

ALASKA LEGISLATURE COMMITTEE FILES 1983-1984 86/2

2249 HHESS • HB 243 - HB 262 • 2249

1946
EVAING/SIWA

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

SSA

747-5224
SILVA, OR. 97335
BOB BOA
ANN BELLETT

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

Doc ~~XXXXXX~~ Re: HB 243

TO: BUREAU INFORMATION

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

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

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

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

END

3-23

3926 →

HB 243

Phillips

John GARDIN AK. Children's Services

WANTS EMOTIONALLY disturbed children
47.80 PC 96.602

Gov's commission - wants to include more children

Gregovich

PAT MURPHY Bill covers C & RA Day Care,

HSS - Regulations

Favor bill but

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

Merry Abada

PAT MURPHY - Licensing Coordinator

KAREN PERDUE - COST of CARE - 24 \$194,000
DOUBLE AVERAGE amt for handicapped

HOUSE HESS
COMMITTEE MEETING
AGENDA

DATE: April 15, 1983

TIME: 1:00 p.m.

I. Call Meeting to Order

A. Note Committee Members Present

B. Welcome Those Observing

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

II. Announce Legislation Under Consideration:

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

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

Other notes or reminders:

Have a good weekend!!



GOVERNORS COUNCIL FOR THE HANDICAPPED AND GIFTED

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

PHONE (907) 479-6507

March 23, 1983

MAR 25 1983

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

Re: HB 243 Day Care Assistance

Dear Representative Phillips:

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

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

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

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

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

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

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

Sincerely,



Jane White
Chairperson

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

Who We Are

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

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

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

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

The People We Serve

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

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

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

. . . . And What We Do

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

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

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

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

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

How We Can Help . . .

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

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

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

Our Goal:

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

SERVICES

There are three basic services provided by PADD.

ADVOCACY SERVICE

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

LEGAL SERVICE

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

TRAINING SERVICE

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

HOW TO MAKE A REFERRAL

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

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



PROTECTION AND ADVOCACY
FOR THE
DEVELOPMENTALLY DISABLED

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

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

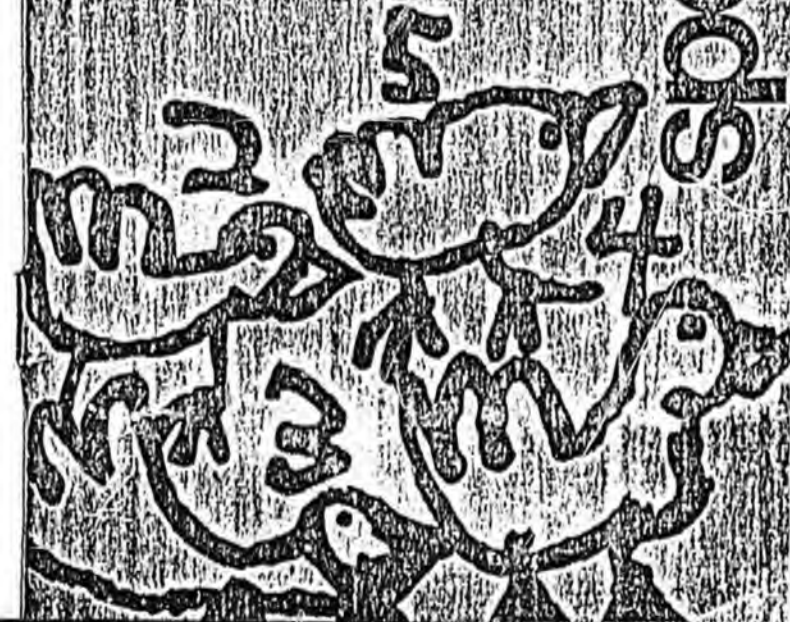
419 6th St., Rm. 316
Juneau, Alaska 99801

(907) 586-9865

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

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

A Guide
for Parents and
Advocates



special education

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 policymakers and political officials who fail to protect children's interests or provide them with needed services.

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

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

Protection & Advocacy for
Developmentally Disabled

(P.A.D.S., Inc.)
419 6th St., Rm. 316
Juneau, Alaska 99801

(907) 584-9865

THE PRECEDING DOCUMENT(S) MAY NOT FILM
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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

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1. Introduction

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

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

This handbook is designed to give you an understanding of your child's educational rights under these new federal laws. One, called P.L. 94-142,¹ 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 (29 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 Caiser Look (Winter/Spring 1977). A publication of the Caiser 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 someday be living and working with non-handicapped adults. Schools are therefore required to educate your child—to as great an extent as possible—in regular school settings with non-handicapped children of the same age group.

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

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

4. How the Evaluation Process Works

Both Section 504 and P.L. 94-142 guarantee parent⁵ 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.⁶

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.

⁵Under 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.

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

4.1 How is Your Child Selected for Evaluation?

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

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

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

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

4.2 Whom Do You Contact?

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

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 Closer 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 Kaiser Look*.

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

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

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

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

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

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

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

4.10 What is the Schedule for Placement?

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

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

4.11 What Provisions are there for Subsequent Evaluations?

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

The old way was to put children into special education programs and forget about them. The law now requires that a review—with you participating—must take place at least once a year. But don't wait a year. It's necessary to keep a dialogue between school and home going, to observe what's really happening. Be alert and sensitive to how your child is doing. Talk over problems with teachers. Ask them to try changing approaches or returning your child to the regular class if it seems to make sense!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 §1232g) 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:

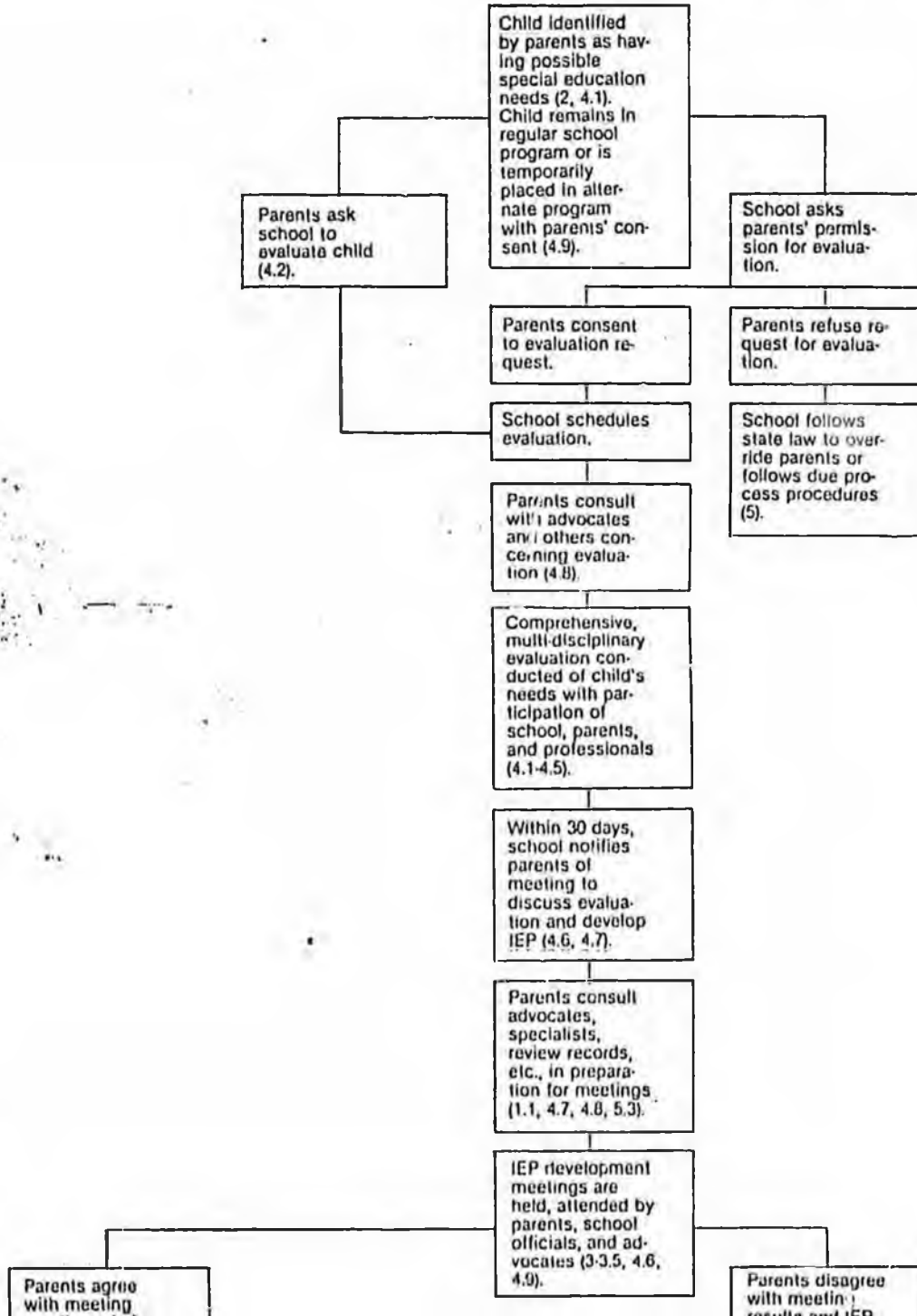
- You can bring anyone—including a lawyer, community advocate, or special education professional—who can help represent you and your child. (See section 6.1 for addresses of groups which can help in your state.) It's an advantage to have the independent evaluator at the hearing if his or her findings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

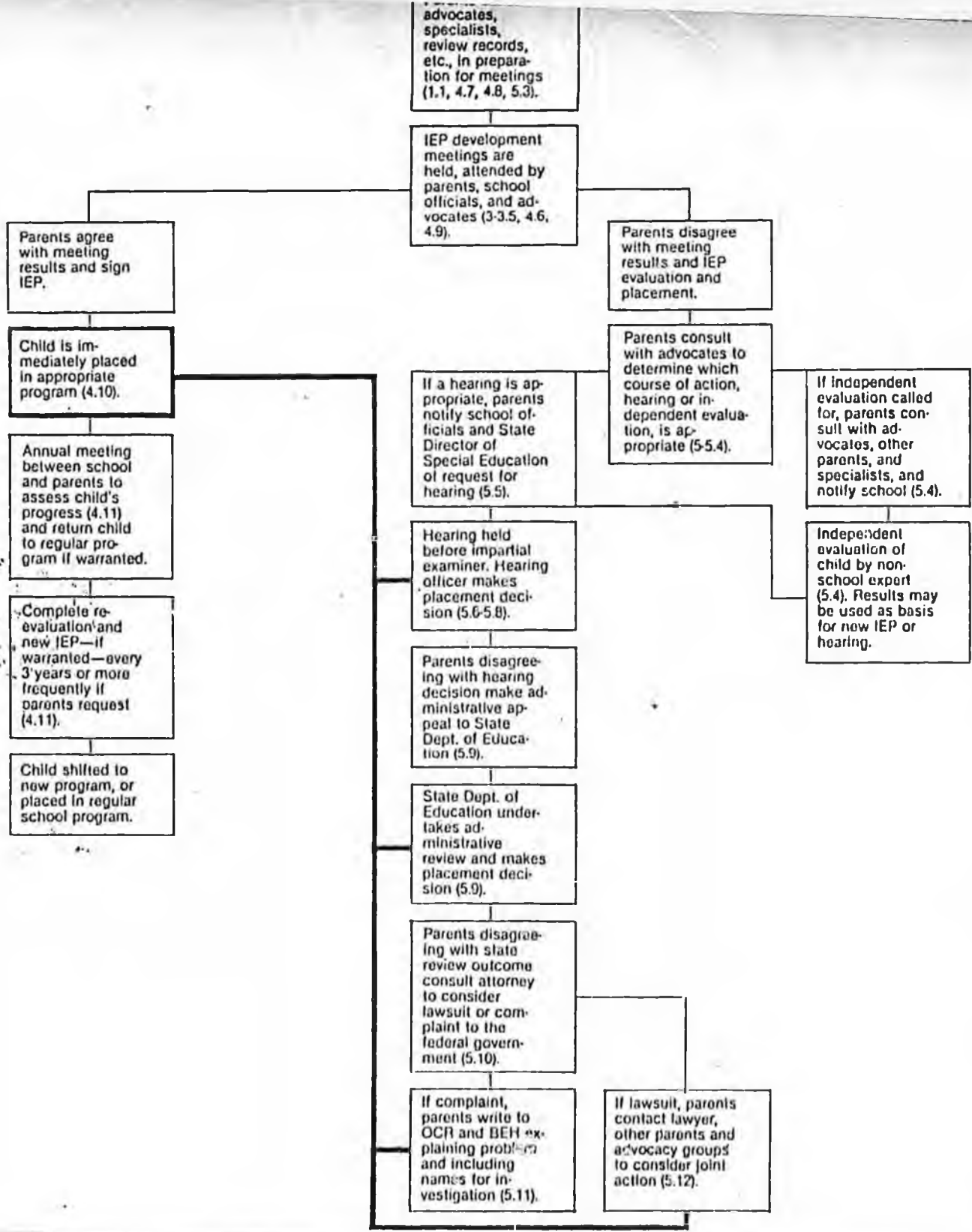
The school district is responsible for arranging for the hearing, and must let parents know beforehand what legal and other services are available to help in the hearing. In addition, it must be held at a convenient time and place. The hearing is conducted by a hearing officer.

