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# COMMITTEE REPORT

## HOUSE

FINANCE

(7)

FURTHER:

3/8/83

Date: 4/15/83

Mr. Speaker:

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had HB 243

An Act relating to day care assistance for parents of developmentally disabled children.

under consideration and reports it back as follows:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for \_\_\_\_\_  same title
- and recommends \_\_\_\_\_  new title
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation  Zero Fiscal Note Attached
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

M.W. Miller Do Pass

Willo Koppman Do Pass

Mike Davis Do Pass

Frank Lester

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Frank Lester

CHAIRMAN

STAFF REPORT

HB 243, child care, developmentally disabled

March 21, 1983

HOUSE HESS COMMITTEE

Day care assistance is provided for the care of children of a low or moderate income family if a parent or guardian is freed to work or seek work or to attend school. Eligibility for children expires on their 11th birthday. HB 243 extends eligibility for children who have developmental disabilities without regard to the child's age.

The argument in support of HB 243 is that a child with a developmental disability still requires parental attention after the 11th birthday. The inclusion of children with developmental disabilities should be beneficial to the "normalization" of the child's environment. Regulations should be adopted to assure that children of large age differences are carefully supervised. One possibility is to have separate classes of day care programs. One for children under 11 years of age, one for the others. It has also been suggested that an incentive be added to encourage day care centers to accept the developmentally disabled. This could be in the form of training for staff, perhaps.

# STATE OF ALASKA

Bill Sheffield, Governor

## DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISS'ONER

POUCH B  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-4700

March 23, 1983

### POSITION PAPER

RE: HB 243  
SPONSOR: Representative Phillips

#### Program Effects:

The bill would provide day care assistance to an estimated 25-45 developmentally disabled children above 11 years of age, whose parents are in working or training. The Department currently provides for the placement of some handicapped children under 11, usually on a case basis. In those special cases, the Department authorizes up to double the average monthly subsidy for the care of these children. The Department would see this bill as expanding that policy to developmentally disabled children who are minors.

#### Comments:

The Department supports raising the age limit above 11 years of age for minor children who have a developmental disability, with two major caveats.

1) The Department can support the bill only if there is a rewrite of the licensing codes which protects, through regulation, age specific normalized environments of all children. The mixing of older developmentally disabled children with much younger children could, if not regulated, be potentially damaging to both groups.

2) Specialized training must be available to day care providers who accept these children to help them adequately deal with their needs.

A survey conducted in the fall of 1982 in Fairbanks concluded that licensed child care centers were willing to take handicapped children if specialized assistance training were available. The Department has had no training dollars to allow this to occur. The Department would require funds to hire a half-time specialist to work with providers to assure that the provider meets the intent of the legislation, the regulations and most importantly, the needs of the child.

It is estimated there are between 25-45 children, whose parents are working or training, that might be eligible for this program if the age limit were raised. However, because parents of many developmentally disabled children may not have had the option of being in the job or training market, the Department cannot know what the real population is. The number of families served under this program could very well be much higher. This year, the Department has been contacted by parents of handicapped children in both Kenai and Fairbanks requesting assistance. Last year before funds were available to Catholic Social Services, we also had requests from parents in the Anchorage area.

Finally, while the Department recognizes the need exists it is important to note that the Division does not have expertise in the complex problems of developmentally disabled children. Studies indicate that handicapped students benefit from special pre-school programs, no matter how severe their disability. The Day Care Assistance program was not designed to accomodate these special needs. It is our concern that the real needs of developmentally disabled children not be addressed solely through this program.

A handwritten signature in cursive script, appearing to read "M. H. Hens", is located at the bottom center of the page.

STATE OF ALASKA  
FISCAL NOTE

Revision Date \_\_\_\_\_, 1983

I. REQUEST

Bill/Resolution No.: H.B. 243  
 Title: Day Care Assistance/Dev. Disabled  
 Sponsor: Phillips  
 Requestor: House HESS Committee

II. FISCAL DETAIL

Agency Affected: C & RA  
 Program Category Affected: Social & Econ Ass  
 BRU, Program of Subprogram(s) Affected: Child Care Assistance-Child Care

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
<b>OPERATING</b>						
100 PERSONAL SERVICES	0	21.5	22.7	24.0	25.4	26.9
200 TRAVEL	0	5.0	5.3	5.6	5.9	6.2
300 CONTRACTUAL	0	0				
400 COMMODITIES	0	0				
500 EQUIPMENT	0	0				
600 LAND & STRUCTURES	0	0				
700 GRANTS, CLAIMS, ETC	0	194.4	206.0	218.3	231.3	245.1
<b>TOTAL OPERATING</b>	<b>0</b>	<b>220.9</b>	<b>234.0</b>	<b>247.9</b>	<b>262.6</b>	<b>278.2</b>
<b>CAPITAL</b>	<b>0</b>	<b>0</b>				
<b>REVENUE</b>	<b>0</b>	<b>0</b>				

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	220.9	234.0	247.9	262.6	278.2
FEDERAL FUNDS	0	0				
OTHER (Specify Source)	0	0				

POSITIONS:

FULL-TIME	0	0				
PART-TIME	0	1	1	1	1	1
TEMPORARY	0	0				

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not identified by Sponsor/Committee

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Karen Perdue  
 Division: Employment Opportunity Division  
 Approved by Commissioner: [Signature]  
 Department: \_\_\_\_\_

Phone: 465-4890  
 Date: 3/23/83  
 Date: 2/23/87

Distribution:

Original to Legislative Finance  
 Copy to Office of Management and Budget (for Legislature introduced bills)  
 Copy to Department (for Governor introduced bills)  
 Copy to Sponsor  
 Copy to Requestor (if different from Sponsor)

3/8/83

**DEPT. OF COMMUNITY & REGIONAL AFFAIRS**

OFFICE OF THE COMMISSIONER

POUCH B  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-4700

Bill Analysis-Fiscal Note

H.B. 243

The Department currently provides funds through the Day Care Assistance Program for children of low income families at an average rate of \$180 per child per month. Policy Memorandum #3 allows for increased subsidy rates of up to double the cost of care for handicapped children with written documentation by a physician, thus an average monthly rate for handicapped children is \$360.

The Division of Mental Health estimates 45 eligible children who would be affected by this bill. The Department suspects there are likely to be more needs for this service than currently can be quantified. Thus the note is based on 45 children of \$360 average monthly costs for twelve months.

The Department currently provides training and technical assistance to child care center and home staff with three full-time professionals. This bill would necessitate an additional half-time professional of range 17 in the classified service. That cost for FY 84 would be \$21.5 thousand. An additional \$5 thousand would be necessary for travel to provide this training.

## POSITION PAPER

## HOUSE BILL NO. 243

"An Act relating to day care assistance for parents of developmentally disabled children."

The existing statutes (A.S. 44.47) specifies that eligible low income parents of children under 11 years of age may receive assistance in payment of costs of day care from licensed day care providers. HB 243 amends this specification by adding developmentally disabled minors (i.e., developmentally disabled persons under 18 years of age.)

Analysis:

Regular day care assistance is intended to provide low income parents with an incentive to pursue careers and income producing jobs that would otherwise be unavailable because of the care and attention parents must give to their children. The assistance, in the form of payments for day care, applies in cases wherein children are under 11 years of age.

This age limit specification assumes that, having reached 11 years of age, a child will have developed enough to be able to take care of himself for brief periods of time without direct care or supervision.

However, in circumstances wherein a child's mental or physical development is impaired to the degree that the child, even though over 11 years of age, is not able to thrive or care for themselves for a brief period of time, the intent of the law is not met.

HB 243 intends to obviate this circumstance by allowing day care assistance to be provided to otherwise eligible families who have developmentally disabled children over the regular age limit of 11 years.

One liability of the Bill is that it may allow the possible situation in which children of very different ages and sexes are cared for in close proximity. In an extreme case one can envision, say, a 17 year old being cared for with four small children of the opposite sex. Non-normal situations such as these would be taken care of by means of changes in licensing regulations to ensure an age-specific normalized environment for both the developmentally disabled child and the non-disabled child.

Population and estimated overall cost:

It is difficult to estimate the number of parents that would be eligible much less those who would partake of the assistance even though eligible. However, some gross estimates can be made. Based on information communicated by a special pilot program for day care for developmentally disabled people in the Anchorage area, it is estimated that 25 families in Alaska would be added to the existing number of eligible families if HB-243 were to become law. If instead of basing our judgments on this "guesstimate" we were to extrapolate from statistics supplied by the Department of Labor, it is estimated that there are about 90 developmentally persons who are 10 to 18 years of age whose parents would be eligible for substantial day care assistance. If about half of these families chose to enroll their children in day care centers or homes that, in turn, would be willing to take the older children, the result is that about 45 new children would be enrolled

as a result of HB-243. (It should be noted that these estimates do not include low income parents who have developmentally disabled children under 11 years of age. These parents are already eligible for day care assistance under the present statute.)

Even though there is a good deal of disparity between the two estimates, the estimate does indicate, at least, that we do not have hundreds of parents being unserved. The figure is likely to be less than 50 parents who would be enrolled as a result of HB-243.

Presently, a customary cost to the State for day care assistance is approximately \$400 per month for a severely developmentally disabled child of an eligible family. If 25 to 45 children would be added as a result of HB-243, then \$120,000 to \$216,000 would be required to provide assistance to the additional families enrolled.

In addition to these expenditures administered by the Department of Community and Regional Affairs, the Department of Health and Social Service would require a temporary six month position to write and promulgate new and amended licensing regulation to ensure age specific normalized environments. The cost for this is estimated at \$26,061 and is explained in the attached fiscal note. It is also anticipated that, as a result of changes in licensing regulations, training existing day care providers will be necessary. It is anticipated that the nature and cost of this training will be included in the position paper being submitted by the Department of Community and Regional Affairs with whom we have coordinated regarding this Bill.

Summary:

HB-243 does not, by itself, mandate adequate day care for developmentally children over 11 years of age. It will, however, (1) provide for a monetary incentive for day care centers and homes to provide such care and (2) provide for an incentive for low income parents who have developmentally disabled children who are over 11 and who cannot be left alone to engage in remunerative work while maintaining the child in the natural home environment.

Department Position:

The Department of Health and Social Services supports HB-243 in concept, but implementation would require substantial increase to the Governor's Budget and such a change has not been approved by the Governor's Office.

Recommended by: Philip R. Shapiro  
Philip Shapiro, M.D.  
Director, Division of  
Mental Health and  
Developmental Disabilities

Date: 3-22-83

Approved by: Robert London Smith  
Robert London Smith, Ph.D.  
Commissioner  
Department of Health and  
Social Services

Date: 3/22/83



HOUSE BILL NO. 243

"An Act relating to day care assistance for parents of developmentally disabled children."

Fiscal Note, page 2

IV. ANALYSIS:

A. Assumptions:

Enactment of this bill would result in the need to license new homes for the care of developmentally disabled children. Homes or centers currently licensed for day care would have to be reassessed to meet new licensing criteria.

B. Program Summary:

1. Promulgating new and amended licensing regulations would require establishment of a Community Care Licensing Specialist II position for 6 months, after which it would phase out. Existing staff in other areas would absorb the additional workload in FY 84.
2. Travel is included to conduct public hearings on regulations, and for travel to and from homes and centers being licensed.
3. No revenues will be received.

C. Computations: No additional expenditures are anticipated for FY FY 85-88. Division will absorb changes due to licensing regulation changes.

D. Economic Impact: Licensure will provide a safe environment for care.

E. Impact on Local Governments: There will be no fiscal impact on local governments.

1.	POSITION TITLE Community Care Licensing Specialist II			RANGE/STEP 18A	BARG. UNIT GGU	FORM 12 PAGE/LINE	COV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 6	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Juneau	ELECTION DISTRICT 4	LEG.	
3.	CONTINUATION LEVEL		ADDITION		JUSTIFICATION				
4.	TYPE OF EXPENDITURE			AMOUNT	<p>This position will be required one time for six months to prepare licensing regulations and implementation materials. Day care licensing regulations have not been changed in six years. A number of needed changes, including safeguarding provisions for the handicapped, have been identified, but changes are indefinitely delayed due to limited staff time and other pressing priorities. If the Bill is passed licensing regulation changes will be immediately necessary to protect young children from the danger of normal activity of pre-teens and teens, to ensure adequate programming for the handicapped, and to develop family day care regulations for specializing in care for the handicapped. Following is the work plan for this position: 1) Develop revised regulations for day care facilities/conduct hearings. 2) Develop a guidebook and sample forms and policy material to implement the regulations. 3) Prepare implementation plan which would include a orientation of licensing staff, Day Care Assistance local agents, and licensees. 4) Draft, in coordination with the Department of Education, a document entitled "How to Start a day care center, family day care home, or pre-school in Alaska." 5) Revise the 1976 publication entitled "How to Choose Day Care for your Child."</p>				
	1		2	3					
	PERSONAL SERVICES								
5.	Salary		17,790						
6.	Benefits		1,091						
7.	Supplemental Benefits		3,040						
8.	Fixed Benefits		1,440						
9.	TOTAL PERSONAL SERVICES		01	23,361					
10.	Travel		02	1,500					
11.	Contractual		03	1,000					
12.	Commodities		04	200					
13.	Equipment		05						
14.	Other								
15.	TOTAL COST			26,061					
	RECEIPT CODE	FUNDING SOURCE							
16.		Federal Receipts 1002							
17.		G.F. Match 1003							
18.	100	General Funds 1004		26,061					
19.		I-A Receipts 1005							
20.		Program Receipts 1026							
21.		Other							
FOR D&M USE ONLY									
4A KEY NUMBER									

REQUEST FOR  
13 NEW POSITION

AGENCY Health and Social Services  
Social and Economic Assistation  
PROGRAM for the General Population

FY 84

BRU Family Services Administration of  
Revised Date  
COMPONENT Central Office

2	2
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ALASKA STATE LEGISLATURE  
HOUSE OF REPRESENTATIVES  
RESEARCH AGENCY

Pouch Y, State Capitol  
Juneau, Alaska 99811  
(907) 467-3991

March 5, 1982

MEMORANDUM

TO: Representative Phillips

FROM: Felicity Watt, Research Staff *FW*

RE: Assistance for Parents of the Developmentally Disabled  
Research Request 82-57

You have asked that we look into supplemental funding for day care to be provided to the parent of a 10 year old developmentally disabled child. We have identified an advocacy group and a school that are available to respond to your constituent's request for information.

The daytime school program at Catholic Social Services for the developmentally disabled is managed by Judy Ebbert. Ms. Ebbert said that the school is for children from the ages of six weeks to sixteen years. Though the school charges a monthly rate of \$400, that cost will be modified on a case-by-case basis in accordance with the parent's need. According to Dr. Gregovich, Program Administrator for the developmental disabilities program in the Department of Health and Social Services, \$625,000 in grant money for handicapped day care and respite care was awarded by the department to Municipality of Anchorage this year. These funds were then subcontracted to Catholic Social Services to assist them in serving developmentally disabled children.

The school is located at 811 West Sixth Avenue and Ms. Ebbert asked that your constituent contact her to discuss the cost adjustment which could be made for her and transportation arrangements that may be made to accommodate her Eagle River location. Judy Ebbert's telephone number is 274-1546.

