

H B

243

HB 243

THIS BILL WOULD EXTEND THE AGE FOR DAY CARE ASSISTANCE FOR CHILDREN WITH DEVELOPMENTAL DISABILITIES PAST 11.

IT ALSO PROVIDES DEFINITIONS OF DEVELOPMENTALLY DISABLED IN THE DAY CARE ASSISTANCE STATUTE.

COMMUNITY AND REGIONAL AFFAIRS NOW PROVIDES DAY CARE ASSISTANCE TO D.D. CHILDREN ON A CASE BY CASE BASIS SINCE THE CHILDREN GENERALLY REQUIRE MORE PERSONALIZED CARE THE SUBSIDY IS DOUBLED. THE STATUTE NOW LIMITS ASSISTANCE TO CHILDREN 11 AND UNDER, EVEN THOUGH D.D. CHILDREN GENERALLY REQUIRE CARE ALL THEIR LIVES AND ARE UNABLE TO CARE FOR THEMSELVES SO THAT THE PARENT MIGHT WORK.

THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES PLANS TO PROVIDE NEW LICENSING GUIDELINES FOR D.D. CHILDREN, SHOULD THIS BILL BE ENACTED TO ASSURE QUALITY CARE. THE DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS SUPPORTS THE BILL ONLY IF THESE GUIDELINES ARE DEVELOPED TO ASSURE THAT AGE SPECIFIC REQUIREMENTS ARE MET, AND THAT SPECIALIZED TRAINING IS CONDUCTED FOR PROVIDERS DESIRING TO SERVE HANDICAPPED CHILDREN..

THE FISCAL NOTES FOR BOTH DEPARTMENTS TOTAL \$247.0 FOR FY 84, ALTHOUGH IT IS DIFFICULT TO MAKE ASSUMPTIONS ON HOW MANY CHILDREN AND THEIR FAMILIES WOULD BE ELIGIBLE AND USE THE PROGRAM. THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES ESTIMATE THAT 25 FAMILIES WOULD BE ADDED TO THE PROGRAM, AND THE NUMBER COULD BE AS HIGH AS 45 FAMILIES.

ALTHOUGH DAY CARE SERVICES ARE CURRENTLY LIMITED FOR D.D. CHILDREN, IT IS ASSUMED THAT PASSAGE OF THIS BILL WOULD PROVIDE FINANCIAL INCENTIVES FOR CENTERS AND HOMES TO EXPAND SERVICES.

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.

Alaska State Legislature

IN SESSION:
POUCH V
JUNEAU, ALASKA 99811
(907) 463-4949



BOX 142
EAGLE RIVER, ALASKA
99577

Representative Randy Phillips
HOUSE DISTRICT 15

MEMORANDUM

TO: SENATOR JOE JOSEPHSON
CHAIRMAN, SENATE HESS COMMITTEE

FROM: REPRESENTATIVE RANDY PHILLIPS

DATE: MAY 16, 1983

RE: HOUSE BILL 243

Enclosed are the following items which are being provided to you as backup for the referenced bill:

1. Position Paper, Department of Health & Social Services
2. Division of Family & Youth Services, Fiscal Note Comments
3. Position Paper, Department of Community & Regional Affairs
4. Memorandum dated May 13 from me to members of the Alaska House
5. House Research Agency Memorandum dated March 5, 1982, and entitled "Assistance for Parents of the Developmentally Disabled, Research Request 82-57"

If you have any questions or need further information, please do not hesitate to contact me.

RP:jss
Enclosures

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 Services 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 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

I. REQUEST

Bill/Resolution No.: HB 243
 Title: Day Care Assistance
 Sponsor: Phillips, Malone & Koponen
 Requestor: _____

II. FISCAL DETAIL

Agency Affected: Health & Social Services
 Program Category Affected: Social Services
 BRU, Program of Subprogram(s) Affected: Family and Childrens Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		23.4				
200 TRAVEL		1.5				
300 CONTRACTUAL		1.0				
400 COMMODITIES		.2				
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		26.1				

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		26.1				
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY		1.0				

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

The funding source was not identified by the sponsors of the bill.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Michael L. Price, Director *Michael L Price* Phone: 465-3170
 Division: Family and Youth Services Date: _____
 Approved by Commissioner: Robert London Smith, M.D. Date: 3/22/83
 Department: H & S S.

