

ALASKA LEGISLATURE COMMITTEE FILES 2001-2002 0072

10538 SENATE HEALTH EDUCATION & SOCIAL SERVICES

(c) Totally waived for any woman with an income of less than 100 percent of the official poverty line.

Additionally, the schedule of fees/charges should not exceed the maximum allowable charges established by the Medicare Program administered by the Health Care Financing Administration (HCFA). Fee/charge schedules should be developed in accordance with guidelines described in the interim final rule (42 CFR Parts 405 and 534) which implements Section 4163 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101-508) which provides limited coverage for screening mammography services.

Breast Health: The most important risk factors for breast cancer are being female and older age. Priority for mammograms should be given to eligible women 50 years and older not enrolled in Medicare Part B previously screened in the NBCCEDP. Specific policies that outline eligibility criteria and authorize screening and diagnostic services are provided in the NBCCEDP PPM.

Cervical Health: Women who are 18 years and

older, with an intact cervix, are eligible for an annual Pap test and pelvic examination. While the incidence of precancerous lesions are higher among younger women, older women have higher rates of invasive cancer and cervical cancer mortality and are less likely to be screened regularly. Hence, programs should provide a balanced distribution in the ages of women receiving Pap tests. Women who have had a total hysterectomy; that was performed for cervical neoplasia are eligible to receive Pap screening. Priority for Pap tests should be given to eligible women previously screened in the NBCCEDP. The following exception applies:

After a woman has had three consecutive, normal, annual examinations, the Pap test may be performed less frequently at the discretion of her health care provider.

For diagnostic services following an abnormal screening result, cooperative agreement funds may be

expended for colposcopy,
colposcopy-directed biopsy, and
endocervical curettage.

2. Provide appropriate referrals for medical treatment of women screened in the program and ensure, to the extent practicable, the provision of appropriate and timely diagnostic and treatment services. [Section 1501(a)(2) of the PHS Act, as amended.]

A system for providing the appropriate and timely diagnostic and treatment services for women whose screening test results are abnormal or suspicious is an essential component of any comprehensive breast and cervical cancer early detection program. Priority for diagnostic services should be given to women provided a screening procedure by the program who have abnormal screening results. The implementation plan and budget for diagnostic services should reflect the projected number of women to be screened by the program annually and the estimated number of abnormal screening exams expected. Programs are encouraged to use the Screening and Diagnostic Worksheet included in the National Breast and Cervical Cancer Early Detection Program (NBCCEDP) Policies and Procedures Manual (PPM) to report their projections.

3. Develop, implement and maintain a proactive system for the timely and appropriate tracking, follow-up, and case management of women with abnormal or suspicious screening tests [Section 1501(a)(6) of the PHS Act, as amended].

Systems should include the regular updating of information on local resources available in the community to which health care providers can refer women for additional diagnostic procedures, as well as treatment services. Clients in need of treatment services should be assisted with obtaining eligibility for public-supported third party reimbursement programs or private donated services.

Tracking the women screened is essential to identify those women who have abnormal results and ensure they receive appropriate and timely follow-up for short-interval rescreening, diagnostic procedures, and treatment. Tracking also includes reminders and outreach to women with normal or benign results to return for timely rescreening. A proactive tracking system is one that can be effectively integrated into the State/territory/tribe health care delivery system. The tracking system should provide women with a unique identification number and to document the outcome of

individual screening tests, regardless of the screening cycle or site. It should also provide information on needed diagnostic follow-up. Confidentiality of a woman's clinical procedure results must be assured. To meet the intent of Pub. L. 101-354 in ensuring the appropriate follow-up of women with abnormal screening results, the State/territory/tribe tracking and follow-up system must include information on screening location (e.g., county, city), demographic characteristics (e.g., race, date of birth), and screening procedures and results (e.g., mammography, Pap tests) for all women in the program. For women identified with abnormal screening results, information on diagnostic procedures (e.g., colposcopy) and final diagnoses, treatment (e.g., date initiated), and stages of cancer must be included.

4. Develop and disseminate public information, education and outreach programs for the early detection and control of breast and cervical cancer. [Section 1501 (a) (3) of the PHS Act, as amended.]

