell them to concentrate on just one project at a time, even though there are so many interesting things they want to do." ■

31. The New Orleans Times-Picayune

05/18/97; Edition: RIVER PARISHES; Section: PICAYUNE; Page 111

PARENTAL ROLE URGED IN SCHOOL DISCIPLINE

By DANTE RAMOS

River Parishes bureau

St. Charles Parish school officials and a state district judge have discussed possible refinements to violence prevention programs.

The school system and law enforcement agencies jointly sponsor several anti-violence efforts, including a court school for special-education students with discipline problems, and conflict-resolution training for students caught fighting. At a School Board meeting April 23, State District Judge Emile St. Pierre said those programs have been beneficial, but can be

fine-tuned.

For example, some parents do not know how to discourage children from fighting in school, St. Pierre said. "Sometimes it's the parents who are the problem," he said.

He said the school system and law enforcement agencies should offer conflict resolution seminars for the parents of students caught fighting in school more than once. The parents would discuss the difference between controlled and uncontrolled anger, rehearse ways of responding to anger-triggering situations and learn to help children cope with stress.

St. Pierre and Associate Superintendent Carolyn Woods also said the school system would benefit from better communications with law enforcement agencies. Woods said the school system should appoint a liaison to law enforcement agencies.

The liaison would examine law enforcement and school system files to identify students with criminal records, and monitor the academic progress of dropouts and others on probation or ordered by courts to pursue a General Equivalency Diploma.

The board took no action on the proposals. ■

32. The Detroit News

05/18/97; Edition: Final; Section: Front; Page A10

Survey Results: 69 percent believe system not spending taxpayer dollars wisely

By Charles Hurt / The Detroit News

Detroit school officials could use some courses in money management, according to a Detroit News poll. The survey of Metro Detroiters found that that 69 percent of respondents said the system handles its finances unwisely.

"The schools are getting a failing grade," said pollster Steve Mitchell of Mitchell Research & Communications Inc., the Michigan firm that surveyed 632 adults in Wayne, Oakland and Macomb counties. "One of the most ringing indictments is how the district spends its money."

TD "If I managed my money the way the school district manages its money, I

would be homeless — not in a car, but in a cardboard box," said Janella Barnes, 28, a northwest Detroiters with a child in Cooley High School and another in Crary Elementary School. She graduated from Osborn High School in 1986.

She and other poll respondents also registered discontent with Supt. David Snead. Only one-fourth said he should stay in the job he took in 1994.

"He tried his way, and his way doesn't work," said Barnes, who first met Snead when he was an administrator at Osborn.

The telephone survey of adults has an error margin of 4 percentage points overall, or 5 points for the Detroit sample only.

Snead declined to comment "without having an opportunity to review the data."

The No. 1 reason Detroiters gave for sending their children to Detroit public schools is that they are free. Twenty-two percent send their children to the schools because of the quality of education, according to the poll.

Herbert Bailey, who graduated from Central High School in 1964, has two children in city schools.

"I don't think the whole public school system is bad," said the 51-year-old father. "There are just some bad elements."

Detroiters and suburbanites

overwhelmingly see parental involvement as the key factor behind a school's academic success or slippage. Forty-five percent of respondents cited that reason, while 28 percent said teachers provide the most important ingredient.

Detroiters and suburbanites alike overwhelmingly see parental involvement as the key factor behind a school's academic success or slippage.

Forty-five percent of respondents cited that reason, while 28 percent said teachers provide the most important ingredient. "There's too many single females with kids who are unsupervised and undisciplined," Bailey said. "Something has to be done about that."

As an alternative, a majority of Detroiters like charter schools - - privately run schools that are financed with the money that otherwise would go

into the public system. Sixty percent of city residents polled said competition from more of those schools would improve their district.

"What they're realizing is that public schools aren't getting the job done," Mitchell said. "So they want to try charter schools."

The poll was conducted April 2-7. More details of the findings will appear during this series. ■

33. The Detroit News

05/18/97; Edition: Final; Section: Front; Page A12

Detroit Schools: Crisis in the Classroom; What ails system can't be defined in dollars and cents

Five Detroit teachers and seven parents recently spoke with The Detroit News and each other about day-to-day life inside city schools and changes to improve the district. "Children are not getting the supplies that they need in school in order for their teachers to teach them," one parent said. "Something is radically wrong." Another participant suggested that "parents and community leaders have to become more involved." The dialogue also focused on classroom crowding, with one teacher asking: "How can you teach 40 6-year-olds and expect them all to learn how to read and write? It's overwhelming."

Here are excerpts of the 90-minute discussion about achievement, discipline, spending and leadership.

Why are Detroit Public Schools important to southeast Michigan and Metro Detroit?

Oria Jackson: Public education opens the doors for a diversity of children — the rich, the in-between and the poor.

Geraldine Clark-Cooper: It exposes everyone to an education regardless of your economic status, and that is very important.

What do you say to a person who lives outside Detroit who says that Detroit kids can't learn or they have problems — why should they care about that?

Clark-Cooper: Their tax dollars are going to support all Michigan schools, and you want the best for your tax dollars.

Kay Armstrong: Everyone sitting around this table ought to feel sorry for yourselves. God forbid you end up in a hospital or a convalescent home, this

younger generation has got to take care of you.

Detroit represents the region's largest population. These children are the ones we have to deal with (as job applicants).

Any time these children can go into these video (arcades) and operate these machines, they can operate any computer. Any time these children can recite these rap songs that I couldn't even understand, they can quote Shakespeare. The problem is that we as educators have not learned what motivates this generation.

What do you all think are the greatest challenges unique to a district like Detroit which you face as parents and teachers?

Ricardo Nelson: Speaking from a parent's perspective, it's not just the teachers' fault. If the parents get off their duffs and come up to those schools like I do — I'm up there five days out of the week, at least for an hour a day.

If my child walks in that house with a \$100 pair of tennis shoes, I say: "Where the heck did you get them? I didn't buy them for you — take them back."

Armstrong: It's not all about money. Education is as good as the human being who stands in front of that classroom.

Clark-Cooper: Exactly.

Armstrong: Your forefathers taught with nothing.

Ginger Hopkins: That's right.

Armstrong: And your forefathers learned. So let's not always put it on the dollars and cents. There's a lot of people getting paid and not doing their job. ...

When children don't master the first level of skills, you are setting yourself up 12 years down the line for a problem.

And as an elementary teacher for 12 years, I saw many a teacher cry because principals would not let them fail children who had not mastered skills — because of social promotion policies.

Suzy Parker: Two of my children are in elementary and I have had teachers, first-grade and kindergarten at the time, who say they do not have the equipment or the supplies. A kindergarten teacher told me: "We do not have the time to teach them to write, you need to do this at the home. We'll give you books, paper if you want, and show you how."

He says: "I will teach them the basics, the colors, but we do not have the time because we're over too many kids" — 35 in his class. He says we don't have that time.

I don't mind because I do spend my hour every night with my kids to help them. But I was really shocked for him to say that they could not provide this for kindergarten or first grade.

As a parent, you've got to be there. I'm there every day. I drop them off; I pick them up; I go in to see the teacher before I leave to make sure they got what they need and see if there's anything that I can do. We have offered to help bring in things for the classes.

Mine have gone to a private and a public school. At this time, they're in the Detroit Public Schools. There is a difference.

Brenda Webb: There is a difference.

Parker: There is a big difference in a private school. We were paying for what they got, but now that we're not paying, I do see that I need to be there. I have to help. I've got to do my part of the job, too.

requires a two-thirds vote for passage. No one who spoke in the House criticized the bill.

The three Representatives who voted against the bill, all Republicans, were Herbert H. Bateman, of Virginia, Ray

LaHood of Illinois and Ron Paul of Texas.

04:35 EDT May 14, 1997■

2. The New York Times

05/14/97; Edition: Late Edition - Final; Section: Section B; National Desk; Page 8, Column 3

Push for School Safety Led to New Rules on Discipline

By PETER APPLEBOME

Almost every school district has a story about the problems of disciplining children with disabilities — the wild kindergartner who disrupts classes for everyone else but cannot legally be removed from class, or the gang of youngsters caught selling drugs in which all are expelled except the one diagnosed with a disability.

In the Congressional debate over how best to deal with the 5.4 million students diagnosed with physical, mental, learning or emotional disabilities, no issue has been more knotty or more illustrative of the conflict between individual rights and group protections.