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)

1.	POSITION TITLE Community Care Licensing Specialist II				RANGE/STEP 18A	BARG. UNIT GGU	FORM 12	PAGE/LINE	GOV.	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 1028									
21.		Other									
FOR DSM USE ONLY											
4A KEY NUMBER											

REQUEST FOR
13 NEW POSITION

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

FY 84

BRU Family Services Administration of
Central Office
COMPONENT Central Office

	2	2

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 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.

DRAFT

DIVISION OF FAMILY AND YOUTH SERVICES
HB 243 - Fiscal Note Comments

One position would be required for six months to prepare licensing regulations and implementation materials, which will be immediately necessary. The Bill does not mandate adequate day care for developmentally disabled children over eleven years of age, but does provide for a monetary incentive for day care centers and homes to provide such care, if they choose. The time-limited position will:

1. Develop revised regulations for day care facilities/conduct hearings.
2. Develop a guidebook and sample forms and policy material to implement the regulations. (The preparation of a guidebook is essential for providers of service, to assist them in coming into compliance with new or revised regulations. Providers received both a guidebook and technical assistance from the Division of Family and Youth Services in the implementation of the regulations affecting child residential care.
3. Prepare implementation plan which would include an orientation of licensing staff, local day care assistance agents, and licensees. (The implementation plan involves orientation, but also the actual

re-licensing procedure for facilities which elect to take developmentally disabled children over age eleven.)

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." (This informational pamphlet outlines the application procedure for potential providers, and is particularly important where programs are coordinated by more than one Department.
5. Reverse the 1976 publication entitled "How to Choose Day Care for your Child." This publication is available to parents, and revisions are necessary in order to include information on the special assistance available for developmentally disabled children.

The time-limited position is being requested so that the above items can be completed within the designated six month period.

Yvonne Elder Walker 3170

Elizabeth Muktarian 2105

STATE OF ALASKA

Bill Sheffield, Governor

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

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 accommodate 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. Williams", 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 As:
 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
OPERATING						
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				
600 LAND & STRUCTURES		0				
700 GRANTS, CLAIMS, ETC	u	194.4	206.0	218.3	231.3	245.1
TOTAL OPERATING	0	220.9	234.0	247.9	262.6	278.2
CAPITAL	0	0				
REVENUE	0	0				

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

Phone: 465-4890

Division: Employment Opportunity Division

Date: 3/23/83

Approved by Commissioner: [Signature]

Date: 2/23/87

Department: _____

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

Alaska State Legislature

IN SESSION:
POUCH V
JUNEAU, ALASKA 99811
(907) 485-4845



BOX 142
EAGLE RIVER, ALASKA
99577
(907) 684-4949

Representative Randy Phillips
HOUSE DISTRICT 8¹⁵

TO: ALL MEMBERS
ALASKA HOUSE OF REPRESENTATIVES

FROM: REPRESENTATIVE RANDY PHILLIPS *Rep*

DATE: MAY 13, 1983

RE: HOUSE BILL 243

House Bill 243 would amend the definition of "child" presently in Alaska Statutes. Under current law, when a person reaches his or her 11th birthday, he or she is no longer considered a "child" under the definition used for day care assistance programs. The bill before us would add language to the present definition of child to include as a child those minors developmentally disabled.

Present law means that when a child turns 11, day care assistance is stopped, even though the child may be developmentally disabled to an age less than the chronological age of 11. With this new legislation, day care assistance could be continued to be provided to parents of developmentally disabled children who are past their 11th birthday.