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

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

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

Parents agree with meeting results and sign IEP.

Parents disagree with meeting results and IEP evaluation and placement.

Child is immediately placed in appropriate program (4.10).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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 Migration Council
7905 W. 44th Avenue
Wheatridge, CO 80033
303/425-1532
Legal Center for Handicapped Citizens
1060 Bannock Street
Suite 316
Denver, CO 80202
303/575-0542

Connecticut

Office of Protection and Advocacy for Handicapped and Developmentally Disabled Persons
1380 Asylum Avenue (Rear)
Hartford, CT 06105
203/566-7303
United Cerebral Palsy
1 State Street
New Haven, CT 06511
203/772-2080

Delaware

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

District of Columbia

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

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

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

Florida

Governor's Commission on
Advocacy for Persons
With Developmental
Disabilities

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

Georgia

American Friends Service
Committee

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

Georgia Advocacy Office,
Inc.

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

Hawaii

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

Idaho

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

Illinois

American Friends Service
Committee

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

Illinois Developmental
Disabilities Advocacy
Authority
222 South College Street
Springfield, IL 62706
217/782-9696

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

Indiana

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

Protection and Advocacy
Project
Community Service
Council

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

Iowa

Iowa Protection and
Advocacy System
Iowa Civil Rights
Commission

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

Kansas

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

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

Kentucky

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

Louisiana

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

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

Maine

Maine Coalition for
Children With Special
Needs

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

Advocates for the
Developmentally
Disabled, Inc.

Cleveland Hall
Winthrop Street
Hallowell, ME 04347

Maryland

Disabilities Law Project
University of Maryland
Law School

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

Maryland Advocacy Unit
for the Developmentally
Disabled, Inc.

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

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

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

Massachusetts

Massachusetts Advocacy
Center

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

Center for Law and
Education
Guttman Library - Third
Floor

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

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

Center for Law and the
Developmentally
Disabled

c/o Massachusetts
Association for Retarded
Citizens, Inc.

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

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

Michigan

Michigan Protection and
Advocacy Service for
Developmentally
Disabled Citizens

Michigan Association for
Retarded Citizens
416 Michigan National
Tower

Lansing, MI 48933
517/487-1755

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

Minnesota

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

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

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

Mississippi

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

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

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

Missouri

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

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

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

Montana

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

Nebraska

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

Nevada

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

New Hampshire

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

New Jersey

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

New Mexico

New Mexico
Developmental
Disabilities Protection
and Advocacy System

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

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

New York

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

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

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

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

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

North Carolina

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

North Dakota

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

Ohio

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

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

Oklahoma

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

Oregon

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

Pennsylvania

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

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

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

Rhode Island

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

South Carolina

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

South Dakota

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

Tennessee

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

Texas

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

Utah

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

Vermont

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

Virginia

Virginia Developmental
Disabilities Protection
and Advocacy Office

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

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

Washington

Troubleshooters
1500 W. Armory Way
Seattle, WA 98119

West Virginia

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

Wisconsin

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

Wyoming

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

Puerto Rico

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

Guam

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

6.2 National Organizations for the Handicapped¹⁵

All Disabilities

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

Autism

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

Blind

American Council for the
Blind
1211 Connecticut Avenue,
N.W.

Washington, D.C. 20006

American Foundation for
the Blind
15 West 16th Street
New York, New York 10011

National Federation of
the Blind
1346 Connecticut Avenue,
N.W.

Suite 212, Dupont Circle
Building
Washington, D.C. 20036

Cerebral Palsy

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

Deaf

Alexander Graham Bell
Association for the Deaf
3416 Volta Place, N.W.
Washington, D.C. 20007

National Association of the
Deaf

814 Thayer Avenue
Silver Spring, Maryland •
20910

Deaf-Blind

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

Emotionally Disturbed

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

Epilepsy

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

Learning Disabilities

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

Mental Retardation

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

Physically Handicapped

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

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

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

Speech Impaired

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

6.3 National Advocacy and Service Organizations

Center for Law and Education

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

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

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

Closer Look Information Center for the Handicapped

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

Council for Exceptional Children

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

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

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

Mexican-American Legal Defense Fund

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

National Association for the Deaf, Legal Defense Fund

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

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

National Juvenile Law Center

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

Native American Rights Fund

1506 Broadway
Boulder, CO 80302
303/447-8760

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

6.4 National and Regional Offices of Federal Agencies

Office for Civil Rights
National Office:

Director, Office for Civil Rights

Department of Health, Education and Welfare

330 Independence Avenue, S.W.

Washington, D.C. 20201

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

Region I:

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

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

Region II:

New York, New Jersey, Puerto Rico, Virgin Islands

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

Region III:

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

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

Region IV:

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

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

Region V:

Illinois, Indiana, Minnesota, Michigan, Ohio, Wisconsin

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

Region VI:

Arkansas, Louisiana, New Mexico, Oklahoma, Texas

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

Region VII:

Iowa, Kansas, Missouri, Nebraska

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

Region VIII:

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

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

Region IX:

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

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

Region X:

Alaska, Idaho,
Oregon, Washington

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

6.5 State Special Education Departments

Alabama

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

Alaska

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

Arizona

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

Arkansas

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

California

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

Colorado

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

Connecticut

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

Delaware

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

District of Columbia

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

Florida

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

Georgia

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

Hawaii

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

Idaho

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

Illinois

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

Indiana

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

Iowa

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

Kansas

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

Kentucky

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

Louisiana

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

Maine

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

Maryland

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

Massachusetts

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

Michigan

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

Minnesota

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

Mississippi

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

Missouri

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

Montana

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

Nebraska

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

Nevada

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

New Hampshire

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

New Jersey

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

New Mexico

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

New York

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

North Carolina

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

North Dakota

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

Ohio

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

Oklahoma

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

Oregon

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

Pennsylvania

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

Rhode Island

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

South Carolina

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

South Dakota

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

Tennessee

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

Texas

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

Utah

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

Vermont

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

Virginia

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

Washington

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

West Virginia

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

Wisconsin

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

Wyoming

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

Appendix: Legal Citations to Federal Statutes and Regulations

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

Special Education Identification and Phase-In

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

Special Education Evaluations

Evaluations Required	§1412(a)(1)	required prior to placement §121a.531 defined §121a.500	"No otherwise qualified handicapped individual in the United States ... shall solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."
Cost of Evaluation		independent evaluation at public expense when §121a.503(a)(3)(ii) and (b)	
Independent Evaluation	right to §1415(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 §14125(c)	in native language §121a.502(a)(1) trained evaluators §121a.502(a)(3) validated instruments §121a.502(a)(2)	nondiscriminatory as to race, culture, handicap §121a.502(c), §503(b) multifaceted §121a.502(b)(f)
Re-evaluations		at least every 3 years §121a.534(b) anytime at parent or teacher request or if warranted §121a.534(b)	

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

required prior to placement or any change in placement §84.35(a)	Matta T. v. Donnie R. v. Wood, C.A. No. 77-1360 (D. So. Cal., 8/22/77) (consent decree) Stuart v. Nappi, 443 F. Supp. 1235 (D. Conn., 1977)	Tyrone P. v. Maschmeyer, C.A. No. 871-0058-C (E.D. Mo., 12/6/77) Stuart v. Nappi, C.A. No. 877-381 (D. Conn., 12/2/77)
see "free education" §84.33(c)		
validated instruments §84.35(b)(1) nondiscriminatory as to handicap §84.35(b)(3) multifaceted §84.35(b)(2)	Matta T.	PASE v. Redmond, C.A. (No. 74C 3556, N.D. Ill., Comp. 12/12/74)
periodic reevaluation of students provided special ed required §84.35(d)		

Special Education Placement and Programming

	P.L. 94-142 20 U.S.C. §§1401 et seq.	P.L. 94-142 Regulations 45 C.F.R. Part 121a	§504 Rehabilitation Act of 1973 29 U.S.C. §794
Decision-Making for Placement	by local or intermediate educational agency, teacher, parents, and, where appropriate, the child §1401(19)	parental, child role- §§121a 344-45 participants- §121a 344 decision by group knowledgeable about child- §121a 533(a)(3) based upon many factors- §121a 533(a)(1)	"No otherwise qualified handicapped individual in the United States... shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."
Free Appropriate Public Education (FAPE)	special educ. and related services at public exp. under public supervision and direction, mtg. state standards at pre-school, elem. and secondary levels, provided under individualized education programs- §1401(18) right to §1415(b)(1)(A)	defined as per statute §121a 4 timelines, methods, types, services, options, etc.- §§121a.300 to §.307	
Least Restrictive Environment (LRE)	to maximum extent appropriate, handicapped must be educated with nonhandicapped and segregation of handicapped occurs only when education in regular class with supplementary aids and services is unsatisfactory- §14125)	defined- §121a 550 continuum of services, placements, nonacademic services, etc.- §§121a 551-556 describe extent of LRE in IEP- §121a 346(c)	
Private School Placement	services required at no cost if properly placed or referred by educational agency- §1412(a)(4)	same rights- §121a 2 if appropriate, no cost to parents- §121a 202 implementation when placed by state- §§121a 400-403 implementation when placed by parents- §§121a 450-460	
Individualized Education Program	joint written statement of child's present levels of educational performance, annual goals, short term instructional objectives, educational services, extent of regular program participation, date of initiation of services, anticipated duration of services, objective evaluation criteria, evaluation procedures and at least annual evaluation schedules- §1401(15)	defined- §121a 340 required by 10/1/77- §121a 342(a) required before special ed starts- §121a 342(b) PE included in all programs- §121a 307 meetings to develop IEP- §§121a 343-345, 347-348 parent participation- §§121a 344(a)(3) and 345 IEP accountability- §121a 349	
Transportation	may be required to assist handicapped child to benefit from education- §1401(17)	defined as part of "related services" mandated- §121a 136(a)(13) can be included as part of child's IEP- §121a 146(c)	
Review	annual review required at minimum- §1414(a)(5)	annual review required- §§121a 522(a)(1) and 343(d)	