The issue has become more pressing as the number of disabled schoolchildren has grown to 10 percent of the public school population, up markedly in recent years as the definition of disabled has widened to include areas like hyperactivity and chronic fatigue syndrome.

The modifications to the Individuals With Disabilities Education Act now before Congress do not fully satisfy either advocates for the disabled, who want to make sure disabled students are given equal access to education, or some representatives of schools and teachers, who say that the needs of the few should not imperil the education and safety of the many.

But most experts say that it is at least an attempt to deal with one of the most vexing problems schools face today.

"This is better than current law, but it's not going to solve all the problems that we see today," said Jane Meroney, associate director of legislation for the American Federation of Teachers. Albert Shanker, the former president of the group who died earlier this year, crusaded for years to make it easier to remove disruptive students from classrooms.

"This is not an issue that's going to go away," Ms. Meroney said.

At issue is the current form of the

landmark legislation first passed in 1975 to protect the interests of students diagnosed with disabilities. Along with educational and financing issues, a provision in the legislation said that students with physical, mental, emotional or learning disabilities could not be suspended from school for misconduct for more than 10 days, or under a subsequent modification, for more than 45 days for gun possession. To expel a student for a longer period, a committee including the child's parents must determine that the misconduct had nothing to do with the disability.

Experts on both sides of the issue said the legislation was needed to keep districts from routinely dumping disabled students seen as behavior problems.

But as discipline problems in schools have increased, and the public debate over education increasingly has focused on the need to maintain safe and orderly classrooms, many educators and parents have become more critical of the legislation's guidelines.

The American Federation of Teachers in a recent report cites numerous examples:

*A West Virginia teacher was repeatedly hit by an autistic child for a year, once ending up in an emergency room, but the child remained in her class.

*A North Carolina teacher's arm was broken by a student diagnosed with a disability, who was suspended for two days.

*An 8-year-old in Toledo repeatedly set fires, exposed himself and destroyed a classroom but remained in school.

A proposed revision of the guidelines last year that would have dramatically increased the ability of districts to discipline disabled students was abandoned, partly because of criticism from advocates for disabled youths. But the issue has continued to simmer.

"Nobody envisioned back then the kinds of discipline problems that are on

the table now," said Michael A. Resnick, associate executive director of the National School Boards Association. "And no one anticipated how much the culture would change and how big an issue discipline would become in the schools."

The current bill has several changes that would make it easier for schools to suspend students with disabilities, though not as many as some education groups had called for. Offenses that could bring a 45-day expulsion were expanded to include not only gun possession but also bringing drugs or other weapons to school. Administrative procedures before administrative officers replaced formal court hearings. And assaults and conduct likely to cause injury or severe disruption were also included in new wording.

But advocates for the disabled say the language goes too far. They worry that in administrative hearings, untrained examiners may be biased toward schools. And they say the legislation's thrust is to allow suspensions or expulsions, not to encourage counseling and other assistance.

"The approach is totally wrong," said Diane J. Lipton, a lawyer at the Disability Rights Education and Defense Fund, in Berkeley, Calif., and the mother of a child with cerebral palsy. "They have many avenues open to them, a range of specialists, and special education personnel. Instead, the knee-jerk reaction is to move the kids out, which is only moving a problem someplace else."

Still, both sides agree something was needed.

"Congress has realized for a while that the law needs to be fixed, and amid all the controversy this is an attempt to fix aspects of it in a way that can get passed," Mr. Resnick said. "We wish the bill had some other elements in it, but I think the feeling is it's better to have a bill that can get passed than to have no bill at all."

04:35 EDT May 14, 1997■

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

NATIONAL

1. The New York Times

05/14/97; Edition: Late Edition - Final; Section: Section A; National Desk; Page 1, Column 3

HOUSE PASSES BILL ADDING RESOURCES TO TEACH DISABLED

By ADAM CLYMER

WASHINGTON, May 13 — The House today passed legislation that gives public schools more money and flexibility to educate children with disabilities, along with greater authority to discipline them in cases involving guns and drugs.

The overwhelming House vote of 420 to 3 is expected to be matched by an equally lopsided vote when the Senate acts on Wednesday. Senator James M. Jeffords, the Vermont Republican who is managing the bill, said he expected perhaps three votes against the measure.

The bill is widely supported by advocates of the disabled, who argue that it preserves and enhances the right of the nation's 5.4 million physically and emotionally handicapped children to a public education, a right established by the Supreme Court in 1975 and codified by Congress that year. Teachers' groups also support the bill because they believe it will provide greater resources for them to deal with disabled children, three-fourths of whom are taught in regular classes.

The legislation does not guarantee greater Federal spending than the \$3.8 billion appropriated for the current fiscal year. But it seeks to make sure that far more of the money goes to the public school classroom and not for administrative costs or private school tuition. Mr. Jeffords and Representative Bill Goodling, the Pennsylvania Republican handling the bill in the House, also assured their colleagues that they would work to see that spending went up.

Michael Resnick, a spokesman for the National School Boards Association, complained that while the bill helped disabled students and clarified how officials could deal with them if they brought guns or drugs to school, it failed to give the authorities needed power "to deal with students who present serious and continuous disruption."

At a time when increasing numbers of the children identified as disabled have

emotional problems, rather than physical disabilities, he said, the bill paid more attention "to the safety issue than it does to insuring orderly learning."

Diane Shust, a lobbyist for the National Education Association, disagreed. She said that while the legislation did not meet her organization's desire to "remove, permanently, disruptive students from the classroom" it promised important resources to teachers.

She described as "small but so critical" a provision requiring that regular classroom teachers be involved in developing educational plans for students with disabilities, either emotional or physical. She said that section was needed because the classroom teachers who spent the most time with disabled children were usually frozen out of the planning process.

The bill would also solve what has developed into a major conflict for some schools between a provision of the earlier version of this law that allowed suspensions of disabled students for 45 days for bringing a gun to school, and another Federal law, passed last year, requiring suspensions for a year. By re-enacting the 45-day provision, the bill would give it primacy. It also expands the 45-day removal provision to include other weapons and drugs.

But schools would still have to provide some form of educational service for students removed from classes for disciplinary reasons.

The legislation came to the floor in both houses under heavy leadership pressure not to amend the bill. In the House it was considered under a procedure making all amendments out of order. In the Senate, Trent Lott, the majority leader, whose staff worked hard to negotiate widespread agreement on the bill, put heavy pressure on his troops not to vote for any amendments, including efforts to provide more money or to allow expulsion of disruptive disabled students.

Even so, two Republicans pushed

ahead with amendments. Senator Slade Gorton of Washington sought to provide that school districts could apply the same disciplinary rules to disabled students as to others. The bill makes it very hard to discipline students whose disruptive behavior derives from their disability, like students with Tourette's syndrome or attention deficit disorder.

Senator Robert C. Smith of New Hampshire sought to win votes for an amendment to reduce lawyers' fees. He complained that when lawyers representing disabled students won fees from a Federal court, that money was taken out of funds that would otherwise go to educating "decent" children.

Votes on these amendments, and on passing the bill, were postponed until Wednesday because a number of senators were absent to attend a funeral.

Both the House and Senate bills would require states to offer voluntary mediation procedures so that parents could challenge decisions about their children without going to court, a device supporters said would provide cheaper and speedier settlement of disputes.

The bills also tell the Department of Education to refer problems of noncompliance with the act to the Justice Department for action. Advocates for children with disabilities have complained that the Education Department did little to see that the act was followed.

General agreement on the provisions was reached last week by senators and representatives from both parties. Senator Lott's chief of staff, J. David Hoppe, presided over months of meetings in which lobbyists, parents with disabled children and Congressional staff members sought a compromise among competing proposals that were tilted, in some cases, toward discipline, and in others, toward the disabled.

In order to keep the agreement from coming unraveled, the bill was brought up in the House under suspension of the rules, a procedure that bars amendments, allows only 40 minutes of debate and

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U.S. tells Newark schools to better serve disabled

Order comes after teacher union complaint

By Caryl R. Lucas

STAR-LEDGER STAFF

The U.S. Department of Education's Division of Civil Rights has ordered state officials overseeing Newark schools to create new programs to better serve students with disabilities in an effort to comply with federal statutes.