I would urge your support of this legislation.



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 455-3991

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. Annely 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.

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.)

419 6th St., Rm. 316
Juneau, Alaska 99801

(907) 586-9865

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 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.

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

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

A Guide
for Parents and
Advocates

special education



THE FOLLOWING DOCUMENT(S) MAY NOT FILM
LEGIBLY BECAUSE OF POOR QUALITY OF THE
ORIGINAL.

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 policy makers 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.C., Inc.)
419 6th St., Rm. 316
Juneau, Alaska 99801

(907) 584-9865

THE PRECEDING DOCUMENT(S) MAY NOT FILM
LEGIBLY BECAUSE OF POOR QUALITY OF THE
ORIGINAL.

**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."

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

Copyright © March 1978 by the
Washington Research Project, Inc.
Second Printing, September 1978
Third Printing, June 1979
Fourth Printing, April 1980

Contents

1. Introduction	2
1.1 Know the Law	3
1.2 How this Handbook Is Organized	4

2. What The Laws Cover	5
2.1 Who is Eligible for Free Public School Services?	5
2.2 How old does your Child have to be to Receive Special Help?	5
2.3 What about Children Placed Outside their Homes?	5

3. The School District's Responsibilities	6
3.1 What Special Services does the Law Provide?	6
3.2 Do the Laws Extend to Extracurricular Activities?	6
3.3 Can Services be Provided to Children in Regular Classes?	7
3.4 What about Children in Day or Residential Treatment Programs?	8
3.5 Architectural Barriers	8
3.6 Who Provides and Pays for Transportation?	8
3.7 Mainstreaming/Least Restrictive Environment	9

4. How the Evaluation Process Works	10
4.1 How is your Child Selected for Evaluation?	11
4.2 Whom Do You Contact?	11
4.3 What are your Rights when the School Recommends an Evaluation?	12
4.4 Who Participates in the Evaluation Process?	12
4.5 What are the Evaluation Procedures?	13
4.6 What is an IEP?	14
4.7 How is the IEP Developed?	14
4.8 How Can Parents Contribute to the IEP?	15
4.9 Where is your Child Placed During the Evaluation/IEP/Hearing Process?	16
4.10 What is the Schedule for Placement?	17
4.11 What Provisions are there for Future Evaluations?	17

5. Your Rights When You Disagree With The School	18
5.1 Which Approach is Best?	18
5.2 Independent Evaluations and Hearings	19
5.3 How Should You Prepare?	19
5.4 How Can You Get an Independent Evaluation?	21
5.5 How Can You Get a Hearing?	21
5.6 What Happens at the Hearing?	22
5.7 Who is the Hearing Officer?	22
5.8 What is the Result of a Hearing?	23
5.9 What is an Administrative Appeal?	23
5.10 Complaints to the Federal Government	24
5.11 Lawsuits	24

6. Resources	26
6.1 State and Local Advocacy Groups	27
6.2 National Organizations for the Handicapped	33
6.3 National Advocacy and Service Organizations	34
6.4 National and Regional Offices of Federal Agencies	34
6.5 State Special Education Departments	36

Appendix

Legal Citations to Federal Statutes and Regulations. Source: National Center for Law and Education, Cambridge, Massachusetts	41
--	----

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. 94-142,¹ 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 504,² 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 Education³ 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.⁴

¹Public 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.

²Regulations implementing Section 504 of the Rehabilitation Act of 1973 (20 United States Code § 794), the Civil Rights Act for Handicapped Persons, were published in the May 4, 1977 *Federal Register*.

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

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

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.

2. What the Laws Cover

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.

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.

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 some day 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 parent³ 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.⁴

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.

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.⁷

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-

³Under 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.

⁴This right is also protected under the Federal Family Educational Rights and Privacy Act, 20 United States Code §1232g.

⁷See 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.⁸

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.*

⁸Highlighted text from *Report from Cluster Look*.

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.

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.