Public information, education, and outreach include the systematic design and sustained delivery of clear and consistent health messages to women using a variety of methods and strategies that contribute to the early detection of breast and cervical cancer. Successful

public education and outreach programs are those that increase women's knowledge, and ultimately have an impact on attitudes and screening behavior.

Public information, education, and outreach activities should increase the number of women screened especially those who are identified as priority populations as defined in the "Purpose" section.

State/territory/tribe and local programs should clearly demonstrate, through evaluation, the relationship of public information, education, and outreach strategies to the number of women screened through the program.

The program should develop a plan that defines the scope (content, priority populations, methods, strategies outcomes, resources) of the public information, education, and outreach efforts.

5. Improve the education, training, and skills of health professionals (including allied health professionals) in the detection and control of breast and cervical cancer. [Section 1501(a)(4) of the PHS Act, as amended.]

The purpose of professional education activities is to affect health care providers' knowledge, attitudes, and behaviors to ultimately result in more women, who are identified as priority populations as defined in the

"Purpose" section, in the intended audience being screened appropriately.

Professional education refers to the education of physicians, nurses, case managers, cytotechnologists, radiologists, radiologic technologists, health educators, outreach workers, support staff members, and other health professionals. It includes preprofessional, postgraduate, and continuing education. Professional education includes developing knowledge, attitudes, and skills to enable professionals to perform their jobs more effectively. It involves the identification of resources and needs and planning, implementing, and evaluating training for the health care provider. Professional education includes promoting the development and implementation of systems of health care delivery that provide positive clinical outcomes for patients, as well as the development and dissemination of clear recommendations and guidelines.

A plan should be developed that defines the scope (i.e., content, provider populations, strategies, methods, outcomes, resources) of professional education, including a prioritized list of professional groups to be trained.

Training should be based on adult learning principles with a focus on skill-based training.

6. Establish mechanisms through which the State/territory/tribe can monitor the quality of screening procedures for breast and cervical cancer, including the interpretation of such procedures.

[Section 1501(a) (5) of the PHS Act, as amended.]

Cooperative agreement funds may not be awarded [under Section 1501 of the PHS Act, as amended, Pub. L. 101-354] unless the State/territory/tribe involved agrees to assure that the State/territory/tribe will, in accordance with applicable law, assure the quality of screening procedures conducted pursuant to Section 1503 (c) of the PHS Act, as amended.

- a. Develop and implement a quality assurance and improvement system for breast cancer screening.

The mammography services provided to women screened in the program must be conducted in accordance with the following guidelines issued by the Secretary of the Department of Health and Human Services.

- (1) All facilities conducting mammography screening procedures funded by the program must meet the requirements for mammography

quality assurance developed by the Food and Drug Administration (FDA), most recently Reauthorized and finalized October 31, 1998.

(2) Radiologists participating in the program will record their findings using the second edition American College of Radiology (ACR) Breast Imaging Reporting and Data System (BI-RADS). The BI-RADS' reporting categories are as follows: (1) Negative; (2) Benign finding; (3) Probably benign finding -- short interval follow-up suggested; (4) Suspicious finding; (5) Highly suggestive of malignancy; (6) Assessment incomplete -- additional imaging evaluation needed.

(3) A report of the results of a mammogram performed through this program will be placed in a woman's permanent medical records that are maintained by her health care provider.

b. Develop and implement a quality assurance and improvement system for cervical cancer screening. The laboratory services provided to women for cytological screening must be conducted in accordance with the following guidelines issued by the Secretary of the Department of Health and Human Services.

- (1) All facilities providing laboratory services will meet the standards and regulations promulgated by the Health Care Financing Administration (HCFA) under the Clinical Laboratory Improvement Act (CLIA) of 1988.
- (2) All cervical cytology interpretation is required to be done on the premises of a qualified laboratory.
- (3) A report of the results of a Pap test performed through this program will be placed in the woman's permanent medical records that are maintained by her health care provider.
- (4) Pathologists participating in the program will record their Pap test findings using the Bethesda System which specifies specimen adequacy and incorporates these categories:
 - (1) Within Normal Limits; (2) Infection/