§504 Regulations 45 C.F.R. Part 84	Case Law	Cases Pending
draw on information from variety of sources- §64 33(c) group decision- §64 33(c)		
at no cost to parents except for fees imposed on nonhandicapped- §64 33(c) designed to meet individual needs- §64 33(b) provided with procedural protections- §64 33(b)	§504 no cost exclusion <i>Kruse v Campbell</i> , CA No. 75-0222 R (E.D. Va., 3/23/77) <i>Mattie T. Hairston</i> <i>Donna R. Stuart v Napp</i>	<i>Crawford v Univ. No. Carolina</i> , 440 F Supp 1047 (M.D. NC 1977) <i>PAISE Crowder v Riley</i> , CA No. 000084 (Sud. Ct. LA., Cal., 12/29/76) <i>Loos v Salda Sch Dist, CA. No. C-73078 (Dist. Ct., Denver, Colo., 1/21/77)</i> <i>N.A.R.C. v N.J. Dept. Human Services</i> , CA No. C-2473-76 (Supr. Ct. Chancery, N.J., 3/16/78) <i>Tyrone P. Armstrong v King</i> , ICA No. 78-172, ED Pa., 1-17-78
§64 34(a) maximum integration in academic settings §64 34(b) maximum integration in nonacademic settings §64 34(c) if not integrated, comparable facilities	<i>Mattie T. Hairston v. Driscoll</i> , 423 F. Supp 180 S.D. W. Va., 1/14/78 <i>Stuart v Napp</i>	<i>Kenneth J. v. King</i> , CA. No. 77- (F.D. Re 1977)
at no cost to parents only if FAPE not available publicly- §64 33(c)(4)		<i>Armstrong</i>
designed to meet individual educational needs of handicapped persons as adequately as needs of nonhandicapped are met-IEP one way to do this- §64 33(a)		<i>P. v. Shepp</i> , ICA No. M78-58, D Conn. 2-2-78
at no greater cost to parents than for nonhandicapped- §64 33(c)(2)		
periodic re-evaluations required- §64 33(d)		

Special Education Procedural
Due Process Protections

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

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

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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

H B

2 5 7

COMMITTEE REPORT

HOUSE

LABOR & COMMERCE

(7)

FURTHER:

3/11/83

Date: 4/13/83

Mr. Speaker:

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had HB 257

An Act relating to certain limitations and exclusions in health insurance policies; and providing for an effective date.

under consideration and reports it back as follows:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for 47 257 same title
- and recommends _____ new title
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation Zero Fiscal Note Attached
- referred to the _____ Committee

**MEMBERS SIGNING
DO PASS**

M. W. MILLER

**MEMBERS HAVING
OTHER RECOMMENDATIONS:**

CHAIRMAN

1 IN THE HOUSE

BY WARD

Comm

2 SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 257

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to certain limitations and exclu-
7 sions in health insurance policies; and providing for
8 an effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. AS 21.42 is amended by adding a new section to read:

11 Sec. 21.42.347. COVERAGE WHEN ALASKA AREA NATIVE HEALTH SERVICE
12 BENEFITS AVAILABLE. An individual or group health insurance policy
13 that provides coverage on an expense incurred basis or an individual
14 or group service or indemnity type contract issued by a nonprofit
15 corporation may not exclude or limit coverage for the reason that the
16 covered person is eligible to receive health care benefits provided by
17 the Alaska Area Native Health Service.

18 * Sec. 2. This Act takes effect January 1, 1984, *and applies to all*
19 *policies issued or renewed on or after that date.*

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319 Seward St., Juneau, Alaska 99801 • (907) 586-1790
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the Board
Keith Brownsberger, M.D.
Anchorage

President
Dennis L. DeWitt
Juneau

April 1, 1983

The Honorable Jerry Ward
House of Representatives
Pouch V
Juneau, Alaska 99811

Subject: HJR 35.


Dear Representative Ward:

The Alaska State Hospital Association wishes to indicate our support for House Joint Resolution 35.

We believe that the use of health insurance by those who are entitled to services provided by the Alaska Native Health Service would be in the public's best interest. That additional influx of funds would allow the Alaska Native Health Service to continue to provide needed services in the face of federal budget reductions.

The Alaska State Hospital Association believes that the concepts in HJR 35 are necessary if an adequate health care delivery system is to continue in Alaska. We believe it merits legislative support.

Sincerely,


Dennis L. DeWitt
President

DLD:hb

cc: House HESS Committee ✓
John Dumbolton
Frank Sutton
Richard E. Zitzow

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the Board
Keith Brownsberger, M.D.
Anchorage

President
Dennis L. DeWitt
Juneau

April 1, 1983

The Honorable Jerry Ward
House of Representatives
Pouch V
Juneau, Alaska 99811

Subject: HB 257.

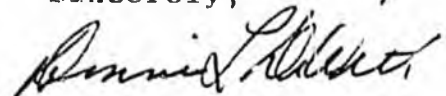
Dear Representative Ward:

The Alaska State Hospital Association wishes to offer our support to the concepts found in House Bill 257.

We believe that it is imperative that the Alaska Native Hospitals be able to collect third party payments for services they provide. With the impending reductions in federal funds, all potential sources of revenue must be pursued by the ANS facilities if they are to remain viable and up to the standard of quality Alaskans have the right to demand. While some may scoff at HB 257, we suggest that is how most forward looking proposals are treated. Without this gradual movement away from depending on federal funding, health services to Alaskan Natives will soon only be a memory.

The Alaska State Hospital Association commends your willingness to address this critical issue in such a meaningful fashion.

Sincerely,



Dennis L. DeWitt
President

DLD:hb

cc: House HESS Comm.
John Dumbolton
Richard E. Zitzow
Frank Sutton

To: Rep. Ward
From: Dave Palmer, House HESS
Re. HB 257

I have talked with Don Koch, Chief of Market Surveillance in the Department of Commerce about this bill. He, in turn talked with Dr. Rabeau at the Dept of Health and Social Services, Public Health division. Dr. Rabeau has extensive experience with the Alaska Area Native Health Service. Mr. Koch explained so problems with HB 257, as written and suggested as substitute that will accomplish your goal without adversely affecting several insurance programs.

The bill as written would require primary payments by insurance companies even though the insured person is covered by another policy. Problems arise with worker's compensation, medicare, the U.S. Longshoremen's Act, to name a few. A person with coverage under, say worker's compensation, would be paid once by his private coverage, and again by the worker's compensation. This double payment has been upheld by a New York court when an exclusion to double payment was omitted.

The question is whether a person has incurred a "legal obligation to pay" for care. If there is a legal obligation to pay, then the insurance company may not discriminate in its payment. Although this is the case now, Mr. Koch suggests that your bill could be changed to make that policy clearer than present statute. It is the "legal obligation to pay" that must control, and that is the topic of HJR 35.

Another problem with the bill as written is that it will jeopardize a group insurance program developed by the North Slope Borough to provide supplemental coverage for all of the Borough residents. To supplement the coverage accorded the Natives there, the Borough bought a group policy to cover costs of services not provided by the AANHS. If this policy is required to pay for costs provided by the Federal government on a primary basis, the liability will increase dramatically, as will the premium. The city of Kake is proposing to develop a similar program.

The argument that employers or persons are paying for coverage that they do not receive does not hold if the premium is based on actuarial studies. The increase in liability by adding primary coverage for those covered by any state or federal program will surely increase rates.

There are some insurance contracts that are guaranteed renewable, which will not be affected by this bill. There will be inequities in coverage between those policies and others that are affected.

STAFF REPORT

HB 257, LIMITATIONS AND EXCLUSIONS IN HEALTH INSURANCE POLICIES

HOUSE HESS COMMITTEE

MARCH 24, 1983

Dave Palmer

HB 257 provides that health insurers may not exclude or limit coverage for persons who receive benefits under a state or federal act, including the Alaska Area Native Health Service.

This has the effect of making health insurers the primary party responsible to pay for costs that are covered by both a private insurance policy and a state or federal program.

The purpose of the bill is to prevent insurance companies from refusing payments to persons who receive care from a government program if that person has paid for insurance that duplicated the coverage afforded by the government program.

The effect of this bill reaches far beyond the intent, in the opinion of Don Koch, Chief of Market Surveillance in the Department of Commerce. By including all state and federal programs, health insurance companies are now made to become the primary party responsible to pay for costs incurred through programs like Worker's compensation, social security, the Longshoremen's Act, and medicare. A New York case held that double payments were not prevented when an exclusion such as would be eliminated by HB 257 was not present.

If a person incurs a legal obligation to pay for services, an insurance company may not refuse to pay for costs that are covered in a valid policy, regardless of the agency providing the care. The Department suggests that HB 257 could be changed to make that existing policy very clear in the statute. It is the question of whether a person should be reimbursed for costs that they have no obligation to pay that creates confusion.

As written, HB 257 may jeopardize a group insurance program developed by the North Slope Borough to provide supplemental coverage for all of the Borough residents. To supplement coverage accorded to the Natives there, the Borough bought a group policy to cover the cost of care not provided by the Alaska Area Native Health Service. HB 257 would make that policy the primary policy, not the supplemental policy that could cover just those costs not covered by the Federal program. Adding that liability to the program would cause significant premium changes.

Some insurance contracts are written to guarantee renewal. These contracts will not be covered by HB 257, if passed. b

An individual or group health insurance policy that provides coverage on an expense incurred basis or an individual or group service or indemnity type contract issued by a nonprofit corporation may not limit or exclude coverage provided in or by a state or federal facility if the person covered is legally obligated to pay for those services and the policy or contract would provide coverage if ^{those} services were rendered in other than a state or federal facility.



Alaska State Legislature

House of Representatives

REPRESENTATIVE JERRY WARD
DISTRICT 13

MEMBER FINANCE COMMITTEE
CHAIRMAN OF SUBCOMMITTEE ON
COMMERCE, ECONOMIC DEVELOPMENT
CHAIRMAN OF SUBCOMMITTEE ON LABOR

P.O. BOX 2716
ANCHORAGE, ALASKA 99510

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811

MEMORANDUM

DATE: March 11, 1983

TO: All Legislators

FROM: Representative Jerry Ward *JW*

SUBJ: Measures Relating to Native Health Care Insurance

I have attached for your information copies of a bill and a resolution I have filed today. Each deals with a problem arising from the way that insurance companies deal with our Native Health system.

Many of the Natives eligible for care in the Alaska Area Native Health Service are also covered by a health insurance policy of some kind. At this time, the Federal Government will not accept payment for services rendered to covered Natives. The effect of this is to increase the cost of Native health care to the public while reducing the cost to the insurers. Since this is a policy of the Federal Government, the resolution introduced today requests that the U.S. Congress adopt legislation requiring payment for health services to the extent covered by insurance policies. At the same time, the resolution requests that any money collected from Alaska patients be dedicated to the Alaska Area Native Health Service.

A second problem is dealt with by the bill introduced today. Most insurance policies written today contain a clause preventing payment of benefits if State or Federal benefits are available. The policy covering us as legislators contains this provision. This is a great arrangement for the insurance company but a disservice to the Alaska Native who pays just as much for his or her policy but does not receive the same benefits. The bill before you will prevent this practice.

In view of the crisis we currently face in Native health care, these two measures should be passed as quickly as possible to provide an infusion of cash payments into the system to help replace Federal money being withdrawn.

Attachment

Mental and Nervous Disorders

Physician's services for Mental and Nervous Disorders will be covered as follows:

- 50 percent of eligible Physician's expenses, received in the Hospital or Physician's office. The maximum amount is \$2,500 for each covered Member in any one Benefit Year. Services must be provided by a physician or licensed psychologist; and
- if you are confined to a Hospital the benefit paid will be the same as those stated on page 6 under COVERED MEDICAL EXPENSES.