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

This section drawn mainly from Report from Closer 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!¹⁰

¹⁰Highlighted 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.¹¹ 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.¹²

¹¹You are entitled under the Federal Family Educational Rights and Privacy Act (the "Buckley Amendment", 20 United States Code §1222g) to your child's records. A handbook on parents' and students' rights to school records is available from the Children's Defense Fund.

¹²Highlighted 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,¹³ 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.

¹³Ask 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:

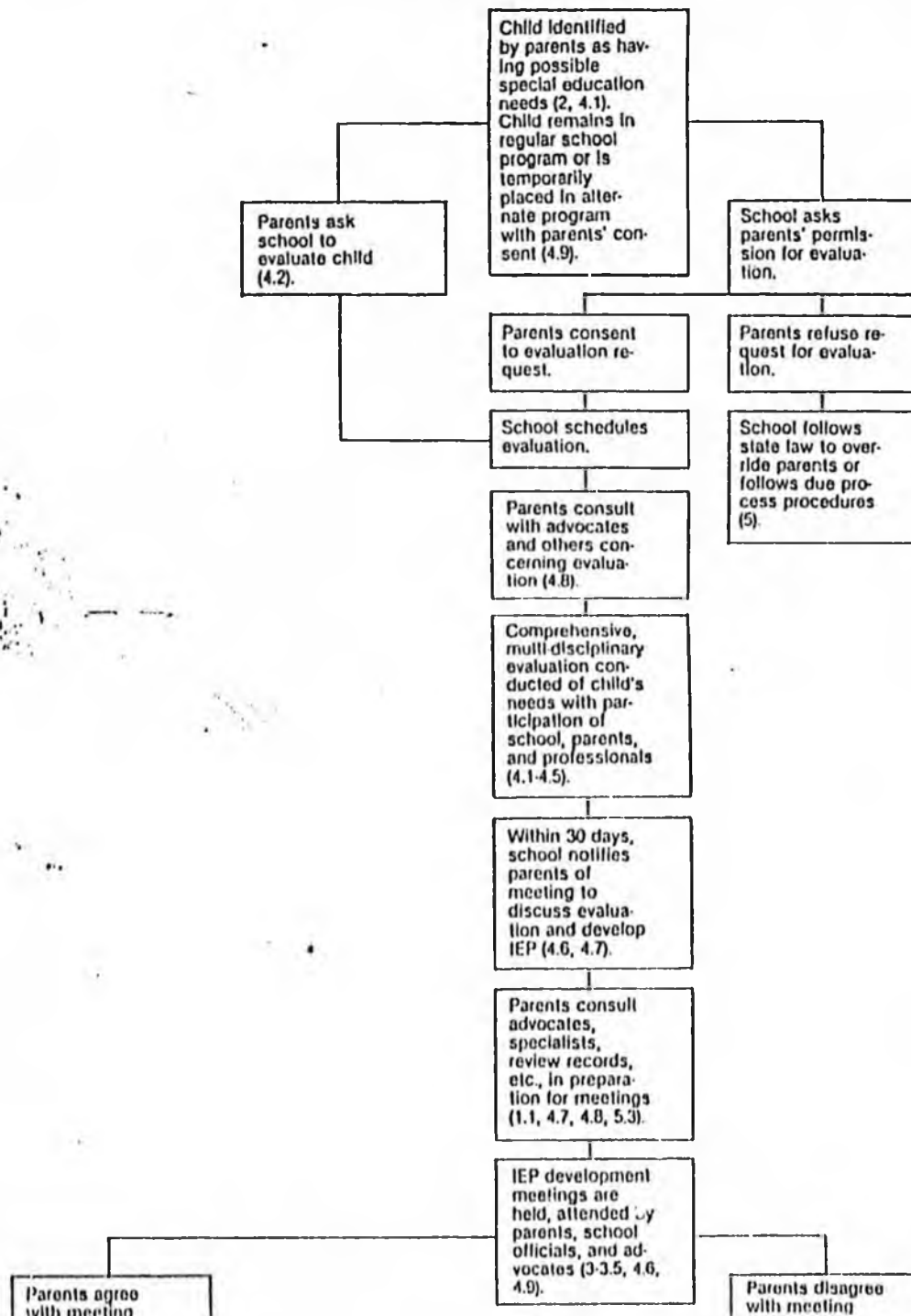
- You can bring anyone—including a lawyer, community advocate, or special education professional—who can help represent you and your child. (See section 6.1 for addresses of groups which can help in your state.) It's an advantage to have the independent evaluator at the hearing if his or her findings 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.