Representative Phillips

March 5, 1982

Page 2

In the course of our research, we also learned of an organization called Protection Advocacy for the Developmentally Disabled, Inc. (P.A.D.D) which is available to assist your constituent in locating possible programs and sources of funding. P.A.D.D. will pursue federal funding avenues and conduct research on behalf of the parent of a developmentally disabled child. We spoke with case workers for P.A.D.D. in both Juneau and Anchorage who indicated they would be happy to research the case and investigate possible solutions at both the State and national level. Annelly Girard of Anchorage expressed great enthusiasm about acting as an advocate on your constituent's behalf.

Ms. Girard can be contacted at 274-3650. P.A.D.D's Anchorage office opens Friday (March 5) at which time the telephone is expected to be connected. If there is no answer at the above number, Ms. Girard asks that the parent contact her at her home telephone which is : 278-3966.

There seem to be no funds available to replace the Alaska Department of Community and Regional Affairs' day care assistance Program (DCAP) once a child surpasses the eligible age for that program. We talked at length with Ms. Lare, the director of DCAP and discussed the possibility of reinterpreting the ceiling age for eligibility for DCAP on the basis of mental rather than chronological years in the particular cases of developmentally disabled children. As the cut off age is prescribed by statute [AS 44.47.310(3)] which defines child as "any person below eleven years of age," Ms. Lare does not believe she has the authority to change that requirement.

Ms. Lare had contacted members of the Governor's Council on the Handicapped and Gifted in Fairbanks and relayed to us their interest in the situation; however, they have no access to funds which would ameliorate the current dilemma.

We also talked to the Whaley school and the Anchorage Community Mental Health Center who were unable to offer other alternatives for your constituent to pursue.

FW/bf

Encls.

SPONSOR: H Hess  
 SUBJECT: leg non-leg (pub hear) work sess inv hear  
HB 243  
 MAILING ADDRESS: Developmental  
Disabilities

DATE TAKEN/BY \_\_\_\_\_  
 T/C DATE/DAY 3/23/83  
 TIME: 1:00-2:00 PM PACIFIC  
12-1 PM YUKON  
11-12 ALASKA  
10-11 BERING

PHONE 3777 CONTACT Dave Palmer  
Rock Star

SITES PARTICIPATING:

- |  |   |   |   |  |
|--|---|---|---|--|
| <u>North Slope</u><br>Anaktuvuk Pass<br>* Barrow<br>Kaktovik<br>Point Hope<br>Wainwright | <u>NANA</u><br>Ambler<br>* Kotzebue<br>Noorvik<br>Selawik   | <u>Bristol Bay Aleutians</u><br>* Bethel<br>* Dillingham<br>St. Paul<br>Sand Point<br>** Unalaska | <u>South Central</u><br>* Anchorage<br>Homer<br>* Kenai (Sol)<br>* Kodiak<br>* Mat-Su<br>Seward<br>* Valdez | <u>Southeast</u><br>Cordova<br>Haines<br>Hoonah<br>* Juneau<br>* Ketchikan<br>* Petersburg<br>* Sitka<br>Wrangell<br>Yakutat |
| ALL ALASKA<br>ALL LIO's<br>WASH., D.C.   | <u>Norton Sound</u><br>Gambell<br>Hooper Bay<br>* Nome<br>Savoonga<br>Shishmaref<br>** Unalakleet | <u>Interior</u><br>* Delta Junction<br>* Fairbanks<br>** Fort Yukon<br>Galena                     |   |  |

Merry Abada  
 694-9750

Chairing Site/Person Jnu - Tischler Special Offnet  
 Location/Phone# \_\_\_\_\_  
 Signature of Sponsor/Contact Person \_\_\_\_\_ Date \_\_\_\_\_

-----TELECONFERENCE OFFICE USE ONLY-----

Contact in Rep Phillips  
 office - Janet 4931  
 (Conference call)

2-Wire  4-Wire \_\_\_\_\_  
 Bridges: #1 (206)447-0620  
 #2 (206)447-1554  
 #3 (206)447-5627  
 #4 (206)447-9479  
 Bridge operator (800)426-3232  
 JNU trouble #'s 586-1062  
 465-3936

Publicity:  
 \_\_\_\_\_ Local calls/list attached  
 \_\_\_\_\_ Media/P.S.A. attached  
 Can expect:  
 \_\_\_\_\_ Lengthy back-up  
 \_\_\_\_\_ Bill summary  
 \_\_\_\_\_ Participants list

POST TELECONFERENCE NOTES

Site/Date: \_\_\_\_\_  
 Local Moderator \_\_\_\_\_  
 T/C Started: \_\_\_\_\_ T/C Ended \_\_\_\_\_  
 T/C Recorded: \_\_\_\_\_  
 Testified/Participated: \_\_\_\_\_  
 Unable to Testify: \_\_\_\_\_  
 Observers: \_\_\_\_\_  
 Total Number: \_\_\_\_\_

~~465~~ 2180 HB 257 Risk Management

HB 243  
Robt GRESOVICH - MENTAL HEALTH  
PAT MONROE

DEPT: OK bill concept  
OMB MUST REVIEW  
\$150,000  
45 families

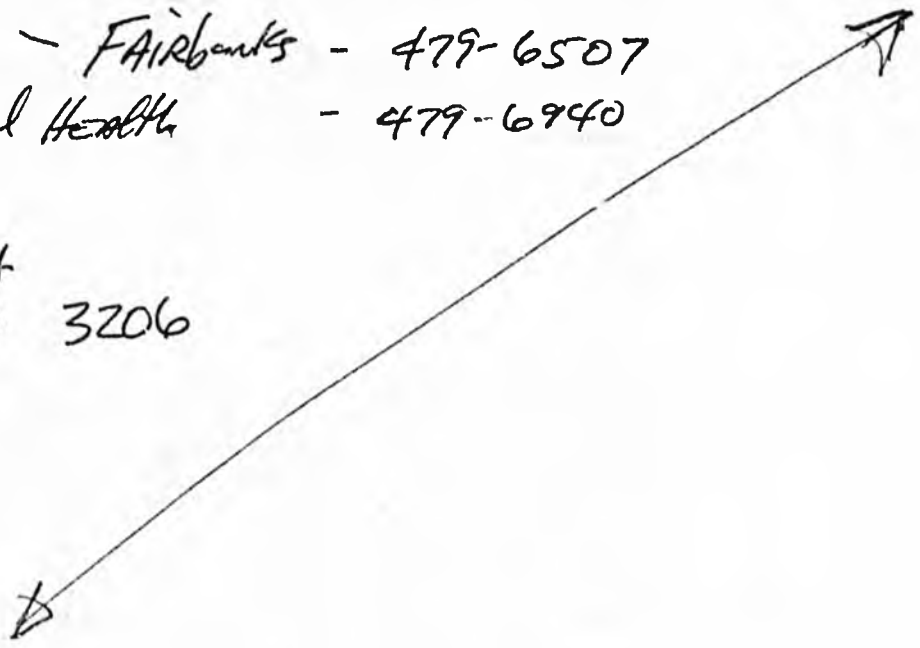
OPTION

Gov's council gifted i/handicapped  
→ DOROTHY TRUIN  
talked w Randy Phillips

Gov Comm Gifted i/handicapped  
365T

- FAIRBANKS - 479-6507  
D Mental Health - 479-6940

PAT MONROE<sup>A</sup> 3206



1946  
EVAING/SIWA

ADDITIONAL TRAVELING, ETC. THIS SHOULD BE SUBMITTED.  
ONE TO BE RECEIVED FOR DAY CARE AS THE FACILITY WOULD RECEIVE THROUGHOUT  
EACH DAY FOR DAY CARE ASSISTANCE, WOULD HAVE IT EASIER FOR THESE  
BUT THIS WOULD BE DEVELOPMENTAL DISABILITIES TO THE LIST OF

SSA

747-5224  
SIRVA, OR. 98325  
BOB BOA  
ANN BELLETT

WILL, ALBERT, M. CHAMBER, ERIC, COLL, BROOKEN, AND WAHIS (H-HESS)

Docc ~~WARRA~~ Re: HB 243

TO: BUREAU INFORMATION

U.S. HOUSE AND SENATE FINANCE COMMITTEES  
U.S. HOUSE AND SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEES  
REPRESENTATIVES MITCHELL AND GENDIE  
SENATOR ZIEGLER

COMPOPET SELURO, P. O. BOX 7475, KETCHIKAN, ALASKA 99901, 225 9534

DEPT. OF H. & S.E., DIV OF PUBLIC HEALTH, BUDGET REQUEST UNIT, CHILD  
HEALTH, SPECIAL EDUCATION GRANTS COMPOPET, INFANT LEARNING PROGRAMS

RE: A CHILD OF A 2 YEAR OLD WHO HAS A LANGUAGE DELAY PROBLEM. HE HAS BEEN  
IN THE INFANT LEARNING PROGRAM SINCE SEPTEMBER OF 1982. HE HAS STOPPED  
SAYING WORDS SINCE THE TEACHER HAS BEEN COMING DOWN. PLEASE INCREASE THE  
BUDGET TO THE LEVEL RECOMMENDED BY THE GOVERNOR'S COUNCIL. THANK YOU.

END

3-23

3926 →

HB 243

Phillips

John GARDIN AK. Children's Services

WANTS EMOTIONALLY DISTURBED children  
47.80 PC 96.602

Gov's commission - WANTS to include more children

Gregovich

PAT MURPHY Bill covers C & RA Day Care,

HSS - Regulations

Favor bill but . . . .

1. Regular day care is to provide incentive to find work

Merry Abada

PAT MURPHY - Licensing Coordinator

KAREN PERDUE - COST of CARE - 2  $\times$  \$194,000

DOUBLE AVERAGE Pmt for handicapped

HOUSE HESS  
COMMITTEE MEETING  
AGENDA

DATE: April 15, 1983

TIME: 1:00 p.m.

I. Call Meeting to Order

A. Note Committee Members Present

B. Welcome Those Observing

C. Remind those wishing to testify to sign up, and those giving testimony to speak up and state their names.

II. Announce Legislation Under Consideration:

HB 243      An act relating to day care assistance  
for parents of developmentally disabled  
children.

SSHB 219    An act relating to Local Citizen Advisory  
Boards of the University of Alaska.

Other notes or reminders:

Have a good weekend!!



## GOVERNORS COUNCIL FOR THE HANDICAPPED AND GIFTED

UNIVERSITY PLAZA OFFICES WEST • SUITE C • 600 UNIVERSITY AVENUE • FAIRBANKS, ALASKA 99701

PHONE (907) 479-6507

March 23, 1983

MAR 25 1983

Honorable Randy Phillips  
House of Representatives  
State Capitol  
Pouch V (Mail Stop 3100)  
Juneau, AK 99811

Re: HB 243 Day Care Assistance

Dear Representative Phillips:

Thank you for following through on your promise to try to find a way to provide assistance to handicapped or disabled children who need after school day care but who are over eleven years of age.

Following a brief review of HB 243 the Council offers these comments:

1. We support the need for the day care subsidy for parents of handicapped or disabled children.
2. Amending the Day Care Assistance law to include disabled children over age eleven incurs a minimum of change in the current program now administered successfully to handicapped and non-handicapped children under age eleven by the Department of Community and Regional Affairs.
3. It will be necessary to protect against the potential detrimental effects of inappropriate placement of older children with young children in day care centers. Therefore a re-examination and revision of day care regulations and licensing requirements will be required to insure that:
  - a. day care environments, whether in centers or day care homes, meet the age-stage developmental needs of the children served (programs offer social educational and recreational experiences which fit normal patterns for the individuals served).
  - b. the physical health and safety of handicapped and non-handicapped children are protected (programs prevent harm or injury which could result if older, physically aggressive children are served in the same setting with toddlers or young children without sufficient staff and supervision).
4. Training opportunities will need to be made available to day care workers to help them to better understand and care for children with special needs. The Department of Community and Regional Affairs has already provided excellent training opportunities through special grants for a variety of day care training and management needs. This can be expanded to include training for day care workers who care for handicapped children. Day care providers who already serve younger handicapped children have most of the knowledge and resources to meet this need.

5. Consideration should be given to changing the target population from a minor who has a "developmental disability" (the definition adopted from A.S. 47.80 is no longer current under the federal Developmental Disability Act P.L. 95-602 and is functionally obsolete in the human services field) to a minor who has a "handicapped or disability" to allow inclusion of children who have physical disabilities, orthopedic handicaps, or health impairments as well as those with mental retardation or mental impairments. The need for after school day care of physically dependent children is similar to that of mentally handicapped children and should be able to be met through this program. There does not appear to be a reason to include one category of handicapped or disabled children and exclude another if the basic goal is to assist parents who have a special day care need because they have a handicapped child who cannot fend for him or herself after school. Implementing regulations could further define the terms.
6. Special subsidy rates would need to be allowed so that remuneration would be related to the additional costs of caring for children with special needs.

There are additional needs to assist parents to care for handicapped children as they grow and develop. What may be an after school day care need today may become a different need tomorrow, depending on changes in the family, where the family lives, and changing developmental and care needs of the handicapped child. Also, there are many communities in Alaska which do not have day care centers or licensed day care homes. To provide a broad-based but individual and local response to these changing needs we hope you will also continue to explore the family subsidy or family assistance concept which you worked on earlier this session. We have obtained more program and cost information and will provide it to you under separate cover. We feel that the number of services and amounts of subsidy can be refined, narrowed, and limited to affordable and manageable levels. With a simple family assistance program we could provide families with handicapped children who do not live in large communities or in proximity to formally organized service programs a somewhat equal opportunity to obtain the support and help they need.

It is heartening to see that you and your legislative colleagues are grappling with these service issues and devising responsive solutions to complex problems. Programs such as day care assistance do much to ease the burden of care and enable parents of handicapped children such as my husband and myself to work and pursue careers and attend to the needs of our other children. They also reduce the need for costly out-of-home placement or institutional care for handicapped children. Many thanks for your willingness to listen and to try out new solutions.

At your suggestion a copy of this letter will be provided to co-sponsors Representative Malone and Representative Koponen, and offered as testimony on the bill to the HESS Committee members.

Sincerely,



Jane White  
Chairperson

cc: Representative Hugh Malone  
Representative Niilo Koponen  
Representative Mae Tischer, Chairwoman, House HESS Committee

## Who We Are . . . .

Protection and Advocacy (P.A.D.D.) is a private not-for-profit corporation that exists to protect and advocate for persons with developmental disabilities.

This agency was created by a federal law, Public Law 95-602, which requires each state to have an agency for protection and advocacy purposes. Since it is a private agency, we are not administered by federal or state government, although funding for P.A.D.D. does come through the federal Department of Health and Human Services and the Alaska Department of Health and Social Services.

Our purpose is to see to it that governmental units at all levels respect and comply with the legal and human rights of persons with a developmental disability. We monitor activities in the private sector as well as the public.

Above all, our goal is to help persons with a developmental disability to know their rights and to assist them in pursuing remedies on their own. Legal action is a final recourse and we believe many other steps can and should be taken before legal remedies are sought.

## The People We Serve . . . .

PADD works on behalf of any person, regardless of age, who has a developmental disability. The disability must be attributable to a mental or physical impairment or combination of mental and physical impairments, and it must be manifested before the age of twenty-two and be likely to continue indefinitely.

The disability must result in substantial functional limitations in three or more of the following areas of major life activity: self-care, receptive and expressive language, learning, mobility, self-direction, capability for independent living and economic self sufficiency.

Finally, we serve those with a disability which reflects the need for a combination and sequence of special, inter-disciplinary or generic care, treatment or other services which are of lifelong or extended duration and are individually planned and coordinated.