Responding to a complaint by the Newark Teachers Union, the Division of Civil Rights of the U.S. Department of Education last month ordered district officials to change or remedy 15 practices identified as being discriminatory against students and employees with disabilities.

Joseph Del Grosso, president of the NTU, yesterday called the district's agreement to remedy the violations long overdue in light of the fact that state officials were notified of the discriminatory practices when the union filed a complaint in September 1995, before the state takeover of the Newark school system.

For the past decade, Del Grosso charged, Newark school officials and the state had failed to implement educational and extracurricular programs and did nothing to remedy inadequate facilities for students with disabilities.

Under the federal Rehabilitation Act of 1973, the district is required to provide self-evaluations, counseling, special programs and equipment for the district's 4,800 disabled students.

"Up until the time the complaint was filed and resolution was reached, there's been no mechanism in place to identify, evaluate or provide ac-

commodations for students with disabilities," said Mitchell Gerry, vice president of the Newark Teachers Union, "They need extra help, and they have not been getting it."

State-appointed Superintendent Beverly Hall and Education Commissioner Leo Klagholz should have addressed the lack of after-school and summer programs for students with disabilities when the state seized the district 18 months ago, said Del Grosso.

"There are no extracurricular activities afforded to handicapped students," said Del Grosso.

But Linda Ocasio, a spokeswoman for the district, said the problems are being addressed under Hall's five-year strategic plan for systemic reform.

In addition, Hall, who could not be reached for comment, has hired Efthimia Christie as the associate superintendent for special programs and Denise Stone, director of special education, to implement the new policy.

Under the strategic plan, the district will establish resource centers for students with disabilities, revise

the special education curriculum and review self-evaluations of students.

Meanwhile, Gerry said the district's child study team, which serves students with disabilities, lost one-third of its staff during Hall's layoffs of more than 600 employees last August.

"When they eliminated one-third of our child study team, the ability to give counseling diminished," said Gerry, a school psychologist in the district.

To preserve the district's self-contained classes, Gerry said, students need individualized help from child study team members.

Exclusion of disabled in classroom acceptable, court rules

BY KIRK MAKIN
Justice Reporter

Excluding disabled children from mainstream classes is an acceptable form of discrimination, provided that it is done in the best interests of the individual child, the Supreme Court of Canada ruled yesterday.

The court unanimously rejected the idea of there being an automatic assumption that disabled children should gain entry to regular classes if that is the wish of their parents.

It stated instead that decisions involving the welfare of disabled children ought to be made on a case-by-case basis, using the yardstick of what is in the best interests of the individual child.

The decision leaves boards of educa-

tion across the country relatively unfettered in deciding whether to channel children in or out of regular programs.

Yesterday's judgment furnished long-awaited legal reasons for an oral judgment the court issued last October in favour of Ontario's Brant County Board of Education.

At issue was a decision by teachers at Maple Avenue School in Burford, near Brantford, that Emily Eton, a 12-year-old with cerebral palsy, should be placed in a special-education class against the wishes of her parents.

The decision was made after Emily had been placed in regular classrooms for three years. Teachers came to the conclusion that she had been increasingly isolated both intellectually and socially.

In its judgment yesterday, the court said discriminatory treatment is not wrong simply because it treats a member of a disadvantaged class differently. Having ramps for people in wheelchairs is a perfectly sensible form of discrimination, it said.

Not allowing for the condition of a disabled person could, in fact, improperly force that individual to "sink or

swim within the mainstream environment," the court said.

"The blind person cannot see and the person in a wheelchair needs a ramp," Mr. Justice John Sopinka wrote. "Rather, it is the failure to make reasonable accommodation, to fine-tune society so that its structures and assumptions do not result in the relegation and banishment of disabled persons from participation, which results in discrimination against them."

The court said special education may actually enable some disabled pupils to gain access to the sort of learning environment they require to have an equal opportunity in education — such as schools for the deaf or blind.

The Supreme Court decision struck down an earlier decision by the Ontario Court of Appeal that found Emily had been unfairly treated. The appeal court had proposed that school boards be required to routinely place children in classes that are the "least exclusionary" possible.

The decision means "business as usual" for school boards, said a lawyer for the Brant County Board of Education and representatives of the Ontario Public School Boards' Association.

The Supreme Court has emphasized the fact that disability is very much an individual situation," said board lawyer Christopher Riggs.

"What the court has said is that, under normal circumstances, a child will be in a regular classroom and the school board will be expected to try to make accommodations to fit that child into a regular classroom."

Advocates for disabled children expressed fears that the Supreme Court's ruling would make it more difficult to integrate children with special educational needs into regular classrooms.

However, Lynn Peterson, president of the school boards' association, said yesterday: "Always, always, always, the placement of first choice is in a regular classroom with all the necessary supports."

With a report from Virginia Galt

FINANCIAL TIMES

FEBRUARY 5 1997

Standard of head teachers attacked

By Simon Targett
and John Kampfner

Schools are suffering from poor management and weak leadership, with as many as 3,000 head teachers judged to be incompetent by the education standards office (Ofsted), a government agency.

Mr. Chris Woodhead, the chief inspector of schools, said there were poor head teachers in one in seven schools for young children and one in 10 schools for pupils aged 11 and over.

The revelation forced the issue of school leadership on to the political agenda. Mr. John Major, the prime minister, told the House of Commons he would not rule out a compulsory qualification for new head teachers, while the opposition Labour party espouses.

Ofsted estimated that the number of incompetent teachers fell from 15,000 last year to 13,000 this year and the percentage of lessons deemed unsatisfactory, or poor, came down from 18.1 per cent to 16.4 per cent.

Teachers' trade unions reacted angrily. Mr. David Hart, general secretary of the National Association of Head Teachers, which represents 32,000 head teachers, said: "The fact that 90 per cent of secondary heads and 86 per cent of primary heads are demonstrating leadership qualities is a vote of confidence in senior members of the profession."

Associated Press

4-16 10:55a jla

Judge dismisses lawsuit over school discipline

SHERIDAN, Wyo. (AP) - A lawsuit filed by the family of a Tongue River High School student who tried to commit suicide after being expelled from school has been dismissed by a state district judge.

Judge John Brackley rejected arguments by the family of Jesse Palacios that school officials should have known when Palacios was expelled that he was considering suicide.

According to the lawsuit filed by Russell and Robin Clark, Palacios' parents, the boy was expelled in September 1995 after he and two other boys were found to be shooting football players with pellet and BB guns.

After being expelled, the boy stole his

brother's car, drove it off of a cliff and then jumped off of a ledge, injuring himself.

The lawsuit accused Sheridan County School District No. 1 officials and the principal of Tongue River High School of negligence for failing to notice Palacios was considering suicide, failing to follow board policies in expulsions and for failing to have board policies in place to deal with such situations.

The lawsuit said the principal did not attempt to reach Palacios' parents even though he had time to do so.

But Tracy Copenhaver, the school district's attorney, argued the principal made repeated attempts to contact the

boy's mother, but had the wrong number for her.

Harlan Rasmussen, representing Palacios' family, said the boy was visibly upset at the time he was expelled and someone at the school should have taken action to detain him after school for his own safety.

Rasmussen also argued a counselor should have been involved in the disciplinary action because of its serious nature.

But Copenhaver said Palacios did not show signs he was upset at the time he met with the principal, so no one could have known the boy was contemplating suicide. ■

Associated Press

04-16 5:03a

State looks for ways to retain special ed teachers

HONOLULU (AP) - Reducing workload and providing clerical help to handle paperwork are two ideas the state is considering to retain its special education teachers.

The Department of Education will have to fill 242 special ed positions currently held by teachers who aren't certified as special ed teachers.

The DOE also will add 303 more positions as part of a consent decree with the courts to better identify and serve students with mental or physical disabilities.

The state currently has 1,350 special education teaching positions, but fears many teachers will leave the system because of frustration with the job.

The special programs committee of the state Board of Education on Tuesday directed the state Department of Education to work with the Hawaii State Teachers Association and any other relevant agencies to devise incentives other than salary increases to retain special education teachers.

For some, the demands of teaching students with mental and physical

disabilities are overwhelming, said DOE member Garrett Toguchi, chair of the special committee.

There are 378 teachers in Hawaii who are certified for special education teachers in Hawaii but who teach in regular classrooms or work as aides, Toguchi said.