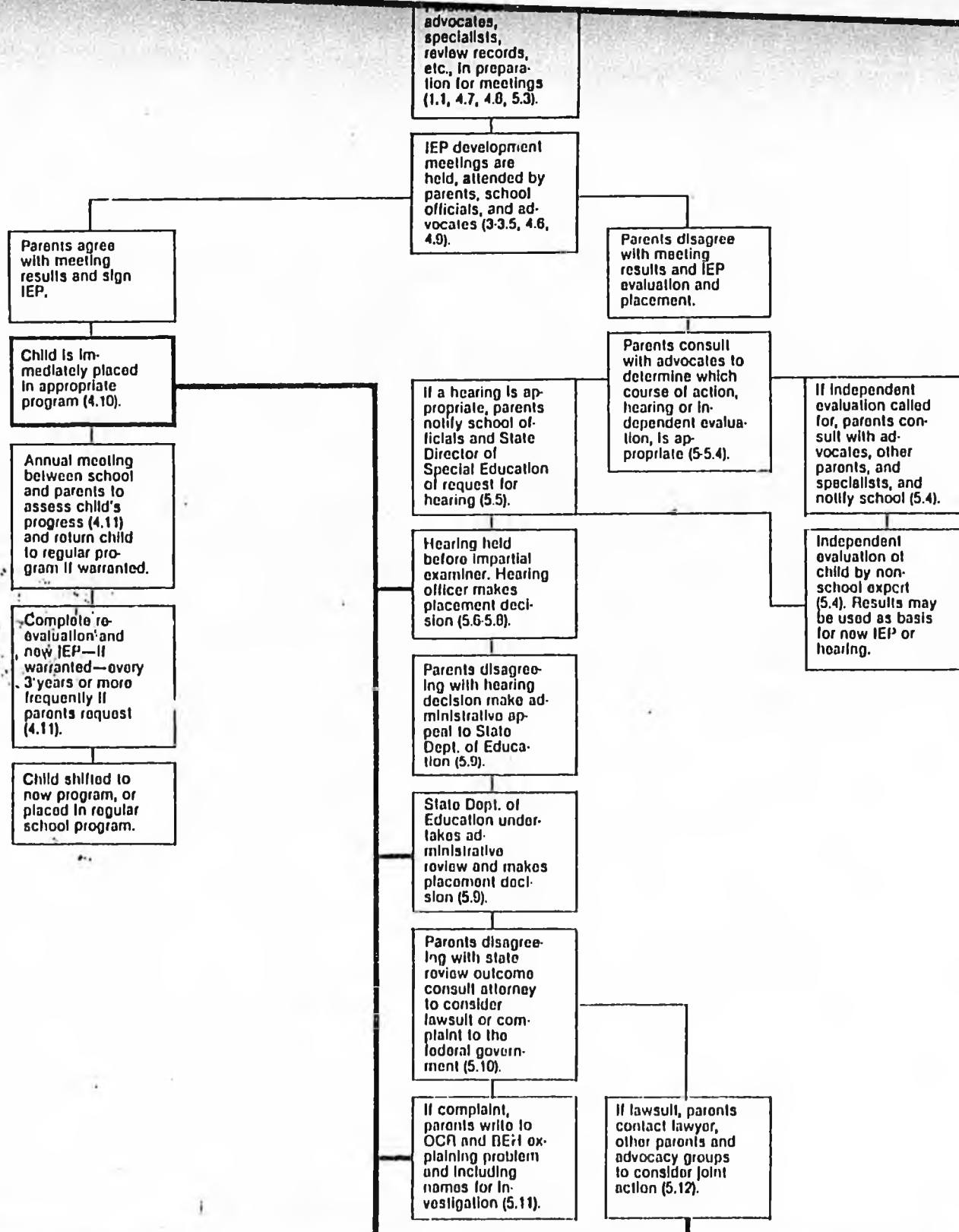
The school district is responsible for arranging for the hearing, and must let parents know beforehand what legal and other services are available to help in the hearing. In addition, it must be held at a convenient time and place. The hearing is conducted by a hearing officer.