## . . . . And What We Do

We provide public awareness of the human rights of persons with a developmental disability. We also provide information to persons with a developmental disability to assure that they and their families know and better understand their rights.

We provide information on the rights of persons with a developmental disability. Armed with correct information and backup support from us, we feel that direct intervention by our agency is not necessary in many cases.

If our help is needed, we do not hesitate to intervene on the behalf of a client. In many cases, PADD has acted as a liaison between a governmental agency and a concerned parent, arbitrating the differences that might exist.

In addition to direct advocacy, we provide guidance to legal services and training groups.

As a corporation, PADD may file class action suits on behalf of persons with a developmental disability. Such direct intervention is a role we take only when far-reaching change is needed to improve the lives of persons with a developmental disability.

## How We Can Help . . .

We can provide the tools needed to advocate for persons with a developmental disability. Those tools include information, legal guidance, training and if need be, direct advocacy.

P.A.D.D. is a resource agency. We are here to help and are capable of providing much more than just moral support.

When direct action is called for, we will act. Action may include providing input into the legislative process, acting as a liaison for a client or assisting or initiating legal suits when broader issues are involved. As a last resort we may take direct action on alleged violations of the legal rights of persons with a developmental disability.

## Our Goal:

To protect the rights of persons with a developmental disability and to encourage them to become self-advocates whenever possible in legal or human rights concerns.

## SERVICES

There are three basic services provided by PADD.

### ADVOCACY SERVICE

This service includes investigation or negotiation on a client's behalf. Information or referral to a more appropriate agency is also part of this service.

### LEGAL SERVICE

This service may provide legal support to lawyers working on behalf of a PADD client, refer clients to attorneys familiar with developmental disability law, contribute to training workshops and seminars (and -- in some cases -- directly represent eligible clients).

### TRAINING SERVICE

PADD's staff can provide in-service training, workshops and presentations regarding our services, due process or legal rights of persons with a developmental disability.

### HOW TO MAKE A REFERRAL

Clients may request PADD services directly or referrals can be made from agencies, concerned friends, parents, other advocates or service providers. PADD's staff will emphasize talking directly to the person with the disability rather than about them with referral sources. PADD will employ a wide variety of techniques for informing persons with developmental disabilities of the services available to them and attempt to make service accessible throughout the State. You may call collect

Protecting the Legal and Human Rights of Persons With A Developmental Disability



PROTECTION AND ADVOCACY  
FOR THE  
DEVELOPMENTALLY DISABLED

Protecting the  
Legal And Human Rights  
of Persons with  
A Developmental Disability

Protection & Advocacy for  
Developmentally Disabled  
(P.A.D.D., Inc.)

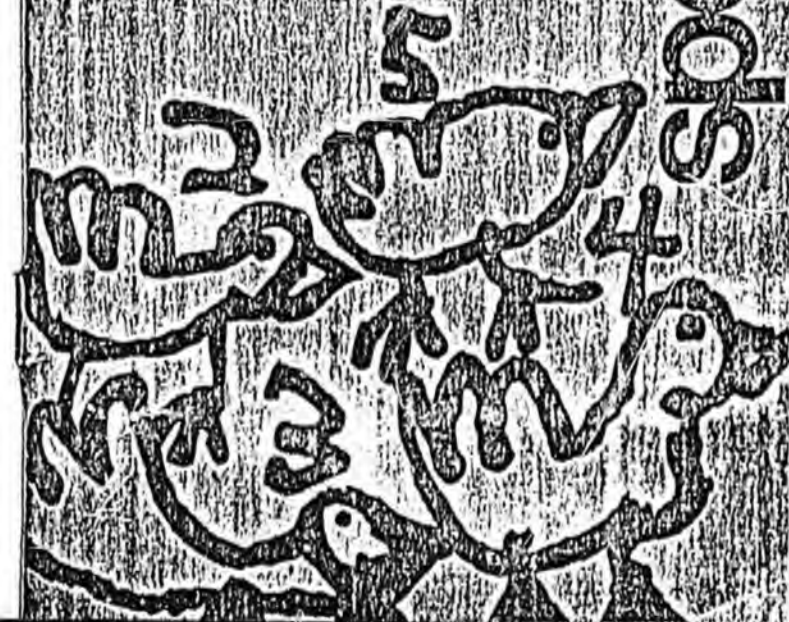
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Children's Defense Fund  
1520 New Hampshire Ave., N.W.  
Washington, D.C. 20036

94-142 and 904:  
Numbers that Add Up  
to Educational Rights  
for Handicapped  
Children

A Guide  
for Parents and  
Advocates



special education

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The Children's Defense Fund (CDF) is a national, nonprofit public charity created to provide long-range and systematic advocacy on behalf of the nation's children. Through research, public education, litigation, technical assistance to State and local groups, community organizing and monitoring federal administrative and legislative policies and programs, CDF seeks to change policies and practices resulting in the neglect or mistreatment of millions of children. Our goal is to place the needs of children and their families higher on the nation's public policy agenda.

CDF is supported primarily by foundations. We have no chapters and are not a membership organization, but work closely with other groups to help individuals, parents, and advocacy groups work on behalf of children. We welcome those who are interested in receiving up-to-date information on a range of public policies affecting children to become subscribers of our newly launched children's public policy network.

The increased involvement of individuals and groups on behalf of children throughout the nation is critically important. We hope all taking the time to read this Agenda will begin to:

- Become informed about the needs of children nationally and in your own area.
- Talk to other parents, individuals and groups in your community to gain strength from numbers to pursue local change for children.
- Speak up to unresponsive policymakers and political officials who fail to protect children's interests or provide them with needed services.

As a public charity, CDF is permitted under the Tax Reform Act of 1976 to spend a small percentage of its budget on legislative activities. Because our legislative resources are limited and must be strictly accounted for, we carefully target our efforts on issues where we have particular expertise, can make a difference, and will represent a point of view that will not otherwise be heard.

*This handbook is one of a series of booklets published by the Children's Defense Fund to encourage a stronger role for families and community groups in protecting children's rights. Other titles in this series are listed on the inside back cover.*

Protection & Advocacy for  
Developmentally Disabled

(P.A.D.D., Inc.)

419 6th St., Rm. 316

Juneau, Alaska 99801

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**94-142 and 504:  
Numbers that Add Up  
to Educational Rights  
for Handicapped  
Children**

**A Guide  
for Parents and  
Advocates**

This booklet was written by Daniel Yohalem and Janet Dinsmore. We are indebted to the Closer Look Information Center for the Handicapped for material drawn from "What Does It Take to Make a Law Work," *Report from Closer Look* (Winter-Spring 1977), and for their provision of a resource list, "National Organizations for the Handicapped."

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Washington, D.C. 20036

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# 1. Introduction

It is commonly thought that a free appropriate public education is the birthright of every American child. But until the enactment of recent landmark legislation—passed after years of public hearings, debate, consultation, and investigation—this right was routinely denied to millions of the nation's handicapped children. A large proportion were kept out of school altogether, while others had to make do with inadequate and piecemeal educational services.

The two laws described in this handbook represent an effort to change this pattern of neglect. They recognize that if children are to grow up to become productive and self-sufficient members of the community, they need the benefits of an appropriate education, adequate health care, and meaningful training and social services *while they are young*. This is especially true for handicapped children who must develop extra skills to compensate for whatever disability they may have. The earlier these services are provided, the greater the gains will be in the child's development.

This handbook is designed to give you an understanding of your child's educational rights under these new federal laws. One, called P.L. 94-142,<sup>1</sup> is a comprehensive law setting forth the fundamental rights necessary to ensure that all handicapped children receive the free appropriate public education to which they are entitled. The other, Section 504,<sup>2</sup> is a more general civil rights law which also applies to educational services. Section 504 makes it illegal for any agency or organization receiving federal funds to discriminate *in any way* against handicapped people. It requires any public or private organization receiving federal money to take special steps to make it possible for people with mental, perceptual, physical or emotional handicaps "to learn, work, and compete on a fair and equal basis." Non-compliance can mean a cutoff of all federal support to the agency or organization.

Despite the fact that these laws are now on the books and apply to most school districts in the

United States, it's going to take a lot of work to put them into action. And without your active involvement in the process of getting a good school placement and appropriate services for your child, the changeover will be even slower. Both laws contain provisions for your participation in decisions all along the line. We urge you to exercise these rights and hope this handbook will be useful along the way.

## 1.1 Know the Law

The first step is to know what the regulations actually say. You can get a copy of P.L. 94-142 regulations (42 *Federal Register* 42474, *et seq.*) by writing your Congressperson or ordering it from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402; 45 cents per copy. The Section 504 regulations (42 *Federal Register* 22676, *et seq.*) can be obtained from the U.S. Department of Health, Education and Welfare, Office for Civil Rights, 330 Independence Avenue, S.W., Room 5400, Washington, D.C. 20201.

It is also important to know what your state and local plans for services to handicapped people say. Each state and local school district is required to develop special education plans *each year* and make them available to the public for review and comment *before* they are adopted. The plans must detail how the state and each school district intend to carry out the law. Copies can be ordered from your State Department of Education<sup>3</sup> and local school district superintendent.

All school districts should have copies of the two sets of federal regulations, the state plan, and the local district's own plan. You have a right to see these documents.

Read and review these documents with care. Workshops, training sessions, or problem clinics can be sponsored by parent organizations to learn about the laws and sharpen your ability to enforce them. Communicate your concerns about proposed state and local plans. If there are glaring needs that you feel are not being filled, say so.<sup>4</sup>

<sup>1</sup>Public Law 94-142 (20 United States Code § 1401, *et seq.*), the Education for All Handicapped Children Act, was enacted in 1975. Its regulations—on which this handbook is based—were published in the *Federal Register* on August 23, 1977.

<sup>2</sup>Regulations implementing Section 504 of the Rehabilitation Act of 1973 (29 United States Code § 794), the Civil Rights Act for Handicapped Persons, were published in the May 4, 1977 *Federal Register*.

<sup>3</sup>A list of the addresses of State Departments of Education is contained in section 6.5 of this handbook.

<sup>4</sup>Highlighted text from "What Does It Take to Make a Law Work?" Report from Closser Loop (Winter/Spring 1977). A publication of the Closser Loop Information Center for the Handicapped, P.O. Box 1492, Washington, D.C. 20013.

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## 1.2 How this Handbook is Organized

This handbook should serve as a general guide to educational services and the processes for getting them under P.L. 94-142 and Section 504. It is divided into the following sections:

- **What the Laws Cover.** The first section includes information on the range of disabilities protected, age requirements, and relevance to children in institutions and foster homes.
- **The School District's Responsibilities.** The second section describes all of the special education services and assistance your child is entitled to under the laws.
- **How the Evaluation Process Works.** The third section explains the procedures used to identify, evaluate and place your child in an educational program fitting his or her needs. A key part of the evaluation process is development of an IEP—individualized education program.
- **Your Rights When You Disagree With the School.** The fourth section describes how you can challenge your school's evaluation or placement decision. Enforcement tools include independent evaluations, hearings, administrative reviews, complaints and lawsuits.
- **Resources.** The fifth section lists local, state, and national organizations that can provide information and help at various points in the process.
- **Appendix.** Legal Citations to Federal Statutes and Regulations.

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## 2. What the Laws Cover

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### 2.1 Who is Eligible for Free Public School Services?

The definition of "handicapped children" is very broad. It includes children with any of the following handicaps, no matter how severe or mild the handicap is:

- Hearing impairments or deafness
- Speech impairments
- Visual impairments or blindness
- Emotional disturbance
- Mental retardation
- Physical impairments
- Learning disabilities
- Chronic or long-term health problems
- "Other conditions"

---

### 2.2 How Old does your Child have to be to Receive Special Help?

The age requirements are also broad. There are presently three categories of children who are eligible for special education services. These include all children who are:

- Covered by your state's public education laws—usually 6-17 years old
- Presently receiving services from any federally funded program (such as Headstart or Vocational Education), whether they're younger or older than the state school age
- In any disability category required by state law or court order to be served

All children aged 3-18 will be eligible by September 1, 1978, and all children aged 3-21 by September 1, 1980, unless state law or practice does not allow serving 3-5 or 18-21 year-olds.

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### 2.3 What about Children Placed Outside Their Homes?

The laws apply to all children regardless of their residence. Children living with their own parents, institutionalized children, children in group homes, and children in foster homes are all eligible.

### 3. The School District's Responsibilities

The law guarantees every child a free public education. This means that a child with special learning needs is entitled to free special services to meet those needs.

#### 3.1 What Special Services does the Law Provide?

The range of services your child is entitled to includes:

- Early identification and assessment of disabilities (The procedure for evaluating your child's special needs and developing an individualized education program is discussed in the next section.)
- Specially trained teachers and teachers' aides
- Speech and language therapy
- Special materials and equipment
- Counseling
- Psychological services
- School health services
- Medical services for diagnostic or evaluation purposes
- Physical therapy
- Occupational therapy
- Special transportation to school and activities within school
- Vocational education
- College placement services
- Parent counseling and special homemaker services that teach natural and foster parents how to care for handicapped children
- Other programs and services if they are necessary for your child's education

Above all, your child is entitled to *effective* instruction in the basic skills needed to become self-sufficient: reading, writing, speaking, and arithmetic.

#### 3.2 Do the Laws Extend to Extracurricular Activities?

Yes. Handicapped and non-handicapped children need to spend time together and share activities outside the classroom. After-school programs are often as important to a child's development and

healthy adjustment in the community as school-work. Your child has the same rights as non-handicapped children to participate in:

- Clubs
- Career and educational counseling
- Meals
- Recess periods
- Physical education, including a specially designed program if necessary
- All school athletic programs, including competition
- Early morning and after-school day care programs
- Music, art, crafts, homemaking, industrial arts, or other special interest activities
- Health services
- Referrals to agencies that provide assistance to handicapped persons
- Employment services

These activities should be fully integrated with those of non-handicapped children. If your child's individual needs cannot be met in a regular setting, however, then the same opportunities must be made available in other ways.

#### 3.3 Can Services be Provided to Children in Regular Classes?

If your child's disability calls for intensive one-to-one teaching in a very quiet setting or specialized, perhaps immovable, equipment that is available in only one place in the school district, he or she might be sent to a different facility, spend part of the day in a "resource" classroom, or be enrolled in a day treatment program.

Usually, though, special education services can be arranged with the help of special teachers or teachers' aides who work along with the classroom teacher. Tests and work assignments must be modified, and different techniques and materials used for children with particular disabilities. Under the law, schools are now responsible for routinely providing such services as: interpreters for deaf children, taped tests, brailled materials and readers for children with visual problems, and specially adapted equipment for physical handicaps if needed.

---

### 3.4 What about Children in Day or Residential Treatment Programs?

Most children don't need separate, special schools or residential care. But, if it is in your child's best interest—after careful evaluation and *with your agreement*—he or she can be placed in a private school, day program, or residential setting. Your school district is then responsible for paying for all educational, room, board, transportation, and non-medical care costs. Any private school program selected must meet state and federal standards and must safeguard both you and your child's rights. An important point: If a residential placement is called for, your child *must be placed as close to home as possible*.

If you voluntarily choose to place your child in a private facility—even though the state has offered a free appropriate education for your child—then the state is not required to pay. However, your child is still eligible for evaluation by the school district and can take advantage of the special education and related services offered to other handicapped children by the district.