MEDICAL EXPENSES NOT COVERED

Limitations and Exclusions

The State's Medical Plan does not cover any condition, ailment or injury for which you receive:

- benefits from your employer's liability plan or federal or state Workers' Compensation or similar law;
- benefits available under any federal or state act, even though you or your dependents waive rights to such benefits.

Services provided in the following facilities are not covered:

- an institution which is primarily a rest home, home for the aged, nursing home, skilled nursing facility, convalescent home or any facility of like character;

MIKE COUGHLIN - Dept of Admin
Retirement & benefits

WARD -

JEFF BUSH - DEPT of LAW

PAYS TAXES TO FED -

RECEIVES HEALTH CARE FROM AANHS

Don Koek

CONFLICTS:

WORKERS COMP, Longshoremen, Admiralty-Jones
ACT, SOCIAL SECURITY MEDICARE TEFRA
individual may elect to have medicare
PRIMARY.

Destructive of cost containment Rubin v Empire
mutual life.

1981 17 million workers comp medical payments
"Legal obligation to pay"
A.A.H.S MAY be able to bill for services

North Slope Borough

Medicare - ~~is~~ is SECONDARY unless patient opts to
have it primary.

No Review of RATES for health ins except Blue Cross

Martin TIRADOR =

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: HB 257
Title: Limitations-health insurance
Sponsor: Ward
Requestor: House HESS

II. FISCAL DETAIL

Agency Affected: Dept. Commerce & Ec De
Program Category Affected: Public protecti
BRU, Program of Subprogram(s) Affected:
Div. of Insurance

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING	0	0	0	0	0	0
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER (Specify Source)	0	0	0	0	0	0

POSITIONS:

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

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

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Kenneth C. Moore, Director Phone: 465-2515
Division: Insurance *Kenneth C. Moore* Date: 3/22/83
Approved by Commissioner: Richard A. Lyon *Richard A. Lyon* Date: 3/23/83
Department: Commerce & Economic Development

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

Introduced: 3/11/83
Referred: Health, Education &
Social Services and Labor &
Commerce

1 IN THE HOUSE

BY WARD

2

HOUSE BILL NO. 257

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to certain limitations and exclu-
7 sions in health insurance policies; and providing for
8 an effective date."

8

9

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10

* Section 1. AS 21.42 is amended by adding a new section to read:

11

Sec. 21.42.347. COVERAGE WHEN STATE OR FEDERAL BENEFITS AVAIL-

12

ABLE. An individual or group health insurance policy that provides
13 coverage on an expense incurred basis or an individual or group ser-
14 vice or indemnity type contract issued by a nonprofit corporation may
15 not exclude or limit coverage for the reason that the covered person
16 is eligible to receive benefits under a state or federal act, includ-
17 ing benefits provided by the Alaska Area Native Health Service.

17

18

* Sec. 2. This Act takes effect January 1, 1984.

*needs to put in
will be the primary
Cameron*

H B

260

SUMMARY: EB 260 "An Act relating to the administration of the University of Alaska"

Enclosed is a sectional analysis prepared by Legal Services Counsel, Keith Levy.

In general, this legislation proposes the following changes:

- 1). Restructuring the administration in that it requires the Board of Regents to devise and use formula funding in requesting and allocating general funds.
- 2). Board of Regents will be required to report to the Legislature as in current law (14.40.190 enclosed) but will additionally be required to report a listing of teachers, faculty members, and holders of academic rank as well as the number of credit hours.
- 3). Board of Regents will be required to submit a disclosure of true operating costs per administrative unit.
- 4). Salary levels shall be set at no more than 45% above national averages.

Folder Content

Left

Summary
Sectional/Levy
Statutes

Right

Bill
Lindauer Memorandum
U of A fiscal note and back-up

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 16, 1983

SUBJECT: Administration of the university
(HB 260)

TO: Representative John Lindauer

FROM: Keith B. Levy *KBL*
Legislative Counsel

The following is a sectional analysis of HB260, relating to the administration of the University of Alaska.

Section 1 adds a new paragraph to AS 14.40.170 to require the Board of Regents to set up and make use of a formula funding process for requesting and allocating money from the general fund. It requires the board to base the formula on the number of full-time equivalent students. It also requires the board to use the regional cost-of-living differentials between different geographic service areas which the state uses for other state employees.

Section 2 amends AS 14.40.190 to require the Board of Regents to report in writing to the legislature at the beginning of each regular session, in addition to information it was already required to report, the following: the number of credit hours generated by and the full-time equivalent number of students served by each administrative unit; and the total earnings reported for federal income tax purposes, the job description and title, the highest academic degree, the major publications and published research, and the total years of teaching experience for each teacher, faculty member, and holder of academic rank in the university.

Section 3 adds a new section, AS 14.40.172. Subsection (a) requires the Board of Regents to establish at least three geographic service areas for the university and two for the community colleges. It requires university budget requests to be made separately by administrative units which conform to these geographic service areas.

Subsection (b) provides for costs of services shared by different administrative units to be paid out of the budgets for units using those services.

Subsection (c) permits administrative units to decline to use shared services and instead use their share of the funds allocated for those services to obtain those services independently.

Section 4 adds a new section, AS 14.40.235. Subsection (a) prohibits the board from approving a pay scale for which the ratio between the compensation for university faculty and community college faculty varies from the national average. It also prohibits the board from compensating teachers and faculty members at a salary which is more than 45 percent above the national average for a comparable position.

Subsection (b) prohibits the board from awarding pay increases to teachers and faculty members for degrees and courses they have completed which are outside the academic discipline taught by the particular teacher or faculty member.

Subsection (c) prohibits the board from awarding or allowing retention of tenure by an employee who does not teach a minimum of student credit hours equivalent to six full-time equivalent students. Research courses, readings courses, and thesis supervision may not be applied to this minimum number of credit hours for purposes of tenure. Similarly, tenure may not be received or retained by an employee who does not teach an average of at least one course per semester or who is employed for two consecutive years without producing annual student credit hours equivalent to six or more full-time equivalent students.

Subsection (c) also provides that an employee who teaches less than two regular classes per semester may only be paid the equivalent of nine months teaching salary for every eleven months of full-time employment.

Subsection (d) requires the Board of Regents to establish a procedure to ensure that an employee whose tenure is denied or revoked under this section receives due process of law in the form of reasonable notice and the opportunity for a hearing.

Representative John Lindauer,
Page 3
March 16, 1983

Section 5 adds a new section, AS 14.40.265. This section provides that course credit may only be administered and granted by the administrative unit responsible for the geographic area in which the credit is earned.

Section 6 adds a new paragraph to AS 14.60.010 defining the terms "major publications" and "major published research" which are used in AS 14.40.190, sec. 2 of the bill. The terms are defined as publications that are published by a person other than the author or the author's employee.

KBL:ljb
10/011

SSHB 219

Bob Baldwin - U of A - against

Ed Jensen - Defeat For

Star Howitt - against

Jay Barton - against

HB 260

Ron Fypps - Yes on formula funding

Bob Baldwin - ~~maybe~~ but three more comprehensive elements, so no.

used in this subsection means a portion of the University of Alaska designated as a "campus" by the Board of Regents. (§ 37-10-3 ACLA 1949; am § 3 ch 80 SLA 1973; am § 2 ch 13 SLA 1977)

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Sec. 14.40.160. Board meetings public; meeting notice; public facilities. (a) The provision of AS 44.62.310 apply to meetings of the Board of Regents. All meetings of the board, its committees or subcommittees, are open to the public and press except as otherwise provided in AS 44.62.310(c). The findings of an executive session shall be made a part of the record of the proceedings of the Board of Regents. All records of the meetings and proceedings shall be open to inspection by the public and the press at reasonable times.

(b) The Board of Regents may determine the time and place of its meetings. However, 30 days notice is required for all regular meetings and 10 days notice is required for special meetings of the Board of Regents, its committees or subcommittees called under the bylaws or rules of procedure of the Board of Regents. Emergency meetings may be called without notice.

(c) The Board of Regents shall provide adequate facilities for members of the public to attend the meetings of the board, its committees or subcommittees. (§ 37-10-5 ACLA 1949; am § 1 ch 100 SLA 1972; am § 30 ch 59 SLA 1982)

Effect of amendments. — The 1982 amendment substituted "Board of Regents" for "board" three times in subsection (b).

Legislative history reports. — For report on ch. 100, SLA 1972 (CSHB 605 am), see 1972 House Journal, p. 643.

Sec. 14.40.170. Duties of Board of Regents. (a) The Board of Regents shall

(1) appoint the president of the university by a majority vote of the whole board, and the president may attend meetings of the board;

(2) fix the compensation of the president of the university, all heads of departments, professors, teachers, instructors and other officers;

(3) confer such appropriate degrees as it may determine and prescribe;

(4) have the care, control and management of all the real and personal property of the university;

(5) keep a correct and easily understood record of the minutes of every meeting and all acts done by it in pursuance of its duties;

(6) under procedures to be established by the commissioner of administration, and in accordance with existing procedures for other state agencies, have the care, control, and management of all money of the university and keep a complete record of all money received and disbursed.

tutions of higher learning for accident occurring during school athletic events. 35 ALR3d 725.

Tort liability of public schools and institutions of higher learning for injuries caused by acts of fellow students. 36 ALR3d 330.

Tort liability of public schools and institutions of higher learning for accidents occurring in physical education classes. 36 ALR3d 361.

Tort liability of public schools and institutions of higher learning for accidents occurring during use of premises and equipment for other than school purposes. 37 ALR3d 712.

Tort liability of public schools and insti-

tutions of higher learning for injuries due to condition of grounds, walks, and playgrounds. 37 ALR3d 738.

Immunity of private schools and institutions of higher learning from liability in tort. 38 ALR3d 480.

Tort liability of public schools and institutions of higher learning for injuries resulting from lack or insufficiency of supervision. 38 ALR3d 830.

Liability of university, college, or other school for failure to protect student from crime. 1 ALR4th 1099.

Tort liability of public schools and institutions of higher learning for educational malpractice. 1 ALR4th 1139.

Sec. 14.40.180. Religious or partisan instruction, tests and appointments. No instruction either sectarian in religion or partisan in politics shall be permitted in any department of the University of Alaska and no sectarian or partisan test shall be allowed or exercised in the appointment of regents, instructors, or other officers of the University of Alaska or in the admission of students or for any purpose. (§ 37-10-6 ACLA 1949)

Collateral references. — Validity of governmental requirement of oath of allegiance or loyalty as applied to college curators. 18 ALR2d 303.

Sec. 14.40.190. Report to legislature. The Board of Regents shall make a written report to the legislature at the beginning of its regular sessions of the condition of the university property, of all receipts and expenditures, including but not limited to the administration and disposition of appropriated and restricted funds, and of the educational and other work performed. (§ 37-10-6 ACLA 1949; am § 1 ch 37 SLA 1976)

Cross references. — As to status of University of Alaska as state agency, see note to Alas. Const., art. VII, § 2.

NOTES TO DECISIONS

Applied in *University of Alas. v. National Aircraft Leasing, Ltd.*, Sup. Ct. Op. No. 1158 (File No. 2365), 536 P.2d 121 (1975).

Sec. 14.40.200. Quorum. No corporate business may be transacted at any meeting of the Board of Regents unless at least six regents are present, the majority of the whole board to approve the same. (§ 37-10-6 ACLA 1949; am § 2 ch 168 SLA 1975)

acquisition or disposition of an item owned by, in custody of, or proposed to be acquired by or for the state museum creates a conflict of interest. A committee member may not

(1) have a pecuniary or property interest in an item that is proposed to be acquired or disposed of by or for the state museum;

(2) have a pecuniary or property interest, directly or indirectly, in a contract to which the museum, or the state on behalf of the museum, is a party; or

(3) receive compensation for services rendered to the state museum as a consultant, expert, appraiser, or otherwise, except as provided in AS 14.57.040.