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

Evaluation, Placement and Due Process Under
PL 94-142 and Section 504





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.)

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.

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 1976.¹⁴ 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 Migrant 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'omalua 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 Leawood 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. Eutaw
Baltimore, MD 21201
301/383-5070

Anne Arundel County
Association for Retarded
Citizens
937 Spa Road
Annapolis, MD 21401
301/268-2085

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
617/495-4666

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
612/338-0968

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 Brooks 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 Human Rights
Commission 303 Bataan
Building
Santa Fe, NM 87503
505/827-5881

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
1315 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
802/863-2831

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
1600 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 Handicapped¹⁵

All Disabilities

American Coalition of
Citizens with Disabilities
1346 Connecticut Avenue,
N.W.
Suite 1124
Washington, D.C. 20035

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

¹⁵Note: Most of these organizations have state and local chapters which you can contact for assistance. This list was provided by the Closure 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
693 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
535 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. Stetler, 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. Elack
 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 23126

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

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 at seq.	P.L. 94-142 Regulations 45 C.F.R. Part 121a	§504 Rehabilitation Act of 1973 29 U.S.C. §794
Handicapping Conditions Covered	child needing special ed who is mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, severely emotionally disturbed, orthopedically or other health impaired- §1401(1); specific learning disabilities- §1401(15)	definitions- §121a.5 (see also proposed regs re learning disabilities. 41 Fed. Reg 52404, 11/29/76)	"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."
Child Search	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. §1414(a)(1)	required to identify, locate, and evaluate all children who are handicapped and in need of special ed- §121a.220	required to identify and locate every qualified handicapped person not receiving public education and notify each of rights- §64.32
Priorities for Providing Free Appropriate Public Education (FAPE) Prior to September 1, 1978	state must establish priorities for serving, first, children not receiving an education and, then, children receiving an inadequate education- §1412(b)	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.320 & 324 NOTE: all children must be fully served by 9/1/78	
Timelines for Service	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 9/1/83 unless state law or practice to contrary- §1412(a)(8)	§121a.122 §121a.300	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- §64.33(d)

Special Education Evaluations

Evaluations Required	§1412(a)(2)(c)	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."
Cost of Evaluation		independent evaluation at public expense when- §121a.503(a)(3)(i) and (b)	
Independent Evaluation	right to §1412(b)(1)(A)	defined- §121a.503(a)(3) use of results- §121a.503(c) requested by hearing officer- §121a.503(d)	
Evaluation Instruments, Procedures	nondiscriminatory test materials in usual mode of communication required; multifaceted evaluations required- §1412(b)(1)(C)	in native language- §121a.532(a)(1) trained evaluators- §121a.532(a)(3) validated instruments- §121a.532(a)(2)	nondiscriminatory as to race, culture, handicap- §121a.532(c), §121a.532(b)(1)
Re-evaluations		at least every 3 years- §121a.534(b) anytime at parent or teacher request or if warranted- §121a.534(d)	