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### 3.5 Architectural Barriers

It is illegal to place handicapped children in separate buildings or trailers simply because the regular school building has stairs, narrow doorways, inaccessible bathrooms and other physical barriers that make it hard for handicapped students to get in or around. Schools must immediately start making their buildings and classes accessible to all students. Ramps must be built and classes relocated *right now*, if necessary. Any significant reconstruction must be completed by June 3, 1980. All new construction must be designed to be readily usable by handicapped persons.

The law applies to pre-schools, elementary schools, secondary schools, colleges, and post-secondary vocational schools.

---

### 3.6 Who Provides and Pays for Transportation?

The school is required to provide whatever transportation is necessary to ensure that your child receives an appropriate education. This may involve setting up a special transportation system if your child has physical disabilities or lives too great a distance from the school. He or she is automatically eligible for special transportation if all

of the other children in the community get transportation services. If, however, the school doesn't normally provide transportation, it is up to you to show why your child needs it—a doctor's note or note from you on your child's disability should be sufficient.

Most schools already provide their non-handicapped students with free transportation to and from school and special school activities. If there is a fee, handicapped children can't be charged any more for their transportation than non-handicapped children, even if special equipment, personnel, or services must be used.

**Make sure appropriate transportation is specifically mentioned in your child's individualized education plan—IEP.**

---

### 3.7 Mainstreaming/Least Restrictive Environment

The law recognizes that it's important for your child to have the experience of functioning in the real world with all kinds of children. He or she is growing up in a complex society and will someday be living and working with non-handicapped adults. Schools are therefore required to educate your child—to as great an extent as possible—in regular school settings with non-handicapped children of the same age group.

Only if your child's needs are so special that they can't be met in a regular class with additional aids and services should placement in a separate area be considered. Even then, the special separate class placement should be limited—not all day long—and should be located in the regular school building—not trailers or different facilities—whenever possible. Placement in separate buildings should take place *only* when the services are so specialized that they could not possibly be provided in a regular school building.

*This does not mean that your child can be put in a regular class just to sit in the back or be ignored.* The special services he or she needs *must* be provided in full. The purpose, however, of the law's emphasis on the "least restrictive environment" is to give your child a chance to go to school in the most natural and integrated setting possible. Experience has shown that separation tends to encourage unfair labels and unfair treatment.

## 4. How the Evaluation Process Works

Both Section 504 and P.L. 94-142 guarantee parent<sup>5</sup> involvement in every decision affecting your handicapped child. Without your consent, no school district or official can:

- Evaluate your child's abilities and educational needs,
- Determine which special education services are necessary, or
- Place your child in a special education program.

The law encourages your presence at all discussions affecting your child; requires that you be fully informed of every decision, the alternatives considered, and the reasons for them; and requires your approval of your child's initial special program. You have the right to inspect all of your child's education records, including those concerning his or her identification, evaluation, and placement.<sup>6</sup>

You also have the right to bring anyone you choose to any meeting concerning your child's education. This might include a lawyer, a friend or relative, a community advocate, or any other person who can help. (A list of people who might be able to represent or refer you to other assistance in your community is contained in section 6.1 of this handbook.)

Poor and minority students have been *misclassified* as mentally retarded by many school districts. Be sure the evaluation process gets at all your child's special needs. Be sure the program you agree to provides all the services your child needs. Do not let your child be dumped in an inappropriate class because of racial or cultural discrimination in your school district.

<sup>5</sup>Under the laws, the term "parent" means a parent, guardian, foster parent, person acting as the child's parent, or "surrogate parent" appointed by the state if a child's parents are unknown or unavailable. The state itself cannot be considered a parent, even if a child is a ward of the state. All "parents" are responsible for protecting their child's educational rights.

<sup>6</sup>This right is also protected under the Federal Family Educational Rights and Privacy Act. 20 United States Code §1232g

### 4.1 How is Your Child Selected for Evaluation?

The responsibility for identifying which children need special attention and help is shared by a lot of people and institutions. Parents, state agencies, school administrators, teachers, social workers, doctors, and community workers should all be involved in getting children the help they need.

States and local school districts are required to prepare plans detailing exactly how they will go about locating children with special needs. Different states have used different methods. Newspapers, television and radio announcements, pamphlets, brochures, mobile units, counseling sessions sponsored by mental health centers, and public health and welfare agencies have been required by various states to alert parents to their rights and to the availability of services.

As a parent, you are the most likely source of referrals. You will probably notice sooner than anyone else that your child has a special problem, especially if the problem isn't obvious or severe. If your child seems to have trouble understanding or keeping up with schoolwork, often complains of headaches, has difficulty speaking, says the television looks blurry or the sound is never loud enough, these may be clues he or she needs extra help.

Children themselves are sometimes afraid to tell their teachers or even their parents that something is bothering them. So if you think your child might have a handicap that is interfering with his or her ability to learn *in or out of school*, ask for an evaluation by the school. The evaluation will determine what your child's particular strengths are and in which areas he or she needs special help.

### 4.2 Whom Do You Contact?

The first step is to call the principal of your local school and the Special Education Director of your school district. (You can find out who the Special Education Director is from the principal's office.) When you call, give your child's name and birthday, and ask for an evaluation to be scheduled as soon as possible. Follow up your call with a letter to both people and be sure to send a copy of the letter to the State Director of Special Education.<sup>7</sup>

**Keep written records:** Your own personal file on your child should contain copies of all your letters to and from officials, dates and topics of all conversations and meetings with of-

<sup>7</sup>See list of State Directors of Special Education in section 6.5 of this handbook.

officials, and your own observations about your child's behavior, needs, strengths, and problems. All of this will help you when crucial decisions are made.<sup>8</sup>

### 4.3 What are your Rights when the School Recommends an Evaluation?

If school officials think that your child needs to be evaluated or placed in a different educational program, they are required to follow certain procedures. They must first notify you, explaining:

- What they propose to do—which tests they want to give, which experts will be involved, and what kind of placement they anticipate.
- Why they think it is necessary—which existing tests, what behavior, or which records support their view.
- What options they considered and why they selected or rejected them.
- Any other reasons for recommending a change in placement or program.

It is illegal for anyone to remove your child from the regular school program without an evaluation, without your being fully informed, and without your consent or a final decision by a hearing officer or court.

### 4.4 Who Participates in the Evaluation Process?

The "educational team" selected to evaluate your child must include people who know your child well (including you), people you select, people who know how to evaluate the information resulting from the various tests, people who specialize in your child's particular disability, and people familiar with service and treatment alternatives.

The team is likely to be composed of:

- A special education teacher or specialist with knowledge of your child's particular disability. (This is a requirement.)
- The school psychologist (if there is one)
- A school administrator
- A doctor familiar with your child's medical history

- A representative of a private school if it seems likely that your child will be placed in a private facility (This is a requirement.)
- A social worker
- Other teachers who know the child's performance
- Parents

Part of this team will later be involved in helping develop an IEP—individualized education program—for your child.

### 4.5 What are the Evaluation Procedures?

A variety of tests and other procedures which are racially and culturally non-discriminatory must be used to get a complete picture of your child's educational needs. *Your child cannot be evaluated on the basis of any single test, incident, or discussion.* Data on health, vision, hearing, social skills, emotional status, general intelligence, academic performance, and physical coordination must all be combined to make up the IEP. This information is obtained from:

- Diagnostic tests
- Aptitude, achievement, or "IQ" tests
- Extensive talks with parents and teachers about your child's performance and development in and out of school
- Psychological testing of behavior and functioning
- Observation of your child in school and play settings
- Medical examinations

Assessments must take into account any special conditions such as your child's inability to speak English or his or her particular handicap. (For example, schools are not allowed to give oral aptitude or achievement tests to deaf children.)

The right to understand extends to parents, too. If their primary language is not English, the school must arrange for an interpreter.

Whatever tests are used, it's important to know about all facets of your child's development—including physical, self-care and communication abilities, and social and emotional maturity. Insist that the evaluation is thorough and that the IEP developed is not a routine form—*all children with the same handicap do not need the same educational program. The IEP must be specific to your child's needs.*

<sup>8</sup>Highlighted text from Report from Closer Look.

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## 4.6 What is an IEP?

An IEP—individualized education program—is the written result of your child's evaluation. It is the basis of your child's entire learning program. He or she cannot, in fact, be placed in a special education program without such a written program plan.

The IEP's two major purposes are: (1) to set out learning goals for your child's achievement; and (2) to set out services the school district is then *required* to provide to help your child meet these learning goals.

The IEP must contain information on:

- Your child's present level of performance
- Your child's annual and short-term learning goals—in other words, how much he or she is expected to learn over certain periods of time
- What special education and other services will be provided to accomplish the goals
- How much your child will be able to participate in the regular school program—when, where, and how much he or she will be with non-handicapped children
- When special services will begin and how long each service or special program will be offered
- When and how your child's performance and the effectiveness of the plan will be evaluated

All of this information is designed to let you know exactly what changes in behavior and development to expect, and how each program, service or teacher will help your child reach his or her potential. The IEP should give you a clear idea of the progress your child is expected to make under that particular plan.

You have a right to your own copy of the IEP. Be sure to request one so that you can assess your child's progress, hold the school to its promises, remember what was decided, and place your child properly if he or she has to switch schools.

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## 4.7 How is the IEP Developed?

Your school is required to meet with you, a teacher, an administrator, and another representative of the educational team to discuss the results of your child's evaluation and consider what special services—if any—are needed. It is important also to have an experienced community or parent advocate or Legal Services attorney attend

the IEP meetings with you. He or she should be able to help you in making certain that:

- The school has a complete picture of your child's abilities and special needs.
- The services to be provided by the school are specifically geared toward your child's learning goals.
- Your child will be progressing in the program selected and not merely repeating things he or she can already do.

**Note:** The services described in the IEP are legally binding and must be fully carried out by your school district. So it is essential to put *everything* your child needs carefully down in writing in the IEP. If a special service is unavailable right now, ask the school to specify when they will provide it and what will be done in the meantime. Your consent is required to put the IEP into action. So if you're not satisfied with it, don't agree or sign.

The IEP development meeting must be held within 30 days of an evaluation and special needs finding, and scheduled at a mutually convenient time and place. If you cannot attend the meeting, you are entitled to: a full report of the proceedings; individual or group conferences with school administrators, teachers, and evaluators; and all records.

Again, keep notes on all phone calls, letters, conversations, and meetings concerning your child.

The law calls for public agencies to make repeated efforts through phone calls and letters to notify you about meetings and get your views on the issues to be discussed. Special arrangements must be made to communicate with parents who may not speak English or may be handicapped themselves.

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## 4.8 How Can Parents Contribute to the IEP?

For many parents, IEP conferences may be the first time they've been at meetings with school officials and professionals—and they may feel unsure of themselves. It helps to remember that you, as a parent, have a unique understanding of your

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\*This section drawn mainly from *Report from Kaiser Look*.

child—and a point of view that must be clearly heard. It takes a mix of ideas, sometimes real conflict, to come up with a plan that's worth trying. Nobody "knows it all."

If you don't understand what the professionals are saying, ask questions. (Don't be afraid to ask what you think may be a "dumb question." That's probably just the thing others want explained, too—but are too intimidated.) Be sure that everything is translated into plain, understandable language.

The goal of IEP development is to figure out the most appropriate services that can be brought together to help a child learn what he or she is ready to learn, the way he or she learns best. It's important that parents really are equal partners with educators in exchanging opinions and evaluating what is proposed. This takes preparation—advocacy groups in every state should develop training programs for parents that get down to the nuts and bolts of school conference participation. This also means training experienced parent advocates to accompany parents to IEP meetings, when necessary.

In preparing for meetings, review your child's school records (see section 5.3) and your state and local plans for special education services, describing the services offered in your school district (see section 1.1).

Once again, if you're not sure of what the professionals are saying, ask questions. Your understanding of your child's diagnosis will be one of the most valuable tools in your ability to judge the value of a program—and to stand up for an appropriate one. You can bring tape recorders to conferences to help you remember what was said. You can visit classrooms and talk to teachers and other parents of handicapped children. Then make up your mind.

#### 4.9 Where is your Child Placed During the Evaluation / IEP / Hearing Process?

Unless you and the school agree to a temporary program change, your child must remain in his or her current educational program. If your child isn't in school, he or she must be placed in the public school program—with your consent—until a new placement decision is reached.

#### 4.10 What is the Schedule for Placement?

The law calls for your child's IEP to begin immediately after you consent and expressly forbids long delays in implementing the individualized education program.

Every school district—no matter how poor or small—is obligated to provide the services specified in the IEP. Even if the state does not receive P.L. 94-142 funds, Section 504 requires local school districts receiving federal funds of any kind to provide an appropriate education to all handicapped children within their jurisdiction. And presently, nearly every school district in the country receives some kind of federal funds. Your State Department of Education (see section 6.5 of handbook) is responsible for providing educational services to your child during any period the school district is dragging its feet on implementation.

#### 4.11 What Provisions are there for Subsequent Evaluations?

The law is specific about the need for continuing attention to your child's needs as he or she develops. You may request a review or revision of the IEP at any time. But at least once a year—request or not—a meeting must be scheduled with parents to review your child's IEP. A full re-evaluation and new IEP are called for every three years, and more frequently if requested by parents or teachers. If you feel your child's needs have changed or he or she has achieved the original IEP goals, ask school officials to begin a review of his or her current placement. It may well be that your child can be returned to the regular school class or placed in a program more suitable to his or her current abilities.

The old way was to put children into special education programs and forget about them. The law now requires that a review—with you participating—must take place at least once a year. But don't wait a year. It's necessary to keep a dialogue between school and home going, to observe what's really happening. Be alert and sensitive to how your child is doing. Talk over problems with teachers. Ask them to try changing approaches or returning your child to the regular class if it seems to make sense!<sup>10</sup>

<sup>10</sup>Highlighted text mainly from Report from Closer Look.

## 5. Your Rights when you Disagree with the School

Despite all the protections built into the law to ensure a fair, careful and thoughtful evaluation of your child's special needs and school placement, the process may not work the way it is supposed to. If you are dissatisfied with the outcome, don't settle for it.

You have the right to challenge the school's decision if you think:

- The evaluation was inadequate.
- Your views were ignored or unfairly represented by other educational team members.
- The IEP developed for your child is not responsive to his or her individual abilities and needs.
- The services the school is offering are not what you expected or wanted.
- Promised services have been excessively delayed, denied, or provided in unnecessarily segregated settings.
- Your child is showing no progress, or insufficient progress in the educational program in which he or she has been placed.
- Your child has been placed in a separate program, inadequate to his or her needs, because of racial or cultural discrimination.

### 5.1 Which Approach is Best?

If possible, first try to settle the issue by talking to officials at the local level—the district director of special education, teachers, the school principal, etc. Keep notes of conversations and school officials' responses to your requests. If your local school officials are uncooperative, there are five courses of action available under the law: (1) an independent evaluation; (2) a hearing before a neutral hearing officer; (3) an administrative appeal; (4) a complaint to the federal Office for Civil Rights; and (5) a lawsuit.

If your efforts to persuade the local school system to comply with the law have failed, try to contact a community advocate, Legal Services attorney, or other attorney for help in deciding whether to request a hearing, file a complaint with the federal government, or bring a lawsuit (see section 6.1). Officials of your school district are responsible for providing you with information about the hearings and state-level appeal procedures. So if

you do not have access to a community advocate or attorney, you can and should proceed with the hearing process yourself.