(b) Notwithstanding (a) of this section, a committee member may bequeath or donate an item to the state museum. (§ 1 ch 80 SLA 1974)

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, ch. 58, SLA 1982.

Sec. 14.57.080. Definitions. In this chapter "committee" means the state Museum Collections Advisory Committee. (§ 1 ch 80 SLA 1974)

Revisor's notes. — This section was reorganized by the revisor of statutes under the authority of AS 01.05.031.

Chapter 58. Alaska Public Broadcasting Commission.

Section

10 — 90. [Transferred]

Secs. 14.58.010 — 14.58.090. Creation of Alaska Public Broadcasting Commission; membership and term of office; compensation and expenses; chairman; purpose; duties; powers; commercial broadcasting; definitions.

Transferred to AS 44.21.256 — 44.21.290.

Editor's notes. — This chapter was transferred to AS 44.21.256 — 44.21.290 by the revisor of statutes pursuant to AS 01.05.031.

Chapter 60. General Provisions.

Section

10. Definitions

Sec. 14.60.010. Definitions. As used in this title, unless the context otherwise requires

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SLA 197

(1) "public schools" include elementary schools, high schools, citizenship night schools for adults, and other public educational institutions which may be established; however, nothing in this title includes schools for Alaska Natives under the control of the federal government and administered and supervised through the Bureau of Indian Affairs;

(2) "board" means the state Board of Education;

(3) "commissioner" means the commissioner of education;

(4) "department" means the Department of Education;

(5) "governing body" means the school board of a borough or city school district or a regional educational attendance area;

(6) "school board" means the school board of a borough or city school district or a regional educational attendance area;

(7) Repealed by § 31 ch 124 SLA 1975.

(8) Repealed by § 31 ch 124 SLA 1975.

(9) "attendance area" means the geographic area designated by the department to be served by a school;

(10) "regional educational attendance area" means an educational service area in the unorganized borough which may or may not include a military reservation, and which contains one or more public schools of grade levels K-12 or any portion of those grade levels which are to be operated under the management and control of a single regional school board. (§ 37-1-3 ACLA 1949; am § 58 ch 98 SLA 1966; am §§ 27 — 29 ch 46 SLA 1970; am § 3 ch 64 SLA 1972; am §§ 29 — 32 ch 124 SLA 1975)

HOUSE HEALTH, EDUCATION & SOCIAL SERVICES
STANDING COMMITTEE
April 11, 1983
1:00 p.m.

Members Present: Rep. Fritz, Co-Chair
Rep. Tischer, Co-Chair
Rep. M.W. Miller, Vice-Chair
Rep. Davis
Rep. Koponen
Rep. Goll

Members Absent: Rep. Cato

COMMITTEE CALENDAR

HB 219: "An Act relating to Local Citizen Advisory Boards of the University of Alaska."

HB 260: "An Act relating to the administration of the University of Alaska."

WITNESS REGISTER

Rep. Lindauer
District 10
State Capitol Building
Pouch V
Juneau, Alaska 99811
465-3709

Position Statement: Sponsor of HB 219 and HB 260; testified in support of HB 219; stated that the only change in HB 219 would be appointment by the Governor of LCAB members.

Bob Baldwin
UAA Citizens Advisory Committee
4907 Roger Road
Anchorage, Alaska 99507
562-5451

Position Statement: Opposed HB 219 because it would put LCAB's in a responsive and confrontative position instead of its current originating position; testified against HB 260 because it would reorganize the University through piecemeal legislation and had not allowed for enough public input.

Ed Isenson
UAA Citizens Advisory Committee
943 Westbury Drive
Anchorage, Alaska 99503

563-6480

Position Statement: Agreed with the intent of HB 219 to strengthen local participation and impact; stated that HB 260 contained several features to fortify the University of Alaska.

Dr. Jay Barton
President
University of Alaska
3211 Providence Drive
Anchorage, Alaska 99508
786-1412

Position Statement: Argued that HB 219 was unnecessary, would increase regionalism and ineffectiveness, and could be unconstitutional.

Stan Howitt
UAA Citizens Advisory Committee
1716 Scenic Way Drive
Anchorage, Alaska 99501

Position Statement: Stated that HB 219 was unnecessary because the Board of Regents already responded to Citizen Advisory Board recommendations and concerns; contended that the fight was with the Legislature.

Ron Phipps
Postsecondary Education Commission
Pouch FP
Juneau, Alaska 99811
465-2854

Position Statement: Endorsed lines 11 - 15 on Page 1 of HB 260 regarding the funding formula process.

PREVIOUS ACTION

HB 219: 2/21/83 - First Reading.

Committee referrals - HESS and Finance Committees.

No previous action in HESS.

HB 260: 3/11/83 - First Reading.

Committee referrals - HESS, Finance and Rules Committees.

No previous action in HESS.

ACTION NARRATIVE

TAPE 28
Recording
Number 0001

Co-Chair Fritz called the meeting to order at 1:05 p.m. Representatives M.W. Miller, Davis and Koponen were present. Representatives Tischer and Goll arrived at 1:12 p.m. Co-Chair Fritz announced the committee calendar and invited the sponsor of HB 219 to testify.

Number 0028

Rep. Lindauer, District 10, introduced a sponsor substitute for HB 219; stated that the bill makes only one change which allows the Governor to appoint Citizen Advisory Board members. Rep. Lindauer contended that local citizens have little input into higher education, and that HB 219 would give Advisory Board members greater stature.

Number 0122

Rep. Lindauer stated that HB 219 also mandates that the Board of Regents explain any decisions which disregard Advisory Board recommendations.

Number 0144

In response to questions from the committee, the sponsor argued that the Advisory Boards already exist; consequently, the only change under HB 219 would be that the Governor instead of the University would appoint the board members.

Number 0213

Rep. Miller questioned the make up of the proposed Fairbanks Citizens Advisory Board and the contradictory fiscal notes submitted by the University of Alaska and the Postsecondary Education Commission.

Number 0250

Discussion about terms of office for Advisory Board members.

Number 0278

Rep. Tischer suggested adding a sunset provision in order to facilitate regular review of the effectiveness of Citizen Advisory Boards. Rep. Lindauer agreed to the need for such a provision; said that SSHB 219 provides for such a review.

Number 0294

Rep. Goll questioned the discrepancies between the fiscal notes submitted by the Postsecondary Education Commission and the University. Rep. Lindauer contended that HB 219 would incur no costs, and argued that the University's fiscal note for \$141,900 was mischievous.

Number 0351 Rep. Lindauer stressed that the sole intent of HB 219 is to allow the Governor to appoint the board members in order to give more stature to local citizens.

Number 0370 Rep. Koponen suggested that a fiscal note from the Department of Administration would be more accurate as it would be the department involved.

Number 0414 Discussion about Local Citizen Advisory Board powers and the provision in HB 219 that would require the Board of Regents to wait 60 days before implementing a decision if the LCAB wished to make a recommendation regarding the decision.

Number 0450 Rep. Davis expressed concern that the 60-day clause might unnecessarily delay Board of Regent decisions. Rep. Lindauer agreed and suggested shortening the 60-day provision in a committee substitute for HB 219.

Number 0466 Rep. Tischer argued that shortening the 60-day provision might reduce the impact of advisory boards and thus erase the effectiveness of the bill.

Number 0510 Rep. Lindauer also agreed with Rep. Tischer's concerns and suggested limiting the provision to a more reasonable amount of time, perhaps 7 - 14 days.

Number 0539 Bob Baldwin, UAA Citizens Advisory Committee, stated that the committee would not support HB 219 as worded; expressed the committee's concern that HB 219 would place citizen advisory boards in a responsive, confrontative position with the Board of Regents instead their current originating position. Mr. Baldwin contended that the committee agreed with the intent to give more clout to LCAB's but argued that HB 219 was not the best means to accomplish that end.

Number 0610 Mr. Baldwin suggested that the committee's position might change if the wording regarding responding to Board of Regents' decision were altered.

Number 0621 Rep. Tischer questioned Mr. Baldwin about the meaning of "originating position". Discussion followed.

- Number 0670 In response to questions from Rep. Goll, Mr. Baldwin stated the committee's concern that the Governor's appointments would become political thereby minimizing the input of ordinary citizens, and that HB 219 would decrease the number of members permitted on Local Citizen Advisory Boards.
- Number 0701 Ed Isenson, UAA Citizens Advisory Committee, agreed with the intent of HB 219 to encourage strong local representative and participation. Mr. Isenson also commented on HB 260, stating that the bill included some constructive features to strengthen the University of Alaska. Mr. Isenson concluded that both bills would have positive effects for students and the community.
- Number 0742 In response to questioning from Rep. Tischer, the witness agreed to the benefits of 20 member advisory boards but stated that the proposed decrease was not a primary consideration in regards to HB 219.
- Number 0777 Dr. Jay Barton, President, University of Alaska, presented an overview of Board of Regent activities and duties; described recent measures to increase the authority of citizen advisory boards.
- Number 0819 Dr. Barton argued that HB 219 would also establish attendance areas and lead to greater inefficiency.
- Number 0860 Dr. Barton said the problem concerns how to get everyone involved and still get something done.
- Number 0877 Dr. Barton also argued that HB 219 would violate the intent of the state constitution to allow the Board of Regents to govern the University of Alaska. Dr. Barton concluded that HB 219 was unnecessary, inappropriate, would lead to increased regionalism and decrease efficiency, and could in fact be unconstitutional.
- Number 0920 Dr. Barton responded to Rep. Tischer's suggestion that the Board of Regents was not responsive to the advisory boards by citing the great amount of communication which exists and the impossibility of granting everybody's wishes.

Number 0957 Dr. Barton stated that trying to make limited resources cover everybody's requests had led to conflicts, but that the Board of Regents has already accomplished more to alleviate those problems than HB 219 ever could.

Number 0980 Rep. Goll commented that perhaps HB 219 resulted from recent negative press on University of Alaska academic standards and financial matters.

Number 0993 Dr. Barton cited the recent shift of emphasis from access to efficiency with regards to higher education in Alaska, and responded that the University received a clean bill of health in the past 3 audits.

Number 1040 Dr. Barton agreed to the need for quality control in regards to academic standards. Dr. Barton further explained that some U of A programs are very strong and competitive with lower '48 programs, while other areas are not as stable as of yet.

Number 1060 Stan Howitt, UAA Citizens Advisory Committee, stated that HB 219 is unnecessary because the Board of Regents already responds well to the Citizens Advisory Board. Mr. Howitt asserted that the fight now is with the Legislature. Mr. Howitt spoke against dividing the advisory boards into 3 geographical areas and said that appointment by the Governor seemed bureaucratic.

Number 1134 Rep. Davis requested information on the duties, functioning, and number of LCAB's.

Number 1148 Co-Chair Fritz announced that he would entertain a motion to move HB 219 out of committee.

Number 1150 Rep. Davis suggested holding HB 219 until the receipt of the requested information from Dr. Barton.

Number 1166 Rep. Tischer requested clarification from Rep. Davis about his recommendation.

Number 1170 Rep. Davis moved to table HB 219 until receipt of further information from Dr. Barton.