Connie Kalima was a special ed teacher for three years, but left when he was given a class of 23 students, all of whom had different emotional, physical and learning disabilities.

"I told them it is impossible to do this job and do it adequately to meet the children's needs," Kalima said. "I was told I was luckier than other people, that I could be in some place where it's worse. I will never go back to special education in this state."

Changes like reducing class size and providing assistance to fill out paperwork and case management reports required for special ed students are less costly to the state than increasing pay for special education teachers, whose salaries start at about \$25,000 a year.

Special education teachers are paid no

more than regular classroom teachers, and teacher union officials say that's the way it should be.

Reducing the workload of special education teachers is the key to equity, she said, and the key to keeping them on the job. Better support for regular classroom teachers also is necessary, said Joan Husted, chief negotiator for the HSTA.

"The system has to understand we need to support teachers all along the way who deal with special education students," Husted said. "We're not convinced the department has moved in that direction. The philosophy has been, 'How do we avoid lawsuits?'"

The committee also will ask the BOE for information on the 40 public school students being sent to the mainland for special services that aren't available in Hawaii.

The program costs the state about \$120,000 a year per child, Toguchi said.

"We're giving away dollars that could be used to create jobs here and dislocating families," he said. ■

The Struggle to Pay for Special Ed.

Congress and the states have mandated help for the learning disabled but haven't put up the funds

By SAM ALLIS BOSTON

TWO YEARS AGO, THE MAYNARD FAMILY of rural Union County, South Dakota, received a Christmas card that read, "A 1995 New Year's wish for you and your family: death and destruction." Since 1992, the family had been getting hate mail from their neighbors. At one point, the family's youngest son, Casey Maynard, then 5, was told by a preschool playmate that the Maynards' house was going to be burned down. "Mommy, why do they hate my brother?" he asked his mother.

His older brother Jonathan, now 21, is autistic and attends a private school in Connecticut. The annual tab, including as many as eight trips a year for his family to visit him, is about \$125,000. And the cause of the community outrage was that the money for Jonathan's special education comes, under the legal requirements of the Individuals with Disabilities Education Act, from the budget of the local school district. There was an 80% increase in the school budget, a quarter of which accounted for Jonathan's special-education needs, causing property taxes to shoot up some 55% in 1992.

School board meetings were scary for the Maynards. "It was like walking into a Klan meeting," recalls Cathy Maynard, Jonathan's mother. "People we lived beside for generations will no longer talk to us. We didn't choose the role. We did what any good parents would do."

While the venom facing the Maynard family is rare, the conflict that spawned it is not. Federal and state laws require educational help for children with a wide range of physical, cognitive and emotional disabilities. But having passed the bills that mandate this help, Congress and state legislatures across the country have been

parsimonious with the money to pay the added costs. This leaves the financial burden on the localities and produces intense conflict between parents and school officials.

Parents of special-ed. children, for example, often suspect that schools try to deny their kids the help they need, and to which they are legally entitled, in order to save money. School officials counter that onerous regulations force them to spend more time worrying about potential lawsuits than about education. They also fume at parents who solicit bogus diagnoses of learning disabilities so their children will get more attention.

"There is no fault," observes Dr. Melvin Levine, a North Carolina-based pediatrician and a nationally recognized expert on attention deficit disorder, one of the most common diagnoses requiring special help. "It's existential." Advances in medicine and psychology have vastly improved the identification of disabilities of all sorts in children. Technology is saving youngsters who 20 years ago would have perished at birth but today survive with profound learning problems. Children damaged by being born to drug-addicted mothers have added to the burden.

Last year 1 in 8 kids in the public school population, 5.4 million, were in special ed., up from 4.8 million five years earlier. In New York City the number of special-education kids has soared from 40,000 to 165,000 in the past two decades, even as total enrollment has declined by 100,000. Boston's special-ed. budget has almost doubled in the past eight years, from \$65 million to \$116 million, and now consumes almost a quarter of the total budget. Special-ed. spending nationally has doubled during the past 25 years to \$30 billion, according to a yet unpublished report by the Washington-based Council for Educational Development and Research.

The federal special-ed. law enacted in 1975 was supposed to cover 40% of these costs. No such luck: last year the federal share of national spending for special education was a mere 7%. Every state now has its own special-ed. law as well, and support at that level varies. Massachusetts, which has one of the highest percentages of special-ed. students of any state in the country (11.1%), picked up only 17% of the costs last year. One way to reduce the burden, many believe, is to bring youngsters now taught in separate settings into regular classrooms. Under this inclusion approach, the special-education dollars follow the children. At Boston's Patrick O'Hearn Elementary School, for example, 20 of its 66 special-ed. children have significant handicaps that could gain them private place-

ment. Yet they are taught in regular classrooms at great savings to taxpayers.

But inclusion is no fiscal panacea. O'Hearn principal William Henderson, himself legally blind, warns that it could be more expensive in the short run to carry out properly. Teachers must be retrained to work with special-ed. children, and additional staff will be needed to help. "Anything less is dumping," he says. Inclusion is also more manageable in elementary school, where the emphasis is on child development, than in high school, where students are judged by performance. "High school inclusion has little or no relevance in the lives of the severely disabled," says one high school special-ed. director in a Boston suburb. "The kids are often miserable because they have no friends except their tutors. I think parents are beginning to realize this."

Thomas Payzant, superintendent of the Boston school system, believes inclusion can be cost effective there only if he has control of the referrals for special-ed. evaluations now initiated by parents, teachers and other agencies. "We've gone from one extreme to the other in the last 25 years," says Payzant. "Now, if anything comes up, you refer the child. We have to get control of the front end, and we don't have that now."

More...

SPECIAL ED., continued...

Many referrals involve such learning disabilities as attention deficit disorder. North Carolina's Dr. Levine says that the methodology used is often "ridiculous" and that ADD misdiagnoses abound. Ultimately, he says, special ed. is a resource-allocation issue. "We have to be honest," he argues. "Why can't a community say, 'Long-term therapy works, but we can't afford it?'"

As special-education budgets mushroom, some experts are looking for ways to soften the mandates. Edward Moscovitch, author of *Special Education, Good Intentions Gone Awry*, has one proposal. "I would have an ironclad provision that if a child is making reasonable progress in school, he doesn't get special ed., regardless of the disabilities," he says.

The good news is that huge strides have been made to improve the plight of special-needs students. "The question now being asked is how can we do it, as opposed to should we do it," says Judith Heumann, U.S. Assistant Secretary of Special Education and Rehabilitative Services.

The bad news is that the Maynards plan to move away from the farm that has been in their family for 120 years as soon as Jonathan has completed his program in Connecticut. "It's not getting better. We can't possibly bring him back," says Cathy Maynard. "We're lepers in our own community."

Special Ed, A system disabled: Testing the limits

By Kate Zernike
Globe Staff

First of two parts

Twenty-five years after Massachusetts enacted the nation's first special education law, it is being used - and abused - in ways its planners never imagined.

Originally designed to force the public schools to embrace thousands of severely disabled children declared "ineducable," special education is now dominated by students who have only minor learning or behavior disabilities - many so broadly defined they could apply to virtually any child at some point. Almost 17 percent, or 154,000, of the state's students are in special education - the nation's highest percentage - yet fully five out of six are not disabled in the way the law envisioned.

The nation's vaguest eligibility standards and most generous provisions have made special education in Massachusetts a way to get everything from homework help to private school vouchers - even for those on the honor roll.

A review of state special education records and independent analyses as well as interviews with educators, parents and lawyers reveal that what was once a pioneering advance in civil rights for the disabled has evolved into an entitlement program increasingly out of control.

The key reasons: Soaring legal costs and the threat of litigation are scaring schools into providing special services to students who may not warrant them; recent court decisions have required schools to offer an even broader array of special ed services; and, finally, the clamp on property taxes in the aftermath of Proposition 2 1/2 in 1980 forced cutbacks in regular instruction that made special education an attractive option for parents looking for extras.

And though special ed was intended to safeguard the rights of poorer parents, a class fault line now runs through the system, with wealthier families working it to maximum advantage. The percentage of special education students

is surprisingly high in affluent communities like Newton, Lexington, Lincoln and Cohasset, where expectations for student success are intense.

Special education isn't so much a stigma anymore; for too many, it's a perk.

Special education today is the Cambridge family that lives in one of the city's richest neighborhoods and sends its kindergartners to the exclusive Shady Hill school at \$10,000 a year, yet demanded Cambridge public schools pay \$5,500 for the children's speech therapy.