§504 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- §64.30	§504 definition re admissions: "otherwise qualified", Davis (124 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- §64.32	Matta T. CA No. 82-7531-S, N.D. Mea., 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- §64.33(d)		

required prior to placement or any change in placement- §64.35(a)	Matta T. v. Donnie R. v. World, CA No. 77-1367 (D. So. Cal., 8/2/77) (Consent Decree) Stuart v. Nappi, 443 F. Supp. 1235 (D. Conn., 1977)	Tyrone P. v. Maschmeyer, CA No. S17-0098-C (E.D. Mo., 12/9/77) Stuart v. Nappi, CA No. B-77-381 (D. Conn., 12/2/77)
see "free education"- §64.33(c)		
validated instruments- §64.35(b)(1) nondiscriminatory as to handicap- §64.35(b)(3) multifaceted- §64.35(b)(2)	Matta T.	PASE v. Reomond, CA (No. 74C 3088, N.D. Ill., Conn. 12/12/74)
periodic reevaluation of students provided special ed required- §64.35(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(i)(9)	parental, child role- §§121a.344-45 participants- §121a.344 decision by group knowledgeable about child. §121a.553(a)(3) based upon many factors. §121a.553(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 Publ. supervision and direction; mtg. state standards at pre-school, elem., and secondary levels; provided under individualized education programs. §1401(i)(8) right to §1415(x)(1)(A)	defined as per statute. §121a.4 timeliness, 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.302 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(i)(9)	defined. §121a.340 required by 10/1/77. §121a.342(a) required before special ed starts. §121a.342(b) P.E. included in all programs. §121a.307 meetings to develop IEP. §§121a.343-345, 347-348 parent participation. §§121a.344(a)(2) and 345 IEP accountability. §121a.349	
Transportation	may be required to assist handicapped child to benefit from education. §1401(i)(7)	defined as part of "related services" mandated. §121a.130(b)(3) can be included as part of child's IEP. §121a.346(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. §84.35(c) group decision. §84.35(c)		
at no cost to parents except for fees imposed on nonhandicapped. §84.33(c) designed to meet individual needs. §84.33(b) provided with procedural protections. §84.33(b)	§84.33(a) no cost, exclusion. Ruse v. Campbell, C.A. No. 75-1622 R.I.E.D. VA. 3/23/77 Malle T. Harrison Donna R. Suitt v. NADP	Crawford v. Univ. No. Carolina, 440 F. Supp. 1047 (M.D. N.C. 1977) PASE Crowder v. Rios, C.A. No. 000364 (Supr. Ct. LA, City, CA, 12/20/78) Lopez v. Salas, Sci. Dist. C.A. No. C-72078 (Dist. Ct. Denver City, Colo., 7/2/77) N.A.R.C. v. N.J. Dept. Human Services, C.A. No. C-2473-76 (Supr. Ct. Chancery Div., Montclair, N.J., 3/16/78) Tyrono P. Armstrong v. Kline, C.A. No. 78-172, E.D. Pa., 1/17/78
§84.34(a) maximum integration in academic settings. §84.34(b) maximum integration in nonacademic settings. §84.34(c) not integrated, comparable facilities	Malle T. Harrison v. District 423 F. Supp. 180 S.D. W. Va., 1/14/78. Suitt v. NADP	Kenneth J. v. Kline, C.A. No. 77-17 D. Pa. 1977
at no cost to parents only if FAPE not available publicly. §84.33(c)(4)		Armstrong
designed to meet individual educational needs of handicapped persons as adequately as needs of nonhandicapped are met - IEP one way to do this. §84.33(f)		P. L. Shoop C.A. No. 78-58 D. Conn. 7/2/78
at no greater cost to parents than for nonhandicapped. §84.33(c)(2)		
periodic re-evaluations required. §84.30(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)	
Surrogate	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)(2) hearing rights §1415(d)	when §§121.508, 504(e) hearing rights §121.508 impartial hearing officer §121a.507 timelines §121a.512	
Administrative Appeals	impartial review §1415(c)	impartial review §§121a.509, 510 timelines §121a.512	
Judicial Review	Civil action in state or federal court §1415(e)(2)	when §121a.511	