You should also file a complaint with the federal Office for Civil Rights. (The procedure is explained more fully below.) If you have legal counsel, you should discuss all possible actions *before* starting out, since a choice of one course of action may legally affect your ability to proceed with other courses.

### 5.2 Independent Evaluations and Hearings

Your choice of which step to take first depends on what troubles you about the evaluation. For instance, you may think the entire diagnosis of your child's handicap is wrong—that the behavior or performance is caused by different reasons than the ones described by the evaluators. Or you may believe that *your child isn't handicapped at all*—that he or she has been classified as mentally retarded, for instance, simply to get him or her out of a particular classroom, or because of racial or cultural discrimination. Or you may feel your child has a real problem that the evaluators didn't see or diagnose—maybe because there is no program presently offered to deal with that specific problem.

Whatever the cause of your concern—if you want an expert to take a whole new look at your child—request an independent evaluation first. Later, if you wish, you can request a hearing to present the new evidence.

Your other immediate alternative is to request a hearing before a neutral hearing officer. A hearing is the better first step when you agree with the diagnosis of your child's abilities and needs, but disagree with the special education services offered by the school to meet those needs. (You may believe, for instance, that your child has been put in a certain classroom just because of available space and not because it fits his or her needs.) Here, you should consult with a special education professional outside the school who might be helpful in deciding what services your child should have. In this case—when you want a different kind of placement for your child—request a hearing. The hearing must be provided at public expense.

### 5.3 How Should You Prepare?

Planning is necessary whether you choose an independent evaluation or a hearing first. In getting

ready, it is best to have the help of someone who knows something about the rights of children and who is not as emotionally involved as you are in preparing for the hearing. This person can help you see little things you may overlook, or may see the overall issue more clearly. Legal Services offices generally have people who can perform this function, or there may be a community advocacy group or parent group which can help. The "Resources" section 6.1 of this handbook lists names of appropriate advocates you can contact in each state for help or referrals.

Get all the local help you can from:

- Community advocates or Legal Services attorneys familiar with hearing procedures (see section 6.1 for names of appropriate people in your state)
- Special education teachers or specialists from your local college or community mental health center knowledgeable about special education programs
- Other parents of handicapped children
- Parent or professional organizations concerned with the special needs of handicapped children
- Friendly teachers familiar with your child

In addition request copies of all your child's records.<sup>11</sup> If there are statements or scores in them that are inaccurate, misleading, or unfair, they should be questioned and corrected. Then organize whatever school documents, health records, or notes on meetings with school personnel seem relevant. Don't forget the IEP, if there is one, and a copy of your school district's plans for special education services. The plans may reveal gaps, not only in services promised by the school district, but in services the school district is *required* to provide under federal law.

If you are not already a member of an organization composed of parents of handicapped persons, join one. Your single voice is important—but the voices of people who have banded together are far more effective. Experienced parents can help others who may be just starting out. Find out if a coalition of organizations exists in your area, and go to their meetings. If one does not exist, think about starting one yourself.<sup>12</sup>

<sup>11</sup>You are entitled under the Federal Family Educational Rights and Privacy Act (the "Buckley Amendment"), 20 United States Code §1232g) to your child's records. A handbook on parents' and students' rights to school records is available from the Children's Defense Fund.

<sup>12</sup>Highlighted text from *Report from Closer Look*

## 5.4 How Can You Get an Independent Evaluation?

If you want your child re-evaluated by experts outside the school system, then the school must provide you with names of other professionals in the community. Again, consult individuals and organizations to find an appropriate examiner and arrange for a new evaluation. You should also check with specialists at your local college or university, your local public health office,<sup>13</sup> and the regional mental health center for free independent evaluations. The persons conducting these independent evaluations must be at least as qualified as the "experts" who participated in the original evaluation. (For example, if one of the experts was a psychologist, you might want to hear the views of another psychologist.) In addition, all of the other requirements called for in the initial school district evaluation must be met, such as convenience of location and participation of a variety of professionals and others concerned with your child's education.

Who pays any costs of the new evaluation? This is tricky. The responsibility for paying for the independent evaluation varies according to who asks for it, when it takes place, and what the outcome is. Usually, when you and always when hearing officer requests an independent evaluation, it is provided at public expense. However, *if* the school challenges your request by seeking a hearing first, and if the hearing decision backs up the school's initial evaluation, then you must bear the cost, if any, of the independent evaluation. No matter who ends up paying for the new evaluation, any information obtained from the new evaluation may still be used in a hearing.

## 5.5 How Can You Get a Hearing?

The first formal step is to notify school officials and the State Director of Special Education (see list of names and addresses in section 6.5) that you are requesting a hearing on your child's placement. In writing, if possible, simply inform the officials about your complaint (that is, the IEP is unsatisfactory or the school hasn't provided the services agreed upon earlier). If you can, name the people involved in the original decision in your letter. Keep a copy of this letter and any response.

The hearing process must be completed within 45 days of the time your letter is sent or the problem is pointed out to the school officials.

<sup>13</sup>Ask about the availability of EPSDT for free medical screening. EPSDT is the Early and Periodic Screening, Diagnosis, and Treatment Program of Medicaid.

## 5.6 What Happens at the Hearing?

The purpose of the hearing is to explain to an impartial hearing officer what is wrong with what the school is doing and to present evidence concerning the kind of program your child should be getting. Simply criticizing the school's program is not enough. If you want the hearing officer to order the school to provide your child with a specific program or with specific services, you must persuade him or her by presenting evidence of your child's particular needs. This is where advocates and the persons who did your child's independent evaluation can be most helpful. They can help you explain why a particular program or service is essential for your child.

Parents have the following rights at a hearing:

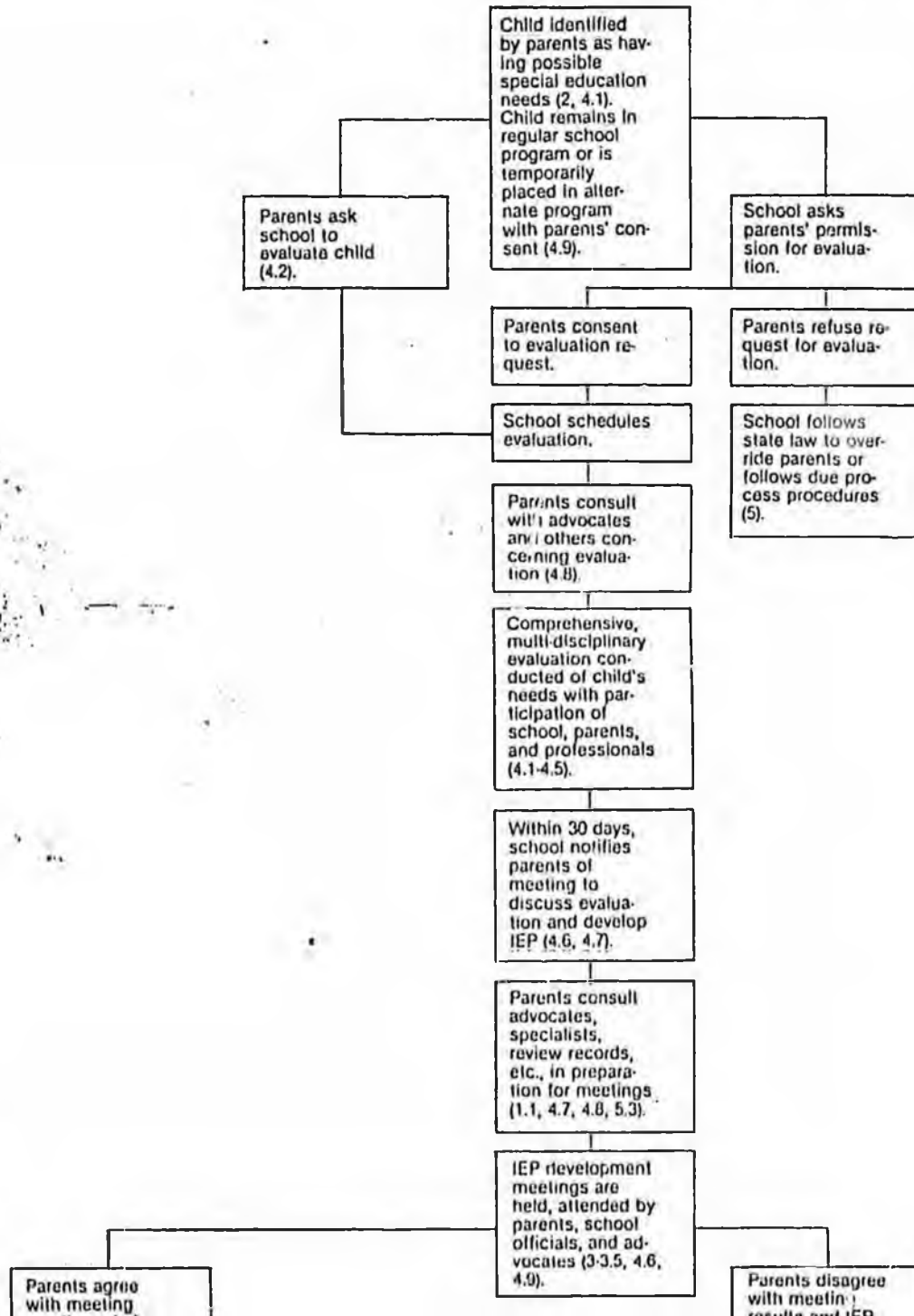
- You can bring anyone—including a lawyer, community advocate, or special education professional—who can help represent you and your child. (See section 6.1 for addresses of groups which can help in your state.) It's an advantage to have the independent evaluator at the hearing if his or her findings agree with your own views.
- You can present information about your child's needs, including the results of an independent evaluation, if there has been one.
- You can require particular school officials to attend the hearing and you can question them.
- You can prevent the introduction of any records or evidence that has not been made available to you at least five days before the hearing.
- You can open the hearing to the public.
- Your child can be present.

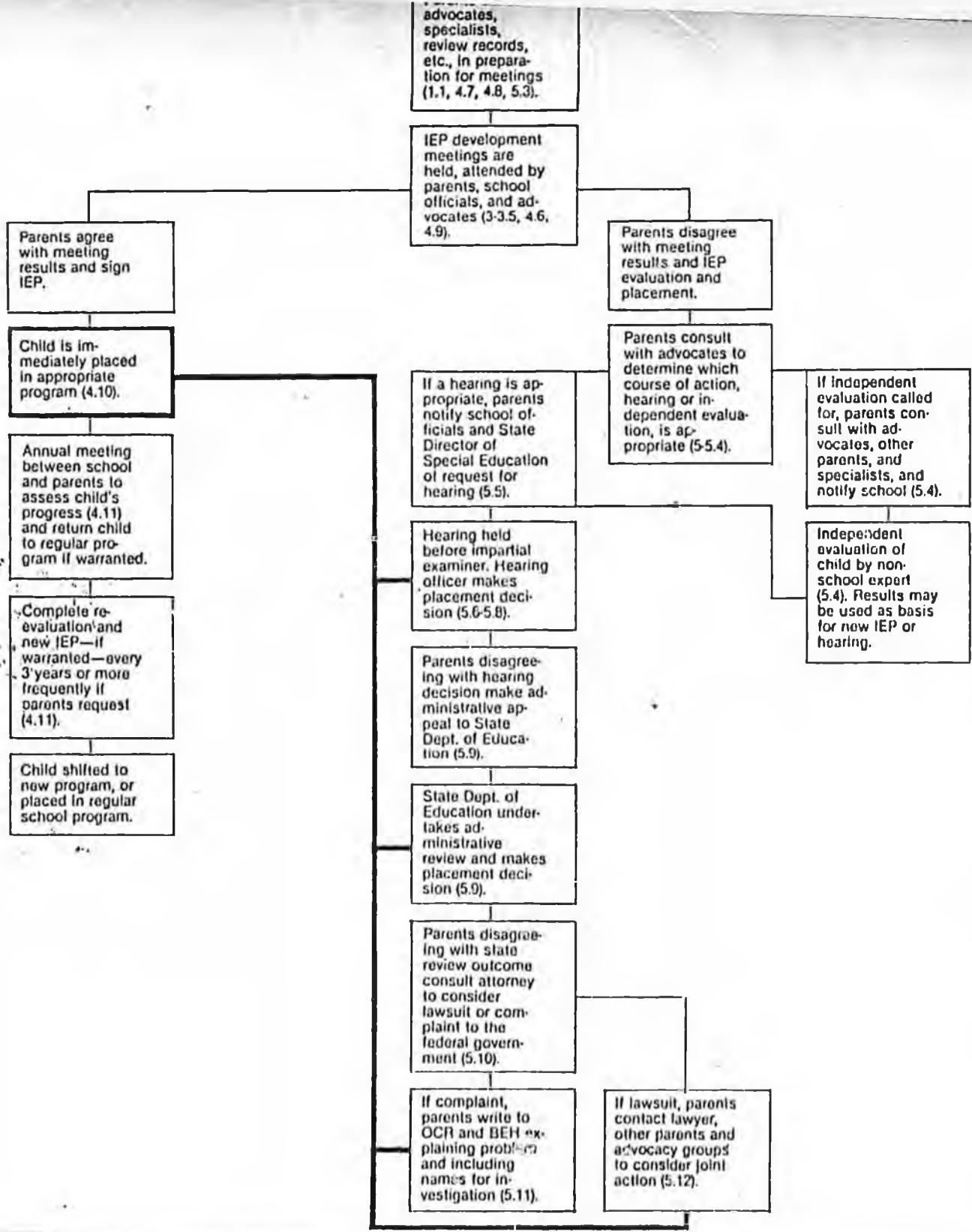
The school district is responsible for arranging for the hearing, and must let parents know beforehand what legal and other services are available to help in the hearing. In addition, it must be held at a convenient time and place. The hearing is conducted by a hearing officer.

## 5.7 Who is the Hearing Officer?

Each public agency is required to keep a list of persons who can serve as hearing officers, along with statements concerning each person's qualifications. The hearing officer must be totally impartial. He or she cannot work for the school district or any other agency responsible for educating or caring for your child, and cannot have any personal or professional interest that would

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advocates, specialists, review records, etc., in preparation for meetings (1.1, 4.7, 4.8, 5.3).

IEP development meetings are held, attended by parents, school officials, and advocates (3-3.5, 4.6, 4.9).

Parents agree with meeting results and sign IEP.

Parents disagree with meeting results and IEP evaluation and placement.

Child is immediately placed in appropriate program (4.10).

Parents consult with advocates to determine which course of action, hearing or independent evaluation, is appropriate (5-5.4).

Annual meeting between school and parents to assess child's progress (4.11) and return child to regular program if warranted.

If a hearing is appropriate, parents notify school officials and State Director of Special Education of request for hearing (5.5).

If independent evaluation called for, parents consult with advocates, other parents, and specialists, and notify school (5.4).

Complete re-evaluation and new IEP—if warranted—every 3 years or more frequently if parents request (4.11).

Hearing held before impartial examiner. Hearing officer makes placement decision (5.6-5.8).

Independent evaluation of child by non-school expert (5.4). Results may be used as basis for new IEP or hearing.

Child shifted to new program, or placed in regular school program.

Parents disagreeing with hearing decision make administrative appeal to State Dept. of Education (5.9).

State Dept. of Education undertakes administrative review and makes placement decision (5.9).

Parents disagreeing with state review outcome consult attorney to consider lawsuit or complaint to the federal government (5.10).

If complaint, parents write to OCR and BEH explaining problem and including names for investigation (5.11).