It is the Springfield 16-year-old who performs on a college level yet gets the city to pay for a \$30,000 boarding school in Connecticut because on one visit to a public classroom he found it too noisy.

It is the Framingham honors student who got a special ed label for a disability described as "difficulty with the quadratic equation and the Pythagorean theorem."

"Parents have become skilled consumers," said Senate President Thomas F. Birmingham, the Chelsea Democrat who was co-author of the state's Education Reform Act of 1993. "They've been able to navigate the system to get individualized programs that other children in regular education are not getting. I'm not convinced that all the kids are what we would consider 'special education.'"

Experts say there is no question the law has accomplished its original intent. Thousands of workers and college graduates with disabilities are testimony to its successes. Putting disabled children and regular students side by side in the classroom has opened doors and minds.

But those who have devoted their lives to special education say its successes are being demeaned by those who abuse it.

"I'm a real advocate of special education," said Vincent Cowhig, supervisor of special education in Revere. "I could be in a classroom quietly teaching history; I'm here because I believe in it. But it's these abuses that make it so difficult to believe in."

Seventy-five percent of special ed directors interviewed for a previously unpublicized 1995 analysis for the state Department of Education said eligibility guidelines were being abused.

"Parent demands are growing ... and school districts are losing their ability to deny access to the program," said the analysis, done by the Center for Special Education Finance, an independent California research group. "Even when they believe this is warranted."

And costs are skyrocketing, draining town budgets and regular education classrooms. Special education expenses rose from \$500 million in 1985 to \$1.2 billion in 1995. A disproportionate amount of new money under the Education Reform Act has gone to special ed. To keep up with the costs, many school districts, including the state's most reputable, have cut spending on regular education students an average of six percent since 1992.

Parents exploit generous guidelines

Chapter 766, as the special education law is officially known, was passed in the spirit of civil rights amid widespread reports of horrors being inflicted on children with disabilities. A report by the Massachusetts Advisory Council on Education in 1970 documented thousands of children languishing on long waiting lists for underfunded state programs for the disabled. A reform coalition filed suit in state court, based on arguments used in the landmark school desegregation case, *Brown vs. Board of Education*.

The law reflected these influences. Legislators didn't believe they could simply order public schools to open their doors to the disabled; they feared schools would become just warehouses. So they included sweeping language and broad rights, wanting to compensate parents and children for past inequities.

Parents had the right to demand that a school evaluate their child's learning needs, and if they didn't agree with the evaluation, to request a no questions asked, school-paid second opinion by a doctor or specialist of their choice.

To avoid stigmatizing, eligibility guidelines made no mention of "disability." Instead, they said any child who was not making "progress" because of "a temporary or more permanent adjustment difficulty" was eligible for services. Schools had to provide special education students with whatever service would "assure maximum possible development."

The law was, and still is, the most generous in the nation. Its eligibility guidelines are looser than the federal standards used by every other state, which require schools to show that a child has one of a list of specific disabilities. And it goes beyond the federal standard limiting states' responsibilities to providing "a free and appropriate public education."

The Massachusetts statute has fostered an atmosphere where parents believe they can demand any service, and schools believe they have to provide it, creating a philosophy under which almost any child who slips, no matter how slightly, is referred to special education.

Consider Michael, a Framingham ninth grader.

His profile in state hearing records describes him as "well liked by his teachers and peers, an active member in his school and community." He is in several school organizations, plays sports and is in the band. He has been on an honors track and has consistently gotten all A's. But six months into his freshman year, he got a 65 on an algebra II quiz. The poor grade, according to the profile, was due "in large part to problems with the concepts of quadratic equations and the Pythagorean theorem ... which may be related to Michael's learning disability." The learning disability, in turn, was characterized as "difficulty sorting main idea concepts within a series of details," and Attention Deficit Disorder.

Michael was given tutoring, extra time to complete tests, and permission to stand up, stretch, and move about the classroom whenever he wanted and to chew gum or hard candy to help him focus. He also could sit close to the teacher, and receive a laptop computer and two textbooks - one to use in school, one to write notes in during tutoring sessions. His parents argued before the state Bureau of Special Education Appeals that he needed summer tutoring, saying he would regress without it. They lost, and have filed a court appeal.

"It's easier to be classified as disabled in Massachusetts - it's just that simple,"

said Cindi Seidel, who was a special education teacher and administrator in Missouri, Oregon and Colorado before becoming superintendent of schools in South Hadley. "In other states, the line is much clearer about what is a disabling condition. There were always kids we agonized over, 'Is he special needs?' In Massachusetts, the definition lets us just put them in."

Skirting the law: a cottage industry

Yet to understand fully the rates of students classified disabled in Massachusetts is to understand the influence of an emerging cottage industry of lawyers and special education evaluators.

The difference between the state and the rest of the nation is in the number of students termed "learning disabled." At 52 percent, Massachusetts has twice the national percentage of students with learning disabilities, according to the 1995 analysis. Many are genuinely disabled; discovering a disability like dyslexia has been the turning point in a school career and a launching pad to success for many students who once thought they just couldn't read.

But studies have shown that 80 percent of the general population could be found to have a learning disability. Specialists define that as a gap between potential and performance. Yet there is nothing in the state's law to define how much of a gap constitutes a disability.

Since the law was passed, doctors have identified a whole new range of diagnoses, from Attention Deficit Disorder to Oppositional Defiance Disorder, or resistance to authority. The diagnoses are real in some children, but educators complain they are so broad as to include virtually any child at some point.

"When it comes to wondering why your child isn't doing better in school you refer them to special ed, and it explains things," said Margaret Reed, Holliston's special education administrator. "It's far easier for parents to say their child has a disability than to say the child is a slow learner."

Schools now have extensive evaluation staff, yet second opinions have become routine. To test their children, parents can choose from learning disability clinics at any of the major Boston hospitals, from independent clinics, or from a growing number of independent educational specialists.

Schools and hearing officers who preside over the appeals process say the diagnoses are often boilerplate. Schools

can predict what the disability will be by who does the evaluating. Appeals officers report getting form letters describing diagnoses, with the student's name as, say, "John," throughout, except in one space where the evaluator has forgotten to change the name of the last client, "Jane."

"You can shop for a diagnosis," said Jim Shillinglaw, director of special education in Barnstable. "In all likelihood, the parents will find somebody who will confirm what they are trying to believe is their child's difficulty."

Evaluations cost the state \$60 million in 1995-96. Although the state Rate Setting Commission sets hourly fees for evaluators, schools say they routinely pay more than those rates. For, increasingly, parents who don't get what they want are threatening to take the school to a hearing.

Nothing frightens a school system more.

The law set up the appeals process as a hearing between a hearing officer and parents. Yet there are at least five law firms in greater Boston specializing in special education law, charging \$150 to \$225 an hour.

Hearings have become laborious and expensive, featuring a parade of lawyers, expert witnesses, family members, doctors and teachers, for whom the school system must hire substitutes to fill the classroom. They commonly last five days and cost \$40,000 for each side in legal fees - the average annual salary for a teacher in Massachusetts. And federal law requires the school to pay the parents' legal fees if they win.

School success rates in hearings have risen from 30 to 50 percent over the past ten years. But schools say they fear going to hearings, believing they can't defend themselves against a parent seeking to assure a child's "maximum possible development," which seems like a bottomless pit of services.

And even a win is expensive. The town of Sharon last year paid \$20,000 to win a one-day hearing in which the officer ruled the school did not have to reimburse parents for speech therapy services a kindergartner missed when school was canceled because of snow.

So in 95 percent of cases, according to state records, school systems settle before the hearing, often giving in not because they think it is educationally sound, but because it will avoid legal fees.

"I call them nuisance fees," said Robert Doyle, special education administrator for the Sharon schools.

The mere threat of a hearing has become a powerful weapon. The number of hearings is up 76 percent over the past 10 years, from 359 in 1986 to 632 in 1996. But the percentage of cases actually completed has declined, from 15 percent to 5 percent.

The bulk of hearing requests come from wealthier communities. Since July 1995, Marblehead and Lexington each has had more complaints to the Board of Special Education Appeals than Chelsea, Holyoke, Fitchburg and Lawrence combined.