- Number 1190 Co-Chair Fritz called for a vote on the previous question. The motion passed by a vote of 4 to 2.
- Number 1193 Co-Chair Fritz presented HB 260 for committee consideration.
- Number 1199 Ron Phipps, Director of Academic Planning and Research, Postsecondary Education Commission, focused his comments on Page 1, Lines 11 - 15 of HB 260; stated that the committee approved of the proposed funding formula and therefore endorsed that section of HB 260.
- Number 1215 Rep. Tischer requested a description of the formula and proof of its effectiveness. Mr. Phipps explained 3 allocations for faculty, support and travel are added together to arrive at the total sum for each community college. Mr. Phipps stated that the formula was compared to actual costs over a 3-year period and reviewed by an outside consultant who is a national expert and knowledgeable about Alaska.
- Number 1248 Bob Baldwin, UAA Citizens Advisory Committee, called HL 160 a reorganization plan and argued that reorganization should be done only through a comprehensive process, not piecemeal legislation. Mr. Baldwin also suggested soliciting greater public input.
- Number 1287 Co-Chair Fritz adjourned the meeting at 2:58 p.m.

lawyer who prepared the legislation on behalf of President Jay Kerttula, D-Palmer, and Sen. Pau, said the department's cost figure is irrelevant.

ALASKA NEWS

ation, payments would be made from 12.5 percent of Fund earnings — specifically 25 percent of the earnings for dividends. Calculated at \$42 million in fiscal 1984, were not the demands of the bonus program, the size of investments would decrease. The administration estimate as to the number

of qualified applicants holds true, bonus payments would fall by about 20 percent in fiscal 1984.

However, he and the committee doubt the accuracy of the figure on grounds it was derived from the number of seniors who qualified for 1982 Permanent Fund dividends.

The retroactive payments are among the demands of 67-year-old Rodney Vest of Anchorage, who filed suit on grounds the residency requirement was discriminatory.

Last summer, the Legislative Council, advised by the attorney general's office that the state would lose the suit, agreed to address the issue, including the question of retroactive payments, this session.

However, at the suggestion of Sen. Joe Josephson, D-Anchorage, the finance panel decided the state has legal grounds to refuse to make retroactive payments.

Teacher training plan criticized

ANCHORAGE (AP) — The former director of a Nome-based Eskimo teacher training program says in the past 18 months, nearly \$600,000 has been spent on five students.

And Jim Greig, a philosophy professor who has taught in universities around the world, claims he was fired for complaining publicly about how much money is being spent on the Eskimo Teacher Education Program (ETEP).

But Native and education officials involved in ETEP say Greig was not on the job long enough to make an accurate assessment, and that he didn't comprehend its special needs and goals.

"What Jim does not understand is the need for Eskimo teachers and the cost of education in rural Alaska," says Caleb Pungowiyi, president of Kawarek Inc., a non-profit Native corporation.

"There is no doubt that the program is expensive," Pungowiyi agrees, but he says the payoff will be in 10 years rather than within the next two years.

Mike Metty, president of Northwest Community College which coordinates ETEP with a cross-cultural education program based at the University of Alaska-Fairbanks, says the goal is to develop a pool of young people who could one day become certified teachers.

"There was no premise that the program was going to produce 40 teachers in four years," Metty says. "We hope to get 30 or 40 teachers over a decade."

Greig, who was hired in January, says although 27 people are registered this semester, the majority are students "in name only." He says they do not attend classes or complete assignments regularly and collectively have earned only 16 credit hours this semester.

Metty acknowledges that enrollment fluctuates.

"Right now, we know we're going to lose students on St. Lawrence Island because whaling has started," he says. Education in rural Alaska is unlike education anywhere else because of the demanding way of life, Metty says.

But Greig estimates the cost of one teaching degree

learned through ETEP will be \$800,000.

"Everybody realizes it isn't working and they don't know what to do," he says.

But when he voiced his concerns to Pungowiyi and the Kawarek board of directors in April, he soon found himself out of job.

"Obviously, I am being fired for telling the truth," Greig says. He maintains facts about the success rate of the program have been hidden deliberately so ETEP will be allowed to continue.

"There are a few people out there who understand how the system works, and are milking it for all it's worth," Greig says. "Eight-hundred-thousand-dollar degrees are not in the best interests of the students — their interests lie in the efficient use of the \$598,000 poured into ETEP each year."

Greig contends the money would be much better spent giving Eskimo students university scholarships, but Pungowiyi says Eskimos who enroll in urban colleges have a high dropout rate.

Alaska State Legislature

Representative John Lindauer
District 10-A
3933 Geneva Place
Anchorage, AK 99508



While in Juneau
Pouch V
Juneau, AK 99811
465-3709

House of Representatives

March 18, 1983

MEMORANDUM

TO: House Health, Education and Social Services

FROM: Representative John Lindauer *John L.*

RE: House Bill #260: "An Act relating to the administration of the University of Alaska."

The intent of HB 260 is to provide for the more efficient use of state monies.

Section one of HB 260 insures the Board of Regents will give consideration to students and regional cost-of-living differences by requiring the Regents to devise and use formula funding in the requesting and allocating of general funds. The formula would include the number of full-time equivalent students (FTE students) and the regional cost-of-living differentials used by the state for other state employees.

Section two adds two additional items that the university must annually report to the legislature. The two additional items to be reported are:

- 1) The number of credit hours generated and the number of FTE students produced by each administrative unit of the University.
- .. 2) A listing of the teachers, faculty members, and holders of academic rank.

Section three requires that the Regents disclose the true cost of operating each administrative unit. It requires the costs associated with the sharing of services between administrative units be assigned to those units.

Section four specifies the salaries and tenure status of teachers and professors. Salary levels would be no more than 45% above nationally reported salary averages. This section would also insure that tenure as a teacher or professor would only be granted and maintained by those employees who actually teach or profess.



Sherman Carter
Executive Vice President
474-7448

University of Alaska
Fairbanks, Alaska 99701

April 4, 1983

Representative Milo H. Fritz, Co-chairman
Health, Education & Social Services Committee
Pouch V
Juneau, AK 99811

~~Representative Mae Tischer, Co-chairman,
Health, Education & Social Services Committee
Pouch V
Juneau, AK 99811~~

Dear Representatives Fritz and Tischer:


President Jay Barton, who is now off campus on university business, asked me to send this letter to you with the attached fiscal notes and related papers.

I understand that your committee is scheduled to have hearings on House Bills 219 and 260 on 11 April. The university recommends against enactment of those two bills for reasons explained in the attachments.

I am also including information on House Bills 95 and 96 which were referred to your committee. That legislation, too, would have a significant adverse impact on the university as explained in papers below. Copies of the four house bills are attached for convenient reference.

Your interest in and support of the University of Alaska are appreciated.

Sincerely,


Sherman Carter

SFC/pe
Attachments
cc: w/attach.

Members of the House HESS Committee,
Representatives Mike Miller, Bette Cato, Mike Davis,
Peter Goll, Niilo Koponen
Members of the Board of Regents
President Jay Barton



Sherman Carter
Executive Vice President

UNIVERSITY OF ALASKA
FAIRBANKS, ALASKA 99701

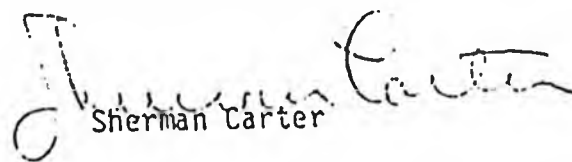
March 31, 1983

Ms. Dorothy Pede
Office of Representative Lindauer
Pouch Y
Juneau, AK 99811

Dear Ms. Pede:

This submission is to respond to the request you made to the University on March 30, 1983 for a fiscal note from the University of Alaska for House Bill 250.

Sincerely,


Sherman Carter

SFC/man

Enclosures

cc: Legislative Finance
Office of Management & Budget
President Jay Barton

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: HB 260
Title: Administration of University of
Sponsor: Rep. Lindauer Alaska
Requestor: Rep. Lindauer

II. FISCAL DETAIL

Agency Affected: University of Alaska
Program Category Affected: Education
BRU, Program of Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		0	0	0	0	0
CAPITAL		0				
REVENUE		0				

FUNDING: (Thousands of Dollars)

GENERAL FUND	0				
FEDERAL FUNDS	0				
OTHER (Specify Source)	0				

POSITIONS:

FULL-TIME	0				
PART-TIME	0				
TEMPORARY	0				

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

There is no fiscal impact for HB 260. That is, there are not direct costs which can be shown above. However, there would be indirect costs, as shown by the page immediately below. Please also see "agency comments" which also are attached.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Frank Scarco, Director of Budget Development Phone: 474-7593
Division: Statewide Budget Office Date: March 31, 1983

Approved by Commissioner: Sherman Carter, Executive Vice President Date: March 31, 1983
Department: University of Alaska

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

March 31, 1983

HB260
ANALYSIS

DIRECT COSTS

There are no direct costs associated with House Bill 260.

INDIRECT COSTS

- A. While no direct costs are associated with the implementation of the proposed legislation, since all the additional requirements will involve the participation of many university employees to accomplish, there are some indirect costs. For example, the additional effort required to report a variety of statistics about the university's faculty may require the addition of some personnel and/or recordkeeping ability at smaller units of the university.
- B. Section 3 of House Bill 260 requires that separate budgets be developed by each administrative unit. At present this function is centrally controlled by the university Statewide Services & Programs administrative unit. Depending upon how reimbursement is handled, the requirements of Section 3 may lead to duplication in the budget development process which would probably generate additional costs to the state.

AGENCY COMMENTS

Article 7, Section 3 of the constitution of the state of Alaska specifies that the University of Alaska shall be governed by a Board of Regents. Title 14, Chapter 40, Section 170 of the Alaska Statutes assigns certain duties to the Board of Regents. The University believes that the Board of Regents has the authority to govern the University; the present proposed legislation in House Bill 260 would infringe on that responsibility. For example, AS.14.40.170(2) specifically states that the Board of Regents should "fix the compensation of the President of the University, all heads of departments, professors, teachers, instructors, and other officers." Section 4 of HB260 in effect sets the maximum salary that could be offered a faculty member and sets the criteria upon which pay increases are determined. This provision infringes on the rights of the regents to govern the University, as do all sections of the proposed legislation.

Further, the restrictions and artificial limitations to be imposed on individual faculty salaries, while perhaps being generous for most, may have a deleterious effect on the University and the state in a few cases by preventing the employment of outstanding national scholars and leaders in certain fields of research important to Alaska. The provisions relating to tenure in HB260 essentially destroys the land grant concept of higher education at the University of Alaska by discouraging the employment and retention of research and extension faculty. Tenure is a guarantee against capricious dismissal because of the statement of an alternate and sometimes unpopular view. The University is the one place where a diversity of views and opinions need to be aired and discussed, and solutions appropriate to a particular problem found. The attachment of tenure to classroom instruction only does violence to the concept of academic freedom in a modern land grant university.

H B

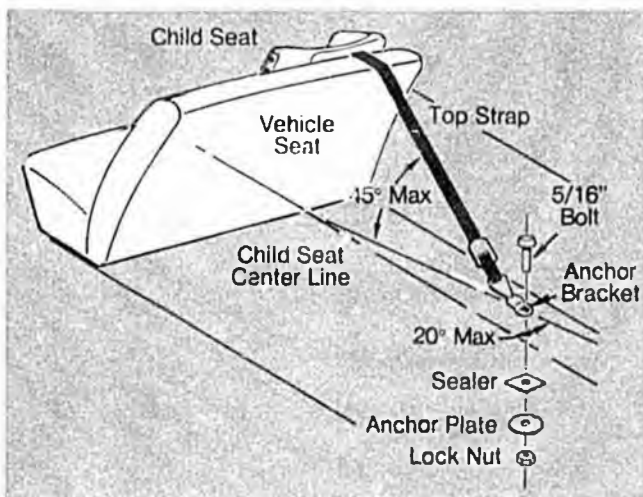
262

FOR VANS, HATCHBACKS, STATION WAGONS AND UTILITY TRUCKS

Select a suitable anchor bracket mounting location on the floor of the vehicle. The location must be:

- On a flat metal surface which is a welded-in integral part of the vehicle body. DO NOT attach anchor bracket assembly to folding seat back panels or movable load floors, filler panels, spare tire covers, or any screw-on panels.
- In a position clear of fuel tank, fuel lines, brake lines, exhaust systems, etc.
- In a position where the angle between the Child Seat top strap and the load floor does not exceed 45° (horizontal angle).
- As close to the centerline of the Child Seat as possible, but in no case must the angle between the Child Seat centerline and top strap exceed 20° (side to side angle).