If lawsuit, parents contact lawyer, other parents and advocacy groups to consider joint action (5.12).

conflict with objectivity in deciding the case. (For example, he or she can't be a school board member, own the private school contemplated for your child, or stand to benefit in any way from the outcome.)

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### 5.8 What is the Result of a Hearing?

On the basis of information presented at the hearing, the hearing officer will decide what he or she thinks is the most appropriate placement for your child. The hearing officer is *not* limited merely to accepting or rejecting the school's program, but is supposed to order the school to provide whatever services are necessary for your child, even if the school district does not presently provide such services. The hearing officer can require the district to start a new program or pay for your child to go to a private program providing the necessary services. The decisions of hearing officers are final and must be obeyed by school districts, subject only to appeal to the State Department of Education or the courts.

Within 45 days of the date you first requested a hearing, a written copy of the officer's decision *must* be provided to you. You are also entitled to a written transcript or a tape recording of the hearing proceedings if you wish.

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### 5.9 What is an Administrative Appeal?

If you disagree with the hearing officer's decision, the last opportunity you have to challenge your child's evaluation, IEP, or program before filing a complaint or going to court is an administrative appeal. This appeal is a request to the State Department of Education to review the entire hearing process to make sure your legal rights were protected, all appropriate information was considered and the proper decision was made. The appeals officer may request additional information or meet with you and others concerned with the decision. If more evidence is presented, all the rights described above for the hearing will apply. *An administrative appeal is not possible if the initial hearing was conducted by the State Department of Education.*

If the State Department of Education Agency undertakes an administrative review of the case, they must complete their work and mail copies of their decision to all parties concerned within 30 days. Again, that decision is final unless you want to challenge it through a state or federal lawsuit.

## 5.10 Complaints to the Federal Government

If there are systematic violations of the law in your state or school district that affect a number of children—such as school board members serving as hearing officers, routine exclusions of children from school, inadequate evaluations based primarily on IQ tests, inaccessible buildings, or unnecessarily segregated facilities—you should consider filing a complaint with the Federal Office for Civil Rights (OCR)—the civil rights/Section 504 enforcement agency for the U.S. Department of Health, Education and Welfare—or the Bureau of Education for the Handicapped (BEH)—the HEW agency responsible for enforcing P.L. 94-142. A complaint with either of these agencies should result in a federal investigation of your charges. Federal agency action can affect *all* of the federal funds received by a school district, if the district refuses to comply with Section 504.

**Be aware that once you file a complaint with the federal government, you may have to wait until the federal agency has completed any action it will take before you can file a lawsuit.**

To file a complaint, write a letter to OCR and BEH clearly stating the problem and including as much information as you can about the situation (see addresses in section 6.4). Name all the people involved in the complaint so that OCR and BEH can interview them when they make their investigation. In your letter, you can ask OCR and BEH to keep all of the information you are providing confidential. Send a copy of the letter to your State Department of Education Special Education Office and to your Senators and Congresspersons.

Even though the federal agencies may be slow to respond to your complaint, filing a complaint with the federal government can be used to put political as well as legal pressure on school districts, so it is good to distribute copies of your complaint to important political people in your state.

## 5.11 Lawsuits

If you have been unsuccessful in the hearing and appeal process and have not been able to get the school to provide the services you think your child needs, you should seek help from the state or

federal courts. You are able to challenge in court any unlawful aspect of the evaluation, placement and hearing process, as well as the school's failure to provide your child with appropriate special education services in proper school settings. A lawsuit can result in a direct order being issued, requiring public officials to obey the law and provide you the services, evaluation or procedures to which you are entitled.

*Note: You do not have to go through the hearing and appeal process before going to court if the process is illegal or unfair and you can show that it would be useless to you to do so—for example, because the hearing officers are school board members or the school district has repeatedly ignored hearing officer orders.*

In addition, you should consider challenging major violations of the law (that is, school system-wide or state-wide violations that affect a number of children—such as those discussed in section 5.10) by filing a "class action" suit in state or federal court. In this type of suit, you represent all other parents and children facing the same illegal actions you are facing. You should try to get other parents, parent coalitions, and community groups who share your interests to join with you.

**Don't be put off by the idea of going to court. Lawsuits are often the only way to ensure compliance with new laws and are a powerful way of working within the system for the best interests of the public. More and more individual parents and parent groups are filing suits to protect their children's rights. And officials tend to treat you a lot more seriously when they know you are willing to rely on more than talk to accomplish your goals.**

To file a lawsuit, you must first contact a lawyer to represent you. Legal Services, private attorneys, Developmental Disabilities Protection and Advocacy offices (there is one in each state—see section 6.1) or parent coalitions should be able to help you find an attorney to represent you. In many cases, attorneys can have their legal fees paid by the defendant (school officials), if they win or favorably settle the case, under the Civil Rights Attorneys' Fees Awards Act of 1976.<sup>14</sup> You should recommend that your attorney contact one of the National Advocacy Groups listed in section 6.2 of this booklet for detailed information about the federal laws, special education cases, and other legal assistance.

## 6. Resources

The following local, state, and national organizations should be useful to you in obtaining appropriate educational programs for your child. These lists are by no means complete. There are undoubtedly many other advocacy and information resource groups that can provide similar technical assistance and services. It's a good idea first to consult with groups with whom you normally work—such as Headstart, Legal Services, your church, etc.—and then move on to the organizations listed here for additional assistance.

Another valuable resource are the state and local guides to specific education programs and procedures. More and more states are producing free brochures and manuals to let parents in the state know exactly what their rights are and how to work their way through the special education process. Your State Special Education Department (see section 6.5) should be able to send you copies or direct you to organizations that can. It's helpful to enclose a stamped, self-addressed envelope with your request.

If no one in your state has produced a guide to educational rights, your State Department of Education might be willing to provide the money to a parent or advocacy group to do it. Consider taking on the job. It's one of the most useful services a group could perform for the parents of handicapped children.

### 6.1 State and Local Advocacy Groups

#### Alabama

Alabama Developmental Disabilities Advocacy Project

918 Fourth Avenue  
Tuscaloosa, AL 35401  
205/348-4928

Alabama Council on Human Relations

P. O. Box 1632  
Auburn, AL 36830  
205/821-8336

#### Alaska

Protection and Advocacy for Developmental Disabilities, Inc.

600 University Avenue  
Fairbanks, AK 99701  
907/479-6940

#### Arizona

Arizona Center for Law

112 N. 5th Avenue  
P. O. Box 2783  
Phoenix, AZ 85002  
602/252-4904

Legal Services for the Developmentally Disabled

Arizona ARC  
5610 S. Central Avenue  
Phoenix, AZ 85040

Central Arizona Regional Epilepsy Society

P. O. Box 33638  
Phoenix, AZ 85607

#### Arkansas

Arkansas Developmental Disabilities Advocacy System

Governor's Office  
Capitol Building  
Room 011  
Little Rock, AR 72201  
501/371-2171

#### California

Youth Law Center  
693 Mission Street  
San Francisco, CA 94105  
415/495-6420

Public Advocates, Inc.  
1535 Mission Street  
San Francisco, CA 94103  
415/431-7430

Disabled Paralegal Advocate Program  
Center for Independent Living

2539 Telegraph Avenue  
Berkeley, CA 94704  
415/841-4776

Legal Aid Foundation of Los Angeles

1550 West Eighth Street  
Los Angeles, CA 90017

Western Center for Law  
849 S. Broadway  
Suite 206

Los Angeles, CA 90014  
Protection and Advocacy Panel

150 Grand Avenue  
Oakland, CA 94612

Sonoma County Citizens Advocacy, Inc.

P. O. Box 4449  
Santa Rosa, CA 95402

#### Colorado

Colorado Migration Council  
7905 W. 44th Avenue  
Wheatridge, CO 80033  
303/425-1532

Legal Center for Handicapped Citizens

1060 Bannock Street  
Suite 316

Denver, CO 80202  
303/575-0542

#### Connecticut

Office of Protection and Advocacy for Handicapped and Developmentally Disabled Persons

1380 Asylum Avenue (Rear)  
Hartford, CT 06105  
203/566-7303

United Cerebral Palsy  
1 State Street

New Haven, CT 06511  
203/772-2080

## Delaware

Community Legal Aid  
Society, Inc.  
913 Washington Street  
Wilmington, DE 19801  
302/575-0660

## District of Columbia

Information Center for  
Handicapped Children  
1619 M Street, N.W.  
Washington, D.C. 20036  
202/347-4986

Neighborhood Legal  
Services Program  
635 F Street, N.W.  
Washington, D.C. 20001  
202/628-9161

One America Educational  
Service, Inc.  
1750 Pennsylvania Avenue,  
N.W.  
Suite 418  
Washington, D.C. 20006  
202/628-2216

## Florida

Governor's Commission on  
Advocacy for Persons  
With Developmental  
Disabilities

Division of State Planning  
Carlton Building  
Tallahassee, FL 32304  
904/488-9070

## Georgia

American Friends Service  
Committee

Southeastern Public  
Education Program  
P.O. Box 56JJ  
Macon, GA 31208  
912/742-3335

Georgia Advocacy Office,  
Inc.

1447 Peachtree Street  
Suite 811  
Atlanta, GA 30309  
404/885-1447

## Hawaii

Kahua Ho'omalulu Kina, Inc.  
P. O. Box 939  
Honolulu, HI 96808  
808/538-6631

## Idaho

CO-AD, Inc.  
100 Scout Lane  
Boise, ID 83702  
208/336-5353

## Illinois

American Friends Service  
Committee

Midwest Regional Office  
407 S. Dearborn Street  
Chicago, IL 60605  
312/427-2533

Illinois Developmental  
Disabilities Advocacy  
Authority

222 South College Street  
Springfield, IL 62706  
217/782-9696

Legal Assistance  
Foundation of Chicago  
343 South Dearborn Street  
Chicago, IL 60604  
312/341-1070

## Indiana

National Center for Law  
and the Handicapped  
1235 N. Eddy Street  
South Bend, IN 46617  
219/288-4751

Protection and Advocacy  
Project  
Community Service  
Council

445 N. Pennsylvania  
Indianapolis, IN 46204  
317/634-4311

## Iowa

Iowa Protection and  
Advocacy System  
Iowa Civil Rights  
Commission

418 Sixth Avenue  
Liberty Building  
Room 340  
Des Moines, IA 50319  
515/281-4121

## Kansas

Kansas Advocacy and  
Protective Services for  
the Developmentally  
Disabled, Inc.

513 Leavenworth Suite 2  
Manhattan, KS 66502  
913/776-1541

## Kentucky

Kentucky Protection and  
Advocacy Program  
Department of Justice  
Office of Public Defender  
625 Leewood Drive  
Frankfort, KY 40601  
502/564-3754

## Louisiana

Louisiana Advocacy  
System  
New Orleans Legal  
Assistance Corporation  
226 Carondelet Street  
Suite 716  
New Orleans, LA 70130  
504/522-2357

Advocates for Juvenile  
Justice  
344 Camp Street  
Suite 1101  
New Orleans, LA 70130  
504/586-8835

## Maine

Maine Coalition for  
Children With Special  
Needs

163 Lisbon Street  
Lewiston, ME 04240  
207/784-1558

Advocates for the  
Developmentally  
Disabled, Inc.

Cleveland Hall  
Winthrop Street  
Hallowell, ME 04347

## Maryland

Disabilities Law Project  
University of Maryland  
Law School

500 W. Baltimore Street  
Baltimore, MD 21201  
301/528-6307

Maryland Advocacy Unit  
for the Developmentally  
Disabled, Inc.

201 W. Preston Street  
13th Floor  
Baltimore, MD 21201  
301/383-3358

Employment Security  
Administration/DHR  
1100 N. Eulaw  
Baltimore, MD 21201  
301/333-5070

Anne Arundel County  
Association for Retarded  
Citizens  
937 Spa Road  
Annapolis, MD 21401  
301/268-8085

## Massachusetts

Massachusetts Advocacy  
Center

Two Park Square  
Boston, MA 02111  
617/357-8431

Center for Law and  
Education  
Guttman Library - Third  
Floor

6 Appian Way  
Cambridge, MA 02138  
617/455-4666

North Shore Parents and  
Friends of the  
Handicapped  
3 Elnew Avenue  
N. Beverly, MA 01915

Center for Law and the  
Developmentally  
Disabled

c/o Massachusetts  
Association for Retarded  
Citizens, Inc.

381 Elliot Street  
Newson Upper Falls, MA  
02164  
617/623-2876

Office for Children  
120 Boylston Street  
Boston, MA 02116  
617/727-8900

## Michigan

Michigan Protection and  
Advocacy Service for  
Developmentally  
Disabled Citizens

Michigan Association for  
Retarded Citizens  
416 Michigan National  
Tower

Lansing, MI 48933  
517/487-1755

Student Advocacy Center  
202 E. Washington  
Room 300  
Ann Arbor, MI 48104  
313/995-0477

## Minnesota

Developmental Disabilities  
Advocacy Project  
501 Park Avenue  
Minneapolis, MN 55415  
612/338-0568

Minnesota Developmental  
Disabilities Protection  
and Advocacy System  
200 Capitol Square  
Building  
550 Cedar Street  
St. Paul, MN 55101  
612/296-4018

Legal Aid Society of  
Minneapolis  
Legal Advocacy for the  
Developmentally  
Disabled  
501 Park Avenue  
Minneapolis, MN 55415  
612/332-1441

## Mississippi

Children's Defense Fund  
Mississippi Project  
Box 1684  
Jackson, MS 39205  
601/355-7495

Mississippi Mental Health  
Project  
Box 951  
Jackson, MS 39205  
601/948-6752

Mississippi System of  
Protection and Advocacy  
for Developmentally  
Disabled Individuals, Inc.  
235 Watkins Building  
510 George Street  
Jackson, MS 39201  
601/354-6520

## Missouri

Missouri Developmental  
Disabilities Protection  
and Advocacy Services,  
Inc.  
420 A Broadway Street  
Jefferson City, MO 65101  
314/636-8113

National Juvenile Law  
Center  
St. Louis University School  
of Law  
3701 Lindell Boulevard  
St. Louis, MO 63108  
314/533-8868

Bootheel Legal Aid Society  
300 Ward Avenue  
Caruthersville, MO 63830  
314/333-4076

## Montana

Montana Developmental  
Disabilities Advocacy  
Program, Inc.  
8000 Dark Horse Road  
Missoula, MT 59801  
406/549-4848

## Nebraska

Nebraska Developmental  
Disabilities Protection  
and Advocacy System  
301 Centennial Mall South  
Box 95007  
Lincoln, NE 68507  
402/471-2981

## Nevada

Developmental Disabilities  
Advocacy Office  
Governor's Office of  
Planning Coordination  
Capitol Building - Room 45  
Carson City, NV 89701

## New Hampshire

New Hampshire  
Association for Retarded  
Citizens, Inc.  
110 North Main Street  
Concord, NH 03301  
603/224-7322

## New Jersey

Education Law Center  
605 Broad Street  
Newark, N.J. 07102  
201/624-1815  
New Jersey Department of  
the Public Advocate  
Advocacy for the  
Developmentally  
Disabled  
234 East Hanover Street  
Trenton, N.J. 08625

## New Mexico

New Mexico  
Developmental  
Disabilities Protection  
and Advocacy System

State Indian Rights  
Commission 303 Bataan  
Building  
Santa Fe, NM 87503  
505/827-5681