§504 Regulations 45 C.F.R. Part 84	Case Law	Cases Pending
whenever action taken regarding identification, evaluation, or educational placement §84.36 notice of non-discrimination §84.8	Mette T. Haxton	PASE Armstrong
examine records §84.36		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) §84.7		
right to impartial hearing §84.36	Haxton Mette T. Stuart v. Nappi	PASE
right to review §84.36 see procedures for Title VI, Civil Rights Act of 1964, 45 C.F.R. §§80.6-80.10 and Part 81		
see procedures for Title VI, Civil Rights Act of 1964, 45 C.F.R. §§80.6-80.10 and Part 81	§504 private Cause of action Lit. d. 548 F. 2d 1277 (7th Cir. 1977) Donna R. Mette T. Crawford v. U.N.C. 440 F. Supp. 1047 (M.D. N.C. 1977) Stuart v. Nappi	

CDF Board of Directors

Lisle C. Carter, Jr. (Chairman)
President, University of the District of Columbia
(Former HEW Assistant Secretary for Individual and Family Services)
Washington, D.C.

Julius L. Chambers, Esq.
Chambers, Stein, Ferguson & Becton
President, NAACP Legal Defense and Educational Fund
Charlotte, North Carolina

Marian Wright Edelman
Director, Children's Defense Fund
Washington, D.C.

Winifred Green
Director, Southeastern Public Education Program
of the American Friends Service Committee
Jackson, Mississippi

David C. Grimes
Chief Executive, Brentwood Savings & Loan Association
Los Angeles, California

Dorothy Height
National President, National Council of Negro Women
Washington, D.C.

Hubert E. Jones
Dean, School of Social Work, Boston University
Chairman, Massachusetts Advocacy Center
Boston, Massachusetts

Vernon E. Jordan, Jr.
President, National Urban League
New York, New York

Ruby G. Martin, Esq.
General Counsel, U.S. House of Representatives
Committee on the District of Columbia
Washington, D.C.

Joseph L. Rauh, Jr., Esq.
Rauh, Silard & Lichtman
Washington, D.C.

Hillary Rodham, Esq.
Rose, Nash, Williamson, Carroll, Clay & Giroir
President, Arkansas Advocates for Children and Families
Little Rock, Arkansas

Gilbert Y. Steiner
Senior Fellow, The Brookings Institution
Washington, D.C.

Rachel B. Tompkins
Director, Citizens' Council for Ohio Schools
Cleveland, Ohio

Thomas A. Troyer, Esq.
Partner, Caplin & Drysdale
Washington, D.C.

Nan Waterman
Chairwoman, Common Cause
Washington, D.C.

Andrew Young
Former U.S. Permanent Representative
to the United Nations
Atlanta, Georgia

Other CDF Publications

Books

Children Out of School in America
School Suspensions: Are They Helping Children?
The Elementary and Secondary School Civil Rights Survey:
An Analysis
Doctors and Dollars Are Not Enough
EPSDT: Does It Spell Health Care for Poor Children?
Children in Adult Jails
Children Without Homes: An Examination of Public
Responsibility to Children in Out-of-Home Care
Where Do You Look? Whom Do You Ask? How Do You
Know? Resources for Child Advocates
A Portrait of Inequality: Black and White Children in America
Who Needs Child Care? Policy Options for the '80s

Handbooks

Your School Records
Misclassification: The Resegregation of Black Children in
Public Schools
Health Care for Children: Policies and Principles for Child
Advocates
A Brief Guide to Children Without Homes
Federal Programs Affecting Children Without Homes
For the Welfare of Children
It's Time to Stand Up for Your Children: A Parent's Guide to
Child Advocacy
The Child Care Handbook
America's Children and Families: A Profile
Children and the Federal Budget
A Child Advocate's Guide to Capitol Hill
Building a House on the Hill for Our Children
What is CDF?
CDF Annual Report