"These are people who are saying, 'Whoa, there's rights here,'" said Richard Sullivan, a Braintree lawyer who started his career representing parents and now represents school systems, mostly on the North Shore. "The law is not filtering down to those it was intended to help."

In Amherst, a high school student classified as mildly learning disabled had been getting B's in his senior year. But his parents didn't think he was ready for college. So they asked the school to pay for an extra year at a \$30,000 private school before giving him a diploma. When the parents threatened a hearing, the school settled for a \$20,000 one-on-one tutor for a year.

"This is the way parents get us to do what they want," said Frank Gagliardi, director of special education in Stoneham and former head of the state's Association of Special Educators.

Public money going to private schools

Although the intent of the Massachusetts special education law was to include students with disabilities in public schools, the state is twice as likely as the rest of the nation to educate them in private schools, according to federal reports. For the 1995-96 school year, Massachusetts spent \$137 million on private day schools for special education students and \$45.3 million on private residential schools, including tuition and transportation.

A public school classroom might offer the same services, but many parents argue that private schools are more likely to meet the standard of "assuring" maximum development.

Federal and state courts have ruled that parents can place their children in private school, even if the school is not approved for special education, then come back and demand tuition from the public schools.

Charles Allen, a Cambridge parent, put his son Chip in the private Carroll School in Lincoln for students with learning disabilities after four years in the Cambridge schools, then hired a

lawyer and asked Cambridge for tuition. Chip had been scoring at grade level in the learning disabilities program in Cambridge. But his father said in an interview that his son's IQ suggested he should have been scoring two years above grade level. He hired two experts to testify at a hearing, who both said the boy needed "direct instruction," the kind of teaching offered at Carroll. His father testified that Chip was "totally invested in the Carroll program."

The hearing officer disagreed that the boy needed a private school, saying he could have been served in a Cambridge program, with modifications. But because the parent was seeking retroactive tuition, that was no longer an option. Cambridge was ordered to reimburse the parents for two years past tuition, current tuition, plus the price of the minivan that takes Chip to school each morning. Total cost: \$88,000.

Private school tuitions range from \$30,000 a year for a school such as Carroll to \$183,000 for a residential school for autistic children.

But the bulk of special education expenses remain in the public schools, where 80 percent of special ed students still spend at least some of their time in regular classrooms. Special education has become a tutoring service or a way to get a personalized education - in many cases, whether or not there is a disability, according to teachers and program directors.

The percentage numbers of students in special ed rose steadily after Proposition 2 1/2, the property tax limit passed in 1980, from 13 percent to 17 percent of all students. The special education population rose even as total school population declined. Schools found themselves with fewer resources, and responded by cutting extras: reading specialists, teachers' aides, remedial courses. They cut hundreds of teachers, increasing class size, and giving the teachers who were left less time to spend with each child. Programs for so-called "gifted and talented" students also were cut.

But schools could not cut special education; it is an entitlement that state and federal law requires them to pay for, no matter the cost. So parents saw that as a place to get services.

"There's no other game in town," said Gagliardi, of Stoneham.

The most significant increases have been in the percentage of students who get up to an hour and a half a day of special help, which went from 7 percent in 1980 to 15.7 percent last year.

In communities with METCO, the program that buses minority students from cities to the suburbs, special education produces a dichotomy of class: Teachers say parents of the METCO students generally reject the special ed designation, fearing it carries a stigma; parents of resident children often actively seek it.

"It's not a stigma anymore in Brookline," said the town's superintendent of schools, James Walsh. "Parents want it. It's a way to get services."

Schools will allow children with a disability to watch the film version of a book instead of reading the book. They will offer untimed exams - in Lexington, one student diagnosed with anxiety took the entire summer to write his finals. Schools will rewrite tests, giving the student three, instead of five, multiple choice selections to give those who have difficulty with complex topics a better chance at getting the right answer. They will provide lectures on tape or copies of notes taken by other students. High school students can get an untimed SAT, which boosts scores an average of 100 points, according to the college board. The number of students seeking an untimed SAT has doubled nationally in the past five years.

Colleges don't know which students are getting special treatment since federal law prevents high schools from indicating on transcripts whether students have been in special education.

Schools often are complicit in steering non-disabled children into special ed. One father in a wealthy Boston suburb tells, with some horror, about his daughter's middle school teacher referring her to special ed after she clammed up in math class. When he asked her about it, his daughter explained that she didn't want to speak up; the last time she did, boys teased her.

A move from Brighton to Brookline, or Somerville to Sudbury can prompt a need for special education because the courses become harder. In some cases, special educators grudgingly admit, state Board of Education chairman John Silber is right when he says some children in special education are just slow learners.

"Systems like us have been too easy to say, 'Let's put them in special ed,'" Brookline's Walsh said.

All in all, the current picture is a far cry from the old vision of educating the ineducable.

"The law was supposed to provide for children who had disabilities," said Commissioner of Education Robert V.

Antonucci. "What we have now is a long way from what the original writers of the law envisioned. There are too many children labeled, too much business for lawyers, and too much paperwork for schools."

Yet the system has eluded reform.

Everytime the Legislature proposes to change the special education law, advocates crowd the State House, bringing children in wheelchairs and others who can only testify by speaking through computers. They insist the bill would leave them without an education, and emotion wins the day: Reform bills have failed the past two years.

Yet the reforms would mainly tighten eligibility to reflect federal standards.

Under those standards, all the children who testified would be covered.

Advocates and legislators alike are promising this will be the year of change; costs are threatening not only to blow out municipal budgets, but also to derail education reform. The state's school administrators and a group of advocates hired a professional mediator to hammer out a proposal for change that both could support, and recently announced their backing for tighter eligibility guidelines and controls on second opinion evaluations. But much depends on the Legislature, which has two commissions studying special education. Their reports, and proposed legislation, are due June 1.

"We've been saying for 20 years that

costs are out of control, but nothing happens except that parents who are dealing with really challenged kids are somehow made to feel ashamed that they're tapping into an entitlement, as if they don't deserve it," said Holliston's Reed. "Meanwhile, the other people, the people who are saying 'I'm going to use this to get whatever I can,' continue to abuse it. They're taking away from the power of all the really wonderful things that can happen with special ed. And there's a backlash against all the kids."

Tomorrow

Special education programs have become dumping grounds for bad behavior. ■

Boston Globe

March 30, 1997, p. A19

In Concord, back to the basics

By Kate Zemike

CONCORD - Six years ago, the schools here had the same high special ed numbers, the same special ed habits as those in other affluent suburbs. A kindergartner who wrote a B backwards would be declared disabled; 21 percent of children were in special education - one of the highest percentages in the state.

Then the Concord schools took the step special education reformers say schools must take: They put the emphasis, and the money, back in the regular classroom.

Today, Concord's numbers are half of what they were six years ago. At 9.9 percent, the town boasts the lowest special ed rate in the state.

"We've taken away a crutch that in many cases, isn't necessary," said Superintendent Tom Scott. "And we've proven that you can do it."

Calling its plan the K-2 Initiative, Concord focused on the first three years of public school, when many students are first referred to special education - most

of them never to come out.

In those grades, the schools put the specialists who used to work only with special education students in regular classrooms to work with the teacher and 22 students. The aides float between classrooms, spending an hour and a half in each. They work with groups of five students for reading periods. Difficulty reading was the most common reason to be referred to special education.

It seems too simple a step, a mere hour and a half.

But teachers and parents here say that by cutting the student-teacher ratio, students can get the kind of individualized attention that used to be available only in special ed.

The initiative also made a psychological difference.

"We used to think there was some magic in special education," said Irene Hannigan, language arts specialist at the Alcott School. "Now regular teachers realize they have the power to work with these kids."

In fact, pulling kids out for special

education often made their minor problems worse. Students who left to go to a resource room would miss what was being taught back in the regular classroom. And they were learning to read by different methods than the ones the classroom teachers were using, so when they got back to the regular class, students would still find themselves confused.

Now, Concord students rarely, if ever, leave class. It's not as if no one is monitoring for real learning disabilities; teachers are keeping a closer eye on students because they work with them in smaller groups. But they say they are more relaxed about the pace at which children learn, less willing to label as "disabled" someone who is simply taking more time to learn to read.