Legal Advocacy Project  
Community Services for  
the Handicapped  
122 La Veta, NE  
Albuquerque, NM 87108

## New York

Public Education  
Association  
20 W. 40th Street  
New York, N.Y. 10018  
212/354-6100

Advocates for Children  
29-28 41st Avenue  
Room 508  
Long Island City, N.Y.  
11101  
212/786-9100

New York Civil Liberties  
Union  
84 Fifth Avenue  
New York, N.Y. 10011  
212/924-7800

Protection and Advocacy  
System for  
Developmental  
Disabilities, Inc.  
175 Fifth Avenue  
Room 1308  
New York, N.Y. 10010  
212/982-1140

Mayors' Office for the  
Handicapped  
250 Broadway  
New York, N.Y. 10007  
212/566-0972  
Center on Human Policy  
216 Ostrom Avenue  
Syracuse, N.Y. 13210  
315/423-3851

## North Carolina

North Carolina Protection  
and Advocacy System  
Department of  
Administration  
Howard building  
Room 107  
112 W. Lane Street  
Raleigh, N.C. 27611  
919/733-3111

## North Dakota

North Dakota Protection  
and Advocacy System  
Governor's Council on  
Human Resources  
State Capitol - 13th Floor  
Bismarck, N.D. 58505  
701/224-2972

## Ohio

Ohio Protection and  
Advocacy System  
4554 Coe Avenue  
North Olmstead, OH 44070  
216/777-4683

State Parent Involvement  
Network  
3505 LaRue Prospect Road  
South  
Prospect, OH 43342

## Oklahoma

Protection and Advocacy  
Developmental  
Disabilities Agency  
P.O. Box 14452  
Oklahoma City, OK 73114  
918/743-6453

## Oregon

Oregon-Developmental  
Disabilities Advocacy  
Center  
718 West Burnside Street  
Room 301  
Portland, OR 97209  
503/228-6571

## Pennsylvania

Public Interest Law Center  
of Philadelphia  
315 Walnut Street  
Philadelphia, PA 19107  
215/735-7200

Developmental Disabilities  
Advocacy Network, Inc.  
1607 City Towers  
301 Chestnut Street  
Harrisburg, PA 17101  
717/278-0474

Education Law Center  
2100 Lewis Tower Building  
225 South 15th Street  
Philadelphia, PA 19102  
215/732-6655

## Rhode Island

The Rhode Island  
Protection and Advocacy  
System for  
Developmentally  
Disabled Persons, Inc.  
65 Wild Street  
Providence, RI 02904

## South Carolina

South Carolina Protection  
and Advocacy System  
P. O. Box 1254  
Charleston, SC 29402  
803/723-2518

## South Dakota

South Dakota Advocacy  
Project, Inc.  
111 West Capitol Avenue  
Pierre, SD 57501  
605/224-8294

## Tennessee

Tennessee State Planning  
Office  
Division of Advocacy  
660 Capitol Hill Building  
301 Seventh Avenue North  
Nashville, TN 37219

## Texas

Advocacy, Incorporated  
5555 N. Lamar Street  
Suite K-109  
Austin, TX 78711  
512/475-5543

## Utah

Legal Services for the  
Developmentally  
Disabled, Inc.  
141 East First South  
Salt Lake City, UT 84111  
801/532-3333

## Vermont

Vermont Developmental  
Disabilities Advocacy  
Project  
Vermont Legal Aid, Inc.  
180 Church Street  
P. O. Box 562  
Burlington, VT 05641  
802/863-2881

## Virginia

Virginia Developmental  
Disabilities Protection  
and Advocacy Office

Ninth Street Office  
Building - Suite 100  
Richmond, VA 23219  
804/786-4185  
800/552-3962 (toll free from  
outside Richmond)

American Civil Liberties  
Union of Virginia  
Student Rights Project  
1000 One East Main Street  
Suite 515  
Richmond, VA 23219  
804/644-8022

## Washington

Troubleshooters  
1500 W. Armory Way  
Seattle, WA 98119

## West Virginia

West Virginia Advocates  
for the Developmentally  
Disabled, Inc.  
922 Quarrier Street  
Embleton Building  
Room 309  
Charleston, WV 25301

## Wisconsin

Wisconsin Association for  
Retarded Citizens  
2 West Mifflin, Suite 200  
Madison, WI 53703  
608/831-3444

## Wyoming

Developmental Disabilities  
Protection and Advocacy  
Systems, Inc.  
508 Hynds Building  
Cheyenne, WY 82001  
307/632-3496

## Puerto Rico

Protection and Advocacy  
System of Puerto Rico  
Consumer Affairs Dept.  
Box 13934  
Minillas Gubernamental  
Center  
North Building  
Santurce, PR 00908

## Guam

Advocacy and Protective  
Services for the  
Developmentally  
Disabled  
P. O. Box 10C  
Agana, GU 96910

## 6.2 National Organizations for the Handicapped<sup>15</sup>

### All Disabilities

American Coalition of  
Citizens with Disabilities  
1346 Connecticut Avenue,  
N.W.  
Suite 1124  
Washington, D.C. 20036

### Autism

National Society for  
Autistic Children  
169 Tampa Avenue  
Albany, New York 12208

### Blind

American Council for the  
Blind  
1211 Connecticut Avenue,  
N.W.  
Washington, D.C. 20006  
American Foundation for  
the Blind  
15 West 16th Street  
New York, New York 10011  
National Federation of  
the Blind  
1346 Connecticut Avenue,  
N.W.  
Suite 212, Dupont Circle  
Building  
Washington, D.C. 20036

### Cerebral Palsy

United Cerebral Palsy  
Association  
66 East 34th Street  
New York, New York 10016

### Deaf

Alexander Graham Bell  
Association for the Deaf  
3416 Volta Place, N.W.  
Washington, D.C. 20007  
National Association of the  
Deaf  
814 Thayer Avenue  
Silver Spring, Maryland •  
20910

### Deaf-Blind

National Association for  
the Deaf-Blind  
2703 Forest Oak Circle  
Norman, Oklahoma 73071

### Emotionally Disturbed

Mental Health Association,  
National Headquarters  
1800 North Kent Street  
Arlington, Virginia 22209

### Epilepsy

Epilepsy Foundation of  
America  
1828 L Street, N.W.  
Suite 405  
Washington, D.C. 20036

### Learning Disabilities

National Association for  
Children with Learning  
Disabilities  
4156 Library Road  
Pittsburgh, Pennsylvania  
15234

### Mental Retardation

National Association for  
Down's Syndrome  
P. O. Box 63  
Oak Park, Illinois 60303  
National Association for  
Retarded Citizens  
2709 Avenue E East  
P.O. Box 6109  
Arlington, Texas 76011  
National Down's Syndrome  
Congress  
528 Ashland Avenue  
River Forest, Illinois 60305

### Physically Handicapped

National Easter Seal  
Society for Crippled  
Children and Adults  
2023 W. Ogden Avenue  
Chicago, Illinois 60612  
National Paraplegia  
Foundation  
333 North Michigan  
Avenue  
Chicago, Illinois 60601

<sup>15</sup>Note: Most of these organizations have state and local chapters which you can contact for assistance. This list was provided by the Closer Look Information Center for the Handicapped.

Spina Bifida Association of America  
343 South Dearborn Street,  
Room 319  
Chicago, Illinois 60604

### Speech Impaired

American Speech and Hearing Association  
10801 Rockville Pike  
Rockville, Maryland 20852

## 6.3 National Advocacy and Service Organizations

Center for Law and Education

Guttman Library  
6 Appian Way  
Cambridge, MA 02138  
617/495-4666

Center on Human Policy  
216 Ostrom Avenue  
Syracuse, N.Y. 13210  
315/423-3851

Children's Defense Fund  
1520 New Hampshire Avenue, N.W.  
Washington, D.C. 20036  
202/483-1470

Closer Look Information Center for the Handicapped

P. O. Box 1492  
Washington, D.C. 20013

Council for Exceptional Children

1920 Association Drive  
Reston, VA 22091  
703/620-3660

Mental Health Law Project  
1220 Nineteenth Street,  
N.W.

Washington, D.C. 20036  
202/467-5730

Mexican-American Legal Defense Fund

28 Geary Street  
San Francisco, CA 94108  
415/981-5800

National Association for the Deaf, Legal Defense Fund

Florida Avenue & 7th Street, N.E.  
Suite 311  
Washington, D.C. 20002  
202/447-0503

National Center for Law and the Handicapped  
1235 N. Eddy Street  
South Bend, IN 46617  
219/288-4751

National Juvenile Law Center

St. Louis University School of Law  
3701 Lindell Boulevard  
St. Louis, MO 63108  
314/533-8868

Native American Rights Fund

1506 Broadway  
Boulder, CO 80302  
303/447-8760

Youth Law Center  
633 Mission Street -  
Second Floor  
San Francisco, CA 94105

## 6.4 National and Regional Offices of Federal Agencies

Office for Civil Rights  
National Office:

Director, Office for Civil Rights

Department of Health, Education and Welfare

330 Independence Avenue, S.W.

Washington, D.C. 20201

Bureau of Education for the Handicapped  
400 Maryland Avenue, S.W.  
Donohoe Building  
Washington, D.C. 20202

### Region I:

Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont

HEW  
Office for Civil Rights  
140 Federal Street  
14th Floor  
Boston, MA 02110

### Region II:

New York, New Jersey, Puerto Rico, Virgin Islands

HEW  
Office for Civil Rights  
Federal Building  
26 Federal Plaza  
Room 3908  
New York, NY 10007

### Region III:

Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia

HEW  
Office for Civil Rights  
P. O. Box 13716  
3535 Market Street  
P.O. Box 13716  
Philadelphia, PA 19101

### Region IV:

Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee

HEW  
Office for Civil Rights  
101 Marietta Street  
Atlanta, GA 30323

### Region V:

Illinois, Indiana, Minnesota, Michigan, Ohio, Wisconsin

HEW  
Office for Civil Rights  
300 South Wacker Drive  
8th Floor  
Chicago, IL 60606

### Region VI:

Arkansas, Louisiana, New Mexico, Oklahoma, Texas

HEW  
Office for Civil Rights  
1200 Main Tower Building  
19th Floor  
Dallas, TX 75202

### Region VII:

Iowa, Kansas, Missouri, Nebraska

HEW  
Office for Civil Rights  
12 Grand Building  
1150 Grand Avenue  
Kansas City, MO 64106

### Region VIII:

Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming

HEW  
Office for Civil Rights  
Federal Building  
1961 Stout Street  
Room 11037  
Denver, CO 80294

## Region IX:

Arizona, California,  
Hawaii, Nevada,  
Guam, American  
Samoa, Trust Territory  
of Pacific Islands,  
Wake Island

HEW  
Office for Civil Rights  
100 Van Ness, 14th Floor  
San Francisco, CA 94102

## Region X:

Alaska, Idaho,  
Oregon, Washington

HEW  
Office for Civil Rights  
1321 Second Avenue  
Room 5041, M/S 508  
Seattle, WA 98101

## 6.5 State Special Education Departments

### Alabama

Mr. Cecil Bobo  
Coordinator  
Exceptional Children and  
Youth  
State Department of  
Education  
Montgomery, AL 36104

### Alaska

Dr. Tom Brown, Director  
Division of Educational  
Program Support  
State Department of  
Education  
Pouch F  
Juneau, AK 99801

### Arizona

Mr. Don Johnson, Director  
Department of Special  
Education  
1535 W. Jefferson  
Phoenix, AZ 85007

### Arkansas

Dr. Larry L. Rogers  
Division of Instructional  
Services  
Arch Ford Education  
Building  
Little Rock, AR 72201

### California

Mr. Leslie Brinegar  
Director, Office of  
Special Education  
State Department of  
Education  
Sacramento, CA 95814

### Colorado

Special Educational  
Services Unit  
State Department of  
Education  
201 East Colfax  
Denver, CO 80203

### Connecticut

Mr. Robert i Margolin  
Bureau of Pupil Personnel  
and Special Educational  
Services  
State Department of  
Education  
Hartford, CT 06115

### Delaware

Dr. Carl Halton  
Director of Instruction  
State Department of Public  
Instruction  
John G. Townsend  
Building  
P. O. Box 1402  
Dover, DE 19901

### District of Columbia

Dr. Doris Woodson  
Assistant Superintendent  
Special Education  
Division of Special  
Educational Programs  
Presidential Building  
Suite 602  
415 12th Street, N.W.  
Washington, DC 20004

### Florida

Dr. Landis M. Stetter, Chief  
Bureau of Education for  
Exceptional Students  
Florida Department of  
Education  
Tallahassee, FL 32304

### Georgia

Mr. Herbert D. Nash,  
Director  
Special Education Program  
Division of Early Childhood  
& Special Education  
State Department of  
Education  
Atlanta, GA 30334

### Hawaii

Mr. Miles Kawatachi,  
Director  
Special Education Branch  
State Department of  
Education  
1270 Queen Emma Street  
Room 120  
Honolulu, HI 11206

### Idaho

Dr. Judy Schrag  
Director of Special  
Education  
Len Jordan Building  
State Office Building  
Boise, ID 83720

### Illinois

Joseph Fisher, Assistant  
Superintendent  
Department of Specialized  
Educational Services  
100 North First Street  
Springfield, IL 62777

### Indiana

Mr. Gilbert A. Bliton,  
Director  
Division of Special  
Education  
Department of Public  
Instruction  
229 State House  
Indianapolis, IN 46204

### Iowa

Mr. J. Frank Vance  
State Director, Division  
of Special Education  
State Department of Public  
Instruction  
Grimes State Office Bldg.  
Des Moines, IA 50319

### Kansas

Mr. James E. Marshall,  
Director  
Division of Special  
Education  
State Department of  
Education  
120 East Tenth Street  
Topeka, KS 66612

### Kentucky

Bureau for Education of  
Exceptional Children  
Capital Plaza Tower  
8th Floor  
Frankfort, KY 40601

### Louisiana

Dr. Henry L. Smith,  
Director  
Assistant Superintendent  
Special Educational  
Services  
State Department of  
Education  
Capital Station  
P. O. Box 44064  
Baton Rouge, LA 70804

### Maine

Mr. John T. Kierstead,  
Director  
Division of Special  
Education  
State Department of  
Educational & Cultural  
Services  
Augusta, MA 04333

### Maryland

Dr. Linda J. Jacobs  
Assistant State  
Superintendent  
Division of Special  
Education  
State Department of  
Education  
P. O. Box 8717, Balt-Wash  
International Airport  
Baltimore, MD 21240

## Massachusetts

Mr. Roger Brown  
Division of Special  
Education  
State Department of  
Education  
Park Square Building  
31 St. James Avenue  
Boston, MA 02116

## Michigan

Mr. Murray O. Batten,  
Director  
Special Education Services  
State Department of  
Education  
P. O. Box 30008  
Lansing, MI 48909

## Minnesota

Mr. John C. Groos,  
Director  
Special Education Section  
State Department of  
Education  
Capitol Square  
550 Cedar Avenue  
St. Paul, MN 55101

## Mississippi

Dr. Walter H. Moore,  
Assistant Director  
Special Education Section  
State Department of  
Education  
Jackson, MS 39205

## Missouri

Mr. Roland J. Werner, Jr.  
Director of Special  
Education  
Dept. of Elementary and  
Secondary Education  
P. O. Box 480  
Jefferson City, MO 65101

## Montana

Shirley M. Miller, Director  
Special Education Unit  
Office of Public Instruction  
State Capitol  
Helena, MT 59601