NOTE: If conditions A, B, C, or D cannot be met, do not use the Child Seat in that seating position. Move the Child Seat to another seating position which satisfies conditions A, B, C, or D.



Drill a 5/16" diameter hole through the floor at the selected location.

Assemble and securely tighten the bolt, anchor bracket, anchor plate, (2-1/2" O.D. washer) and the lock nut to the floor using a suitable sealer around the hole. If the hole has been drilled through the floor to the outside of the vehicle, make certain that the hole is properly sealed to prevent exhaust fumes from entering the vehicle.

For more information contact:
Alaska State Troopers
Community Services Bureau
(907) 269-5654
P.O. Box 6188 Annex
Anchorage, Alaska 99502

Child Restraint Systems For Your Automobile



ALASKA CHILD PASSENGER
SAFETY ASSOCIATION
P.O. Box 10245
Anchorage, Alaska 99510

Why are child restraints needed?

What kind of restraint systems are available?

How do I select the best restraint for my child?

What is the proper way to use child restraints?

Where can they be purchased?

This booklet answers these questions. The rest is up to parents—to select and obtain the proper restraint, and then to USE IT PROPERLY according to directions.

Why Child Restraints Are Needed

After the critical early weeks of life for the newborn baby, automobile crashes are the leading cause of death for American children. In 1978 alone, 669 children under the age of 5 were killed while riding in cars. Tens of thousands more were seriously injured. The tragedy is that most of those deaths and injuries could have been avoided if parents had taken the time to buckle their children into a proper child restraint system.

To understand why restraints are so important, one must first understand what happens in a crash, or in a sudden panic stop. When a car hits another object and stops suddenly, or when a sudden hard braking action brings it to a fast stop, all occupants in the car continue to move forward at the same speed the car was travelling, until something stops them. Too frequently, that "something" is the steering column, the dash board, the windshield, or some other part of the interior of the car. It is this second collision that causes injuries and death.

In the case of small children, if they are not restrained they literally become flying missiles. It happens so fast, and with such force—even in low speed crashes—that neither the parent nor the child can prevent the child from a violent impact with other passengers or with some hard surface within the car.

The solution to the problem of the second collision is a restraint system. For adults, that means a safety belt, which holds you safely in your seat, away from the car interior. The belt's webbing and the sturdy adult pelvis and rib cage absorb the forces of the

collision. But for young children under 5, child restraints are the best solution.

Children need to have the crash forces spread more evenly over their fragile bodies, and that's what child restraints do. They are fastened to the car by the safety belt already in your car, and in a crash they protect children from colliding with the car's interior.

Of course, if no child restraint is available, it is much better to buckle children into regular safety belts than to let them ride free, loose, and unprotected.

Some parents think they can protect infants and young children from being injured by holding them in their laps. They cannot. In a 30 mph crash, for example, a child may be thrown forward with a force equal to 30 times its own weight. If you are wearing a safety belt, the child can be torn from your arms and hurled into the dash or the windshield. If you're not wearing a safety belt, both you and your child will fly forward, with the probability that your child may be crushed between you and the dash. **HOLDING YOUR CHILD IN YOUR LAP IS NOT SAFE.**

Unfortunately, our studies show that most parents do not provide their children with the protection restraints can offer. A recent survey found that only 5 percent of young children were using child restraints.

Whether adults do or do not use safety belts available in cars is a conscious choice. Small children cannot decide for themselves to buckle up. They depend on their parents to protect them from harm, and make that decision for them.

Fortunately, effective child restraint systems that have been crash tested and meet government standards are available. The remainder of this brochure describes the kinds of restraints that are available and how they should be used.

Some Rules To Remember

- Children under 5, or weighing less than 40 pounds, should ride in a child restraint.
- The safest place in the car for a child is in the back seat.
- If no child restraint is available, children should use the car safety belt. This is much safer than riding unrestrained.
- Adults should not hold children on their lap while riding in either the front or back seat. They may cause more injuries by crushing their children against the dash with their own body, or the child may be torn from their arms and thrown against the hard interior of the car. If in the back seat, the

child may be torn from their arms and thrown into the front area of the car, possibly against the hard interior or into another passenger.

- Children should not ride in the luggage compartment of a station wagon or hatchback.
- Hatchbacks should always be kept closed when children are riding in the back seat. If they are left open, the children could be ejected from the car in an accident. Open hatchbacks or tail gate windows also increase the levels of carbon monoxide inside the car from exhaust fumes.

Fringe Benefits

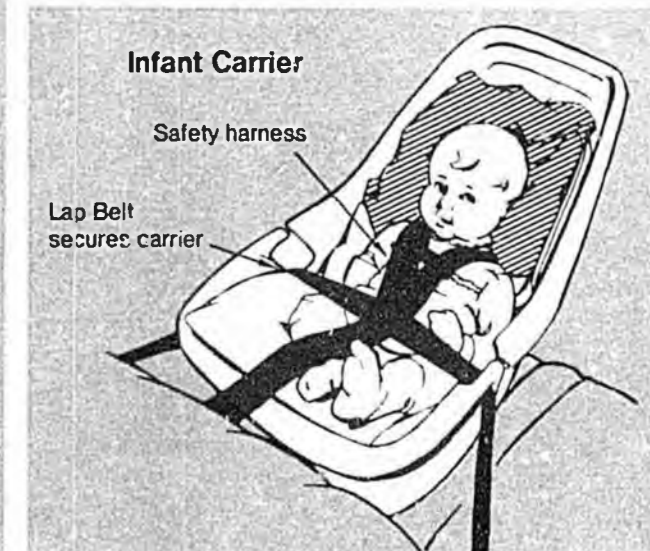
Some days, it seems like there's nothing harder than driving with small kids in the car. Between trying to keep them contented and trying to keep them still, it's almost impossible to keep your mind on the road. That's where child restraints are really helpful. They act just like a good babysitter, keeping your children entertained and under control.

Child restraints can make the ride more fun for children. They're comfortable to ride in, and many of them are designed so they give kids the extra boost they need to see out the windows and feel more a part of what's going on. They are also a very nice place to sleep.

All in all, child restraints are a pretty good deal for everyone. They let you concentrate on driving, while keeping the kids happy and protected.

Types of Restraints Available And How To Use Them

FOR THE INFANT . . . FROM BIRTH TO ABOUT 9-12 MONTHS OF AGE



Infant carriers or convertible child safety seats are the only types of child restraints recommended for use by babies. In these restraint systems, the baby faces backwards, in a semi-reclining position. In an accident, the baby's sturdy back absorbs the crash forces rather than its delicate chest and abdomen. The carrier is lined with soft padding, has an internal safety harness to keep the baby in the restraint, and is anchored to the car by the vehicle's safety belt.

The time to start using the infant carrier is on the baby's very first ride home from the hospital. Parents should anticipate the need for an infant carrier before the baby is born, and buy one early as an essential part of the layette. For newborn babies, a rolled-up receiving blanket placed around the head and shoulders will give their head additional support.

Babies should ride in the infant carrier until they can sit up by themselves without support. This usually occurs between 9 and 12 months, or when they weigh about 20 pounds.

There are basically two kinds of infant carriers. The first is designed for infants only. Babies outgrow this kind of seat and must move up to a child safety seat. The second is a convertible carrier. When babies get too big for the infant position, the convertible carriers can be changed into child safety seats which toddlers can continue to use until they're old enough to

wear regular safety belts. More about convertible carriers later.

WARNING: Do not use flimsy, light weight, plastic feeder seats and car beds that are designed only for household use, and not for transporting an infant in an automobile.

FOR THE TODDLER . . . 1-4 YEARS OLD

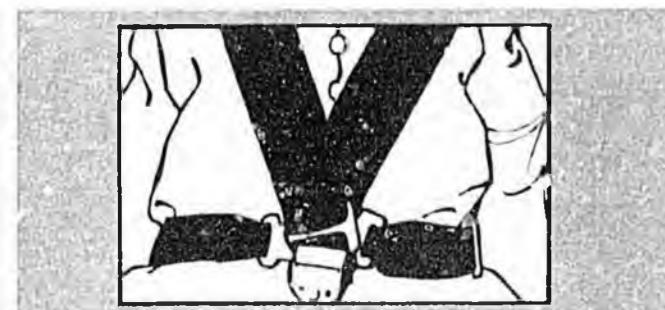
Three types of restraint systems are recommended. They include the child safety seat, the protective shield, and the safety harness.

Child Safety Seat

This restraint system is designed for children who can sit up without support. It faces forward and is anchored by the vehicle's lap belt, which is either fastened around the front of the seat, or threaded through the back of the frame.



It has a safety harness with two shoulder straps, a lap belt, and a crotch strap. This five-point harness spreads the crash forces over the child's shoulders and hips. The crotch strap keeps the hip straps from riding up into the child's delicate abdomen.



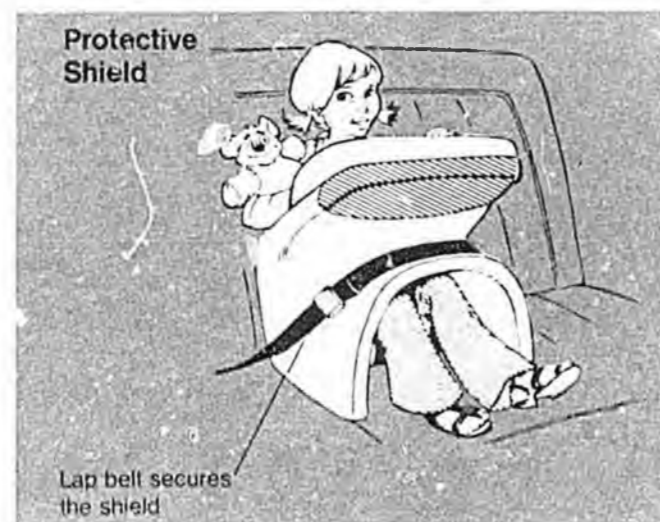
Some child safety seats also have a "top tether strap" that ties the top of the restraint to the structure of the car. A top tether strap is usually required on child safety seats which have been raised several inches so that the children riding in them can see out the win-

dows. When included, the top tether provides additional crash protection, particularly in side collisions. (See the section on anchoring the top tether strap for detailed instructions on fastening the tether strap.)

Protective Shield

This type of child restraint fits over the front of the child's lap and chest, and is designed to catch and cushion the child in a crash.

It is a C-shaped shell with energy-absorbing padding on the upper part of the shield. The shield is anchored to the car by the lap belt which fastens around the front of the shield. In an accident, the shield spreads the crash forces evenly over the child's head and upper body.