"We were trying to jump the gun before on things that the gift of time would take care of," said Dru-Ann Kocur, a second grade teacher at the Alcott. "Some kids might need a little boost. But we don't need to blow it out of proportion." ■

Special Ed, A system disabled: Bad behavior, special treatment

By Kate Zernike

Globe Staff

Second of two parts

They used to call it bad behavior. Now they call it a syndrome and put the child in special ed.

Assaulting a coach is diagnosed as an emotional disability. Truancy is school phobia. Drug abuse is dyscalculia; a student who is stoned can't add. Mother-daughter battles become anger, and refusing to obey the teacher - but refusing politely - is passive-aggressive behavior.

Part Two sidebar: More cases, younger children

Part One: Testing the limits

Part One sidebar: In Concord, Back to the basics.

All of these cases, chronicled in state records, have been shoved under the umbrella of special education over the past two years, helping to give Massachusetts the highest percentage of special ed students in the nation.

Special education has become the repository for problems that used to be known as adolescence, as well as the dumping ground for a whole set of social ills: broken families, drug abuse and violence in schools. With its generous entitlements and elastic standards, special ed is being forced to take responsibility where parents and social service agencies have abandoned it.

Today, students with behavior problems are lumped with the learning or emotionally disabled, categories that make up fully 60 percent of the state's special education population.

State records show parents are using special education as a way to get services for children they don't have time for, even as a way to avoid paying child support. Hundreds of non-disabled students are also using the label to avoid being kicked out of school, taking advantage of federal and state laws that prevent expulsion of special education students. And social service agencies and health insurance companies are using special ed to force the schools to pay for residential services and psychotherapy they no longer cover.

These students may have genuine needs, schools say, but they aren't educational; they aren't what was intended when the framers of Massachusetts' first-in-the-nation special education law spoke of "special needs."

"We catch it all," said Robert Doyle, special education administrator in Sharon. "The law is broad enough that kids with drug abuse, kids with willful negative behavior - it's hard for us to say they're not disabled. But these aren't problems that we're supposed to be responsible for."

One goal of the landmark special education law passed in the state 25 years ago was to move children out of institutions for the mentally ill. So the law's provisions allowed for children with emotional and behavioral impairments, anticipating that students with severe mental illnesses would enter the public schools as the state phased out the institutions.

But today, special educators say the emotionally and behaviorally impaired labels are too readily applied. Students are hiding behind them to get away with common truancy, absenteeism, and acting out.

Tex, for example, was a wanderer. The 17-year-old Worcester youth was a polite A-student when he attended class. But most of the time, he would get up and walk out midway through the lecture. He'd roam the halls or leave campus at lunch and not return. His diagnosis: passive aggressive behavior. He was placed in an alternative school, under special ed, similar to the "behavior management" programs many schools now offer.

In Holliston this year, nine students have been deemed to have school phobia, a diagnosis lawyers for schools and parents alike say is becoming more prevalent. Yet school officials say that in most cases, parents have simply surrendered in the age-old battles over not wanting to go to school. If students are feeling too pressured by demands of school or having conflicts with friends, parents send a doctor's note asking that the student be excused.

Educators say they have to make all the attempts they can to keep children in school. There is no statute of limitations on special education cases, so students can, and do, return to the school system years later to argue that they were not diagnosed properly with a disability and deserve compensatory services.

Brandon had been absent for the better part of two years when he left the state, then returned to Foxborough and demanded the town's public schools pay for him to go to an alternative school. Foxborough offered him a GED program instead. At a hearing before the state's Bureau of Special Education Appeals, a psychologist testified that Brandon had been absent because of "unresolved conflicts and underlying anger." Foxborough was criticized for "not making the effort" and ordered to provide tuition, transportation, remedial tutoring, and individual and family therapy.

"Human behavior is so complex, you can look at it and believe it's a disability if that's what you want to believe," said David Gotthelf, a psychologist and director of student services at Wellesley High School. "The question is, have we gone overboard?"

Statewide, the percentage of special education students peaks between the ages of 10 and 15. But elementary schools say they are seeing an increase in behavior disorders, as more children are diagnosed with hyperactivity or Attention Deficit Disorder. While the diagnosis often is accurate and controllable with medications like Ritalin, even some doctors say it is sometimes overdiagnosed in children who are just being children.

"It's more socially acceptable to say a child has ADD than to say the child is spoiled," said Sharon's Doyle. "It's a way to explain behavior."

The state tightened its eligibility guidelines in 1991 to specify that students should not be referred to special education because they had violated a school's discipline code.

Yet state and federal law has unwittingly encouraged a growing number of students seeking a special ed

label precisely for that reason. The federal special education law, known as the Individuals With Disabilities Education Act, forbids schools to give more than a 10 consecutive day suspension to special education students, or any student who asks to be evaluated for special needs. State law goes further, forbidding schools from suspending those students for more than 10 cumulative days.

The theory behind the laws was that students with emotional difficulties or mental retardation might not be able to control their actions. Yet when the state's 1993 Education Reform Act made it easier for schools to expel students for weapons, drugs, or violence, it also prompted many non-disabled students to claim a disability, according to state records.

The board of appeals estimates that about 30 percent of the 632 hearing requests it handled last year involved students who had violated a discipline code. Most of the students had not been classified as special education students before they broke school rules.

Aaron, the captain of the Holliston High track team, was kicked out of school for assaulting his coach at a meet in the fall of his senior year. His parents immediately hired a lawyer and told the school their son was disabled. The school previously had heard nothing about a disability, but at an appeals hearing, an expert the parents hired testified that the boy had an "emotional disability" that "left him no choice but to act out." As part of his remedial program, Aaron had to be allowed to run track.

"The first response to the process of expulsion is not the family and the school attempting to deal with the problem of a student who's done a transgression," said Margaret Reed, special education administrator in Holliston. "The first response is: 'How to blame the transgression on other factors?' Instead of triggering some family response to get the kid to accept a responsibility, it's the school's fault for not recognizing the disability."

In effect, schools are being asked to be parents, coping with a thicket of new social and family problems.

Hearing officers at the state appeals board say some cases are extensions of custody battles, with parents arguing over where a child should be educated. By sending a child to a residential school, at public expense, a parent can avoid paying child support. In Swampscott, divorced parents were arguing over where to educate their son, with the father asking to put him in a residential school, and the mother and school urging he be kept at the high school. A school psychologist attributed the boy's behavioral and emotional problems to the dispute between his parents. He "sees himself as unloved and as a pawn between his parents," he testified.

In Wellesley, a mother and her adopted daughter fought constantly. The girl assaulted her mother and ran away. The mother placed her in a residential school in Utah then sought retroactive tuition payments at \$100 a day. The school paid, and is now being asked to pay for another student whose parents placed him in a boarding school for troubled children after he stole the family car.

And in Harvard, a single mother got the public schools to pay for a summer program for her 15-year-old son, as well as a one-on-one tutor, school counseling, and outside psychotherapy twice a week. She admitted he had no learning disability, but the school approved an "emotional disability" diagnosis. What he needed, she said, was a male role model.

"These children aren't academically needier, they're emotionally needier," said Peter Sack, principal at Swampscott High School and head of the state principal's association. "The nature of children hasn't changed, but what they're being born into has changed. We're dealing with the first generation that hasn't been raised."

Often, schools say they don't know how to deal with the outside problems - they can't label a parent's divorce as a student's disability. So they label what they can. An eating disorder becomes a learning disability, because a girl who isn't eating can't focus long enough to do her homework.

These problems have landed at the doorstep of special education because it is an entitlement; there is no such entitlement for social service agencies or health insurance companies who might more appropriately pay.

So in Cambridge, parents are now demanding that special education pay for residential psychiatric programs for five students who are dealing with substance abuse or psychological problems because of newly recognized homosexuality. Health insurance companies steer parents looking for compensation for psychotherapy or residential treatment programs back to the public schools, where they know it will be paid for.

And Department of Social Service caseworkers often make referrals to special education for students with behavior problems caused by abuse or neglect. This year, DSS added to the schools' caseload by beginning a program known as Commonworks, which will shift half the DSS population in residential schools - or about 800 students - back to the public schools. Public schools in turn face the option of paying the tuition at the residential schools or dealing with the behavior problems in the classroom. In places like Somerville, paying those tuitions has meant that all additional money received from the state under the new education reform law has gone to special education.

"We're sort of the last entitlement," said Marilyn Bisbicos, director of special education in Arlington. "When everything else faded away, we became the only thing left. We've cast our net broadly so we can provide the services other people used to."