## Nebraska

Mr. Gary Sherman  
Administrator of Special  
Education  
Special Education Section  
233 S. 10th Street  
Lincoln, NE 68509

## Nevada

Mr. Frank South  
Exceptional Public  
Education  
Nevada State Dept.  
of Education  
Capital Complex  
400 West King Street  
Carson City, NV 89710

## New Hampshire

Mr. Robert Kennedy  
Director, Special Education  
Section  
State Department of  
Education  
105 Loudon Road  
Concord, NH 03301

## New Jersey

Mr. Paul Parado  
Acting Deputy Assistant  
Commissioner  
Branch of Special  
Operations and Pupil  
Personnel Services  
State Department of  
Education  
225 West State Street  
Trenton, NJ 08625

## New Mexico

Mr. Elie S. Gutierrez,  
Director  
Division of Special  
Education  
State Department of  
Education  
State Educational Building  
300 Don Gaspar Avenue  
Santa Fe, NM 87503

## New York

Dr. Louis Brumet  
Office for the Education of  
Children with  
Handicapping  
Conditions  
State Education  
Department  
55 Elk Street  
Albany, NY 12234

## North Carolina

Mr. Theodore R. Drain,  
Director  
Division for Exceptional  
Children  
State Department of Public  
Instruction  
Raleigh, NC 27611

## North Dakota

Mr. Rober Miller  
Director  
Special Education  
State Department of Public  
Instruction  
Bismarck, ND 58501

## Ohio

Mr. S. J. Bonham, Jr.,  
Director  
Division of Special  
Education  
State Department of  
Education  
933 High Street  
Worthington, OH 43085

## Oklahoma

Dr. Maurice P. Walraven  
Director of Special  
Education  
State Department of  
Education  
2500 N. Lincoln  
Room 263  
Oklahoma City, OK 73105

## Oregon

Dr. Mason D. McQuiston  
Director of Special  
Education  
Oregon Department of  
Education  
942 Lancaster Drive N.E.  
Salem, OR 97310

## Pennsylvania

Dr. Gary J. Makuch  
Bureau of Special and  
Compensatory  
Education  
P. O. Box 911  
Harrisburg, PA 17126

## Rhode Island

Mr. Charles Harrington, Dir.  
Special Education  
State Department of  
Education  
Roger Williams Building  
Providence, RI 02908

## South Carolina

Mr. Robert S. Black  
Office of Programs for the  
Handicapped  
State Department of  
Education  
Room 309, Rutledge  
Building  
Columbia, SC 29201

## South Dakota

Dr. George Levin, Director  
Section for Exceptional  
Children  
Office Bldg. #3  
Pierre, SD 57501

## Tennessee

Mr. Vernon Johnson,  
Director  
Division for the Education  
of the Handicapped  
State Department of  
Education  
102 Cordell Hull Building  
Nashville, TN 37219

## Texas

Mr. Don Weston, Director  
Division of Special  
Education  
Texas Education Agency  
201 East 11th Street  
Austin, TX 78701

## Utah

Dr. Elwood Pace,  
Coordinator  
Pupil Services  
Utah State Board of  
Education  
250 East, 500 South  
Salt Lake City, UT 84111

## **Vermont**

Ms. Jean S. Garvin,  
Director  
Special Educational and  
Pupil Personnel Services  
State Department of  
Education  
Montpelier, VT 05602

## **Virginia**

Mr. James T. Micklem,  
Director  
Division of Special  
Education  
State Department of  
Education  
Richmond, VA 23216

## **Washington**

Mr. Floyd M. Jackson,  
Director  
Special Services Section  
Old Capitol Building  
Olympia, WA 98504

## **West Virginia**

Mr. Keith Smith, Director  
Division of Special  
Education  
West Virginia Department  
of Education  
Building 6, Room B-315  
State Capitol  
Charleston, WV 25305

## **Wisconsin**

Victor J. Contrucci, Admin.  
Division for Handicapped  
Children & Assistant  
State Superintendent  
State Department of Public  
Instruction  
126 Langdon Street  
Madison, WI 53702

## **Wyoming**

Mr. Lamar Gordon, Jr.,  
Coordinator  
Office of Exceptional  
Children  
State Department of  
Education  
Cheyenne, WY 82002

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## **Appendix: Legal Citations to Federal Statutes and Regulations**

This chart was prepared by the Center for Law and Education in Cambridge, Massachusetts. We are grateful to the Center for allowing CDF to reproduce this useful document here. Individual copies of the chart may be obtained from the Center for Law and Education, Guttman Library, 6 Appian Way, Cambridge, Massachusetts 02138 (495/4666).

**Special Education Identification and Phase-In**

	P.L. 94-142 20 U.S.C. §§1401 et seq.	P.L. 94-142 Regulations 45 C.F.R. Part 121a	5504 Rehabilitation Act of 1973 29 U.S.C. §794
<b>Handicapping Conditions Covered</b>	child needing special ed who is mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically or other health impaired §1401(i) specific learning disabilities §1401(i)(5)	definitions §121a.5 (see also proposed regs re learning disabilities, 41 Fed. Reg 52434, 11/25/76)	"No otherwise qualified handicapped individual in the United States ... shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."
<b>Child Search</b>	required to identify, locate, and evaluate all children who are handicapped and in need of special ed and to determine which are and are not receiving needed services §1412a(x1)	required to identify, locate, and evaluate all children who are handicapped and in need of special ed §121a.220	
<b>Priorities for Providing Free Appropriate Public Education (FAPE) Prior to September 1, 1978</b>	state must establish priorities for serving first, children not receiving an education and then, children receiving an inadequate education §1412(a)(3)	use federal funds to provide FAPE first to children who are not receiving any education and then to provide services to those receiving an inadequate education §121a.370 § 324 NOTE: all children must be fully served by 9/1/78	
<b>Timelines for Service</b>	FAPE available for all handicapped children from 3 to 18 years old by 9/1/78 and for all between 3 and 21 years old by 9/1/80 unless state law of practice to contrary §1412a(x)(b)	§121a.122 §121a.300	

**Special Education Evaluations**

<b>Evaluations Required</b>	§1412(a)(1)	required prior to placement §121a.531 defined §121a.500	"No otherwise qualified handicapped individual in the United States ... shall solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."
<b>Cost of Evaluation</b>		independent evaluation at public expense when §121a.503(a)(3)(ii) and (b)	
<b>Independent Evaluation</b>	right to §1415(b)(1)(A)	defined §121a.503(a)(3) use of results §121a.503(c) requested by hearing officer §121a.503(d)	
<b>Evaluation Instruments, Procedures</b>	nondiscriminatory test materials in usual mode of communication required; multifaceted evaluations required §1412(a)(1)(C)	in native language §121a.502(a)(1) trained evaluators §121a.502(a)(3) validated instruments §121a.502(a)(2)	nondiscriminatory as to race, culture, handicap §121a.502(c), §503(b) multifaceted §121a.502(b)(4)
<b>Re-evaluations</b>		at least every 3 years §121a.534(b) anytime at parent or teacher request or if warranted §121a.534(b)	

5504 Regulations 45 C.F.R. Part 84	Case Law	Cases Pending
anyone with physical or mental impairment substantially limiting one or more major life activities (including learning) or with a record of such impairment or who is regarded as having such §84.3(j)	5504 definition re admissions "otherwise qualified", Davis (424 F. Supp. 1341, E.D. N.C., 1976)	
required to identify and locate every qualified handicapped person not receiving public education and notify each of rights §84.32	Matta T. C.A. No. DC 75-315, N.D. Miss., 1/26/77	
effective 6/3/77 no handicapped person may be excluded, all other requirements must be met at earliest practicable time and in no event later than 9/1/78 §84.33(d)		

required prior to placement or any change in placement §84.35(a)	Matta T. v. Donnie R. v. Wood, C.A. No. 77-1360 (D. So. Cal., 8/22/77) (consent decree) Stuart v. Nappi, 443 F. Supp. 1235 (D. Conn., 1977)	Tyrons P. v. Maschmeyer, C.A. No. S77-0058-C (E.D. Mo., 12/6/77) Stuart v. Nappi, C.A. No. B-77-381 (D. Conn., 12/2/77)
see "free education" §84.33(c)		
validated instruments §84.35(b)(1) nondiscriminatory as to handicap §84.35(b)(3) multifaceted §84.35(b)(2)	Matta T.	PASE v. Redmond, C.A. (No. 74C 3556, N.D. Ill., Comp. 12/12/74)
periodic reevaluation of students provided special ed required §84.35(d)		

Special Education Placement and Programming

	P.L. 94-142 20 U.S.C. §§1401 et seq.	P.L. 94-142 Regulations 45 C.F.R. Part 121a	§504 Rehabilitation Act of 1973 29 U.S.C. §794
Decision-Making for Placement	by local or intermediate educational agency, teacher, parents, and, where appropriate, the child §1401(19)	parental, child role- §§121a 344-45 participants- §121a 344 decision by group knowledgeable about child- §121a 533(a)(3) based upon many factors- §121a 533(a)(1)	"No otherwise qualified handicapped individual in the United States... shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."
Free Appropriate Public Education (FAPE)	special educ. and related services at public exp. under public supervision and direction, mtg. state standards at pre-school, elem. and secondary levels, provided under individualized education programs- §1401(18) right to §1415(b)(1)(A)	defined as per statute §121a 4 timelines, methods, types, services, options, etc.- §§121a.300 to §.307	
Least Restrictive Environment (LRE)	to maximum extent appropriate, handicapped must be educated with nonhandicapped and segregation of handicapped occurs only when education in regular class with supplementary aids and services is unsatisfactory- §1412(b)	defined- §121a 550 continuum of services, placements, nonacademic services, etc.- §§121a 551-556 describe extent of LRE in IEP- §121a 346(c)	
Private School Placement	services required at no cost if properly placed or referred by educational agency- §1412(a)(4)	same rights- §121a 2 if appropriate, no cost to parents- §121a 202 implementation when placed by state- §§121a 400-403 implementation when placed by parents- §§121a 450-460	
Individualized Education Program	joint written statement of child's present levels of educational performance, annual goals, short term instructional objectives, educational services, extent of regular program participation, date of initiation of services, anticipated duration of services, objective evaluation criteria, evaluation procedures and at least annual evaluation schedules- §1401(15)	defined- §121a 340 required by 10/1/77- §121a 342(a) required before special ed starts- §121a 342(b) I.E. included in all programs- §121a 307 meetings to develop IEP- §§121a 343-345, 347-348 parent participation- §§121a 344(a)(3) and 345 IEP accountability- §121a 349	
Transportation	may be required to assist handicapped child to benefit from education- §1401(17)	defined as part of "related services" mandated- §121a 136(a)(13) can be included as part of child's IEP- §121a 146(c)	
Review	annual review required at minimum- §1414(a)(5)	annual review required- §§121a 522(a)(1) and 343(d)	

§504 Regulations 45 C.F.R. Part 84	Case Law	Cases Pending
draw on information from variety of sources- §64 33(c) group decision- §64 33(c)		
at no cost to parents except for fees imposed on nonhandicapped- §64 33(c) designed to meet individual needs- §64 33(b) provided with procedural protections- §64 33(b)	§504 no cost exclusion <i>Kruse v Campbell</i> , CA No. 75-0222 R (E.D. Va., 3/23/77) <i>Mattie T. Hairston</i> <i>Donna R. Stuart v Napp</i>	<i>Crawford v Univ. No. Carolina</i> , 440 F Supp 1047 (M.D. NC 1977) <i>PAISE Crowder v Riley</i> , CA No. 000084 (Sud. Ct. LA., Cal., 12/29/76) <i>Loeb v Salda Sch Dist, CA No. C-73078 (Dist. Ct., Denver, Colo., 1/21/77)</i> <i>N.A.R.C. v NJ Dept. Human Services</i> , CA No. C-2473-76 (Supr. Ct. Chancery, N.J., 3/16/78) <i>Tyrone P. Armstrong v Kline</i> , ICA No. 78-172, ED Pa., 1-17-78
§64 34(a) maximum integration in academic settings §64 34(b) maximum integration in nonacademic settings §64 34(c) if not integrated, comparable facilities	<i>Mattie T. Hairston v. Orsica</i> , 423 F. Supp 180 S.D. W. Va., 1/14/78 <i>Stuart v Napp</i>	<i>Kenneth J. v. Kline</i> , CA No. 77- (F.D. Re 1977)
at no cost to parents only if FAPE not available publicly- §64 33(c)(4)		<i>Armstrong</i>
designed to meet individual educational needs of handicapped persons as adequately as needs of nonhandicapped are met-IEP one way to do this- §64 33(a)		<i>P. v. Shepp</i> , ICA No. M28 58 D Conn. 2-2-78
at no greater cost to parents than for nonhandicapped- §64 33(c)(2)		
periodic re-evaluations required- §64 33(d)		

Special Education Procedural  
Due Process Protections

	P.L. 94-142 20 U.S.C. §§1401 et seq.	P.L. 94-142 Regulations 45 C.F.R. Part 121a	§504 Rehabilitation Act of 1973 29 U.S.C. §794
Notice	written prior notice in native language when initiating, changing or refusing to identify, evaluate, place or provide free appropriate public education §1415(b)(1)(C)	when §121a 504(a) content and form §121a 505	"No otherwise qualified handicapped individual in the United States shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance"
Consent		defined- §121a 500 prior to placement and initial placement in special ed- §121a 504(b) procedures when parent refuses- §121a 504(c)	
Surrogates	assignment of surrogate when parent/guardian unknown, unavailable or child a state ward §1415(b)(1)(B)	when §121a 514(a) criteria for selection §121a 514(c) and (d) responsibilities- §121a 514(e)	
Access to Records/Confidentiality	examine records- §1415(b)(1)(A) (See also Buckley Amnd., 20 U.S.C §1232g)	records re identification, evaluation, placement FAPE- §121a 502 definitions §121a 500, 560 consent to release §121a 571 access rights- §121a 562 notice of rights- §121a 562 amendments §121a 567 hearings- §§121a 568 570	
Grievance Procedures			
Hearings	whenever complaint received §1415(b)(7) hearing rights- §1415(d)	when §§121 506, 504(a) hearing rights- §121 508 impartial hearing officer §121a 507 timelines- §121a 512	
Administrative Appeals	impartial review §14 15(c)	impartial review- §§121a 509, 510 timelines- §121a 512	
Judicial Review	civil action in state or federal court- §1415(e)(3)	when §121a 511	

§504 Regulations 45 C.F.R. Part 84	Case Law	Cases Pending
whenever action taken regarding identification, evaluation, or educational placement- §64.36 notice of non-discrimination- §64.8	Mallie T. Haxton	PASE  Armstrong
examine records- §64.36		PASE
adoption of grievance procedures required for all recipients employing 15 or more persons for complaints alleging any action prohibited by Part 84 (except re postsecondary admissions) LM 7		
right to impartial hearing §64.36	Haxton Mallie T Stuart v Nappi	PASE
right to review- §64.36 see procedures for Title VI, Civil Rights Act of 1964, 45 C.F.R. §§90.6-90.10 and Part 81		
see procedures for Title VI, Civil Rights Act of 1964, 45 C.F.R. §§90.6-90.10 and Part 81	§504 private cause of action LM 10, 548 F.2d 1277 (7th Cir. 1977) Donne R Mallie T Crawford v U.N.C. 440 F. Supp 1047 (M.D.N.C. 1977) Stuart v Nappi	

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