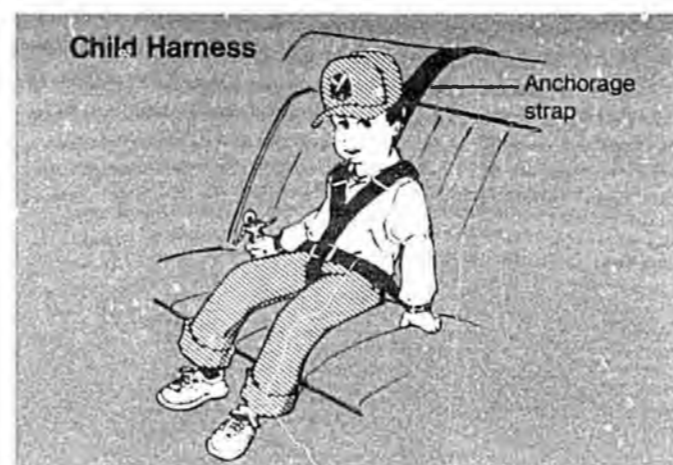


The shield restraint has several advantages over other types of child restraints. It doesn't use a harness, and it doesn't use a top tether strap.

However, the shield generally doesn't provide as much protection in side collisions, and, therefore, should be used in the center seating positions. The shield is also easier to get into and out of, so it may require greater attention to make sure your child stays in the restraint when you're driving.

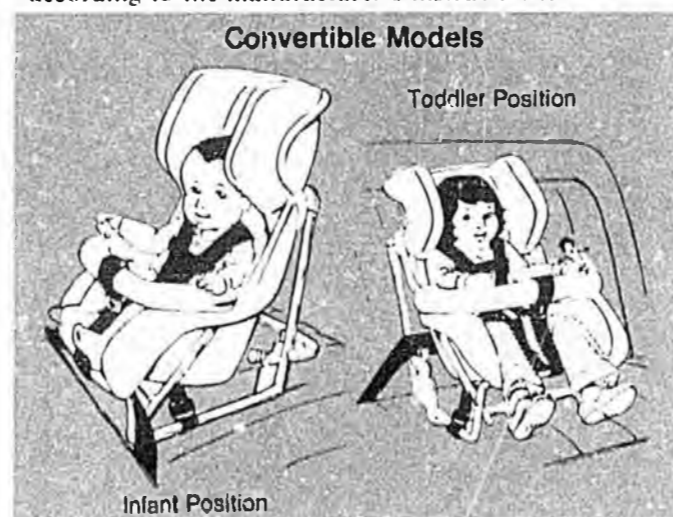
Child Harness System

This restraint consists of a 5-point safety harness with a top tether anchorage strap. It is designed for children who can sit up without support. It faces forward, and is anchored to the car by the vehicle's lap belt and a top tether strap. The vehicle lap belt threads through a loop of the harness behind the child. The safety harness does not provide side impact protection, and should, whenever possible, be used in the center of the rear seat.



The Convertible Seats

Some infant carriers are simply converted safety seats. Changing them from infant carrier to child seat is a fairly simple operation. You move the safety harness from the lower shoulder strap slots to the upper slots; you adjust the tubular frame from the reclining position to the upright position; you turn the seat around so that the child is facing front, and you re-buckle the car safety belt through the seat frame according to the manufacturer's instructions.



Some Reminders

- Be sure to read, follow, and keep the manufacturer's instructions.
- Be sure to attach the child restraint properly to the car with the vehicle's lap belt. On some child safety seats, the lap belt goes through the metal frame of the seat; while in others, it goes around the top of the seat and over the child's lap.

- Be sure to attach the top tether strap, if one is included, for full protection. In order to be effective, the tether strap must be attached securely to either the rear seat belt, the rear shelf, or some other metal anchor point. (See the section on anchoring the tether strap).
- Be sure to properly secure your child in the restraint. Buckle all five parts of the harness together and be sure the harness is not too loose.

Restraint Systems For The Older Child

Regular Vehicle Lap Belts

Children over the age of 4 or 5 and weighing about 40 pounds can be restrained by use of the vehicle lap belt, with the child sitting up-right against the back of the seat. The lap belt should be adjusted snugly so that it will not ride up across the child's abdomen. Again, the safest position is in the rear seat, with the center seating position being safer than the side positions.

Three-Point Restraint System

Depending on the weight and height of the child, the three-point adult belt system may be used. Such use, however, requires a proper fit of the shoulder portion of the belt. That is, it must be positioned firmly across the chest and shoulder and not cutting across the neck, face, or head.

If the three-point belt system must be used and a proper fit of the shoulder belt is not possible, the shoulder belt should be tucked in behind the child, never under the arm or across the chest.

How To Select The Best Restraint For Your Child

A federal law, Federal Motor Vehicle Safety Standard No. 213-80, requires child restraint systems to meet certain strength and performance standards. Not included under the standard are those flimsy, light weight, plastic child feeder seats used in the home, which are not intended for car use.

All auto child restraints manufactured after Jan. 1981 must pass tests which show that they can provide adequate protection for children in actual crashes. Look for a label on the restraint which says "dynamically tested."

There are many different places where you can buy child restraints. They include:

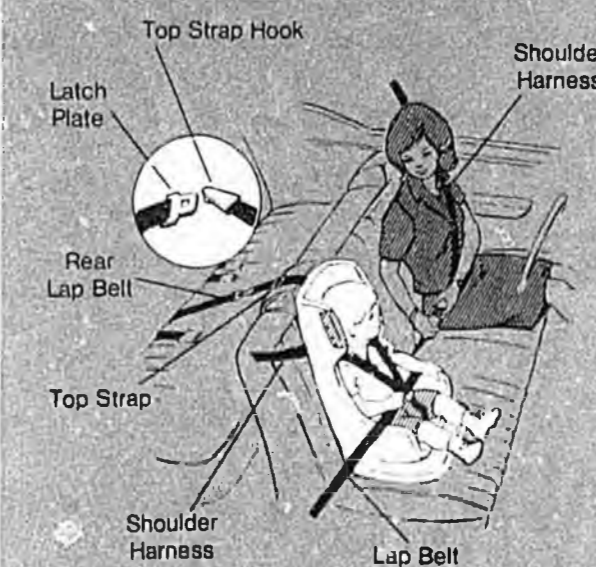
- Retail outlets, including department stores
- Discount centers

- Juvenile furniture and baby needs stores
- Some car dealers
- Some hospital gift shops
- Catalog sales available from large retailers
- Automotive retail and supply dealers

Before you buy a new restraint, try it out in your car. Some restraints don't fit into some cars. There are enough restraints on the market, though, that you should be able to find one that's just right for your car, your child, and your budget.

Anchoring The Top Tether Strap

While the following instructions may be appropriate for many cars, the automobile manufacturer should be able to tell you the best place to anchor a tether strap in your car. We recommend that you contact the manufacturer for this information. You can get the address from your local automobile dealer.



USAGE INSTRUCTIONS FOR FRONT SEAT INSTALLATIONS

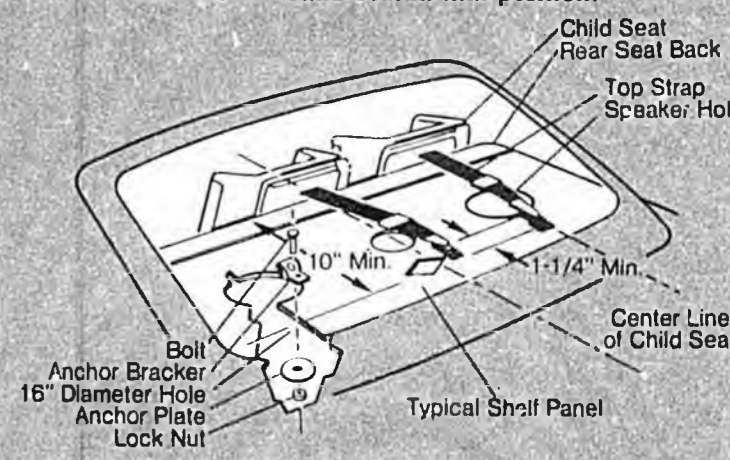
Latch the top strap hook onto the rear seat lap belt latch plate located most directly behind the child seat and **SECURELY TIGHTEN THE TOP STRAP**. If there is no lap belt latch plate within 10" of being directly behind the child seat, do not use the child seat in that position.

Some communities have rental or recycling programs where you can rent an infant or child safety seat for a short period of time, instead of buying one. In other programs, your outgrown child restraint can be recycled and rented for another young child to use. Contact your local highway safety or health department to determine if such a program exists in your area.

USAGE INSTRUCTIONS FOR REAR SEAT INSTALLATIONS

Select a suitable anchor bracket mounting location on the filler panel. The location must be:

- In solid metal at least 1-1/4" away from any large holes in the metal portion of the filler panel. (speaker holes, defogger holes, etc.)
- Far enough behind the child seat to allow the top strap to be securely tightened. (Approximately ten (10) inches or more behind the child seat back.)
- As close to the centerline of the Child Seat as possible, but in no case more than two inches to the outside or six inches to the inside of the Child Seat centerline. If this condition can not be met, then do not use the Child Seat in that position.



From inside your car's trunk, drill a 5/16" diameter hole up through the metal filler and trim panel at the selected mounting location. Care must be taken not to hit the rear window with the tip of the drill as this could cause the rear window to shatter. Assemble and securely tighten the bolt, anchor bracket, anchor plate (2-1/2" O.D. washer) and the lock nut to the metal filler panel and trim as shown.

Alaska Statutes

Title 28. Motor Vehicles.

NOTES TO DECISIONS

Stated in *Buckalew v. Holloway*, Sup. Ct. Op. No. 1988 (File No. 4058), 604 P.2d 240 (1979).

Chapter 01. Scope and Interpretation of Title.

Sec. 28.01.010. Provisions uniform throughout state.

NOTES TO DECISIONS

Similarity to Uniform Vehicle Code. — Subsection (a) is similar in substance and purpose to the provisions of § 15-101 of the Uniform Vehicle Code Annotated adopted by the National Committee on Uniform Traffic Laws and Ordinances in 1962. *Simpson v. Municipality of Anchorage*, Ct. App. Op. No. 57 (File Nos. 4945, 4946, 5288), 635 P.2d 1197 (1981).

Under the express terms of subsection (a) it is clear that inconsistency is the standard that governs the validity of a local ordinance regulating the operation of a motor vehicle. *Simpson v. Municipality of Anchorage*, Ct. App. Op. No. 57 (File Nos. 4945, 4946, 5288), 635 P.2d 1197 (1981).

Nature of inconsistency. — When the question of inconsistency between a local ordinance and state law under subsection (a) is raised, the issue is not whether there is a mere discrepancy between the state law and local ordinance; rather, the inquiry must focus on whether any discrepancy in the ordinance impedes or frustrates policy expressed by state law. *Simpson v. Municipality of Anchorage*, Ct. App. Op. No. 57 (File Nos. 4945, 4946, 5288), 635 P.2d 1197 (1981).

The saving provisions of subsection (b) by their express terms, require a twofold showing to be made before an ordinance inconsistent under subsection (a) can be upheld. First, it is incumbent upon the municipality to demonstrate the existence of a "specific local requirement." Second, the municipality must show that its ordinance was "necessary," in other words, that the specific local problem could not be addressed in a manner consistent with the provisions of this title. *Simpson v. Municipality of Anchorage*, Ct. App. Op. No. 57 (File Nos. 4945, 4946, 5288), 635 P.2d 1197 (1981).

Posting of state-wide speed limits not required. — Although subsection (d) of this section states that a municipality shall erect signs, the effectiveness of the 30 mile per hour limit set by the state in the Alaska Administrative Code is not conditioned upon the posting of signs. *Bailey v. Lanord*, Sup. Ct. Op. No. 2308 (File No. 4696), 625 P.2d 849 (1981).

Ordinance held inconsistent. — See *Simpson v. Municipality of Anchorage*, Ct. App. Op. No. 57 (File Nos. 4945, 4946, 5288), 635 P.2d 1197 (1981).

Jury instructions. — Although a city ordinance set the speed limit on the streets