Schools say they don't want to deny help to students who need it. On the other hand, they are being forced to drain money from regular education to pay for a whole set of special education students whose problems are not educational.

"We're doing this at the expense of academics," said Sack, of Swampscott. "I used to think that we should be dealing with whatever problems arrived at our doorsteps: emotional, social, medical. I'm beginning to think we ought to go back to what our original mission was, which was to teach." ■

The scandal of special education

It comes as no surprise that this city's special-education system is a shame and a scandal. For one thing, the entire school system is a shambles — a place where teachers and students get short shrift, where school buildings fall apart and supplies are scarce because the adults who've been running things have put resources at the service of their own greed, laziness and incompetence rather than toward the educational needs of the children. For another, it's an acknowledged fact that special education is a particularly swampish mess, prone to all kinds of abuses from both within and outside the system.

The Washington Post this week provided a wealth of examples of the city's special-education failings: failure to provide the necessary help to half the nearly 8,000 students identified as needing special ed; failure to provide required evaluation and testing in a timely way, creating a backlog of an estimated 1,000 children living in educational limbo; failure to do the triennial testing on the children that have been evaluated, missing progress follow-ups on as many as 2,000 of them.

Last year, the records for all special-ed children were inaccessible for six months because the computer where they were stored was locked away in a building with no electricity or phones (couldn't anyone figure out who had the key?). When federal officials offered to help D.C. special-ed administrators with the logistics, or even to hook them up with administrators in other cities who had found ways of dealing with similar problems, the D.C. officials couldn't have cared less. One "puzzled" federal special-education specialist told The Post, "There was no follow-through."

There is plenty of anecdotal evidence of the absence of "follow-through" — which would be better described as the indifference of the special-ed bureaucracy to the needs of its clients. Take Willie Williamson, for instance. The Post reports that he was diagnosed as mildly retarded at seven, then retested at ten. And that's all it. He got no special help or training. Worse, the fact that he doesn't speak clearly and can't read, he was promoted every year for three years, all the way through high school.

A happier case is that of Derale Cooper, who has a speech disability. He and his mother saw all the progress he'd made in training at Gallaudet University slip away during his years in public school (where he was first placed in seventh grade, though he was only 7 years old) — leaving his speech incomprehensible. Derale now attends a private school in Rockville — paid for by the District.

And there lies another element of the special-education scandal. By law, the city is required to provide adequate education to disabled children — or pay their tuition at private schools able to provide it. Every bureaucratic snafu, every lost record, every non-existent or useless program, every failure to test and evaluate, every missed progress check, opens the door to parents who sue to force the city to pay private-school tuition for their children — and to pay the legal fees of their lawyers. As a result, one-third of the District's special-ed budget — or \$21 million — goes to private schools. And another \$2 million a year goes to pay the lawyers who sued to get that \$21 million for their clients' tuition. There's even a new — and growing — legal field dedicated to suing the special-education system for private-school tuitions. One observer described it all as "a racket."

This is not to say that taxpaying parents ought not demand the best possible education for children with disabilities — or for children without disabilities, for that matter. Nor is it to imply that there is never justification for putting such children in private schools — especially given the city's failures. (And wouldn't school vouchers be a truly rational way to deal with this, by the way?)

But it's been an open secret for years that because of the tremendous backlog in evaluation and the city's almost impeccable loss record in court, if you know just whom to go to for testing, and which lawyers to work with, you can get the city to pay for private school for your child — even on the flimsiest educational grounds.

While most parents may be more civic-minded than to abuse the system, there's no doubt that some take advantage of the city's admittedly appalling situation. The Post described one family, the Eby's, who got \$22,000 in one year — to pay tuition at a Vermont boarding school for their son Benjamin, along with air fares between there and here (because, explains his mother, "taking an airplane is a little like taking a school bus if you go to school in Vermont"), hotel bills, and of course legal fees. The parents are asking for more, but the city has balked at paying for ski rentals, restaurant bills and a judo uniform. It has, however, paid the years of tuition at other private schools closer to home Benjamin has since attended.

It might be funny, if it weren't so sad. And just what is there to be done — or even to say — about a system where Willie Williamson and Benjamin Eby coexist? Gen. Julius Becton has promised to turn things around for special-education students — as he has for the school system as a whole. He has his work cut out for him.

Special Education Inclusion Continues To Rise, ED Says

Special education students are more likely than ever to be taught with their peers, and are increasingly identified as disabled at a younger age, the Education Department says.

During the 1994-95 school year, a record 43.4 percent of disabled students ages 6 to 21 attended classes with nondisabled students at least part of the day, according to ED's 18th annual report on the nation's main special education law. That's up from 39.8 percent in 1992-93 and 34.9 percent in 1991-92.

"More and more people are realizing that, for some children, special education can be services provided in a regular environment," said Thomas Hehir, director of ED's Office of Special Education Programs, in an interview.

Separate classrooms were most common for students with mental retardation, autism and multiple disabilities, while students with speech and language impairments were usually taught in regular classrooms.

Early Identification

More than 5.43 million children ages 3 to 21 received services under the Individuals with Disabilities Education Act (IDEA) during the 1994-95 school year, up 3.2 percent over the prior year. By contrast, 4.45 million students received services in the 1987-88 academic year.

The largest increase in the 1994-95 school year came in the category of children ages 3 to 5, which jumped 6.7 percent.

Identifying a child's disability early in life is important to achieving the greatest success in academics, Hehir said.

Hehir added that teachers may be better able to identify disabilities and obtain the proper services for a child. "The field is much more sensitive to the need for early intervention," he said.

The number of special education students ages 12 to 17 increased 3.6 percent, followed by ages 6 to 11 at 2.5 percent. The number of students ages 18 to 21 actually declined by 1.2 percent.

ADD Diagnoses On the Rise

The fastest-growing disability category was "other health impairments," which has increased 89 percent in the past five years. The report attributes that to the increase in children diagnosed with attention deficit disorder.

But that category only made up 2.2 percent of all disabilities.

The number of students with learning disabilities, who account for just over half of all students served under IDEA, remained stable.

Speech and language impairments were the next most common disability, at 20.8 percent, followed by mental retardation at 11.6 percent and serious emotional disturbance at 8.7 percent.

More...

Special Education Inclusion Continues To Rise (Cont.)

The overall number of disabled high school graduates remained relatively steady.

About 7.5 percent of disabled students ages 14 to 21 graduated, but that rate varied by disability. Seventy-three percent remained in special education, five percent dropped out and four percent returned to regular education.

Those most likely to graduate were students with visual, hearing and orthopedic impairments and traumatic brain injuries. The special education students least likely to graduate were those with multiple disabilities or autism.

Another 1.6 percent of students graduated with a certificate of completion or modified diploma.

Limited copies of the "Eighteenth Annual Report to Congress on the Implementation of the Individuals with Disabilities Education Act" are free from the Research to Practice Division, Office of Special Education Programs, Education Department, Switzer Building, 330 C St. SW, Room 3530, Washington, D.C. 20202.

*An executive summary and Chapter 1 of the report appear on the Internet at:
<http://www.ed.gov/pubs/OSEP96AnlRpt/>
—Joetta Sack*

Number of Disabled Students Ages 6-21, By Disability

Disability	Total		Change		Percent of Total Disabled
	1993-94	1994-95	Number	Percent	
Specific learning disabilities	2,428,062	2,513,977	85,915	3.5%	51.1%
Speech or language impairments	1,018,208	1,023,665	5,457	0.5	20.8
Mental retardation	553,869	570,855	16,986	3.1	11.6
Serious emotional disturbance	415,071	428,168	13,097	3.2	8.7
Multiple disabilities	109,730	89,646	-20,084	-18.3	1.8
Hearing impairments	64,667	65,568	901	1.4	1.3
Orthopedic impairments	56,842	60,604	3,762	6.6	1.2
Other health impairments	83,080	106,509	23,429	28.2	2.2
Visual impairments	24,813	24,877	64	0.3	0.5
Autism	19,058	22,780	3,722	19.5	0.5
Deaf-blindness	1,367	1,331	-36	-2.6	0.0
Traumatic brain injury	5,395	7,188	1,793	33.2	0.1
All disabilities	4,780,162	4,915,168	135,006	2.8%	100%

Source: Education Department, "18th Annual Report to Congress," December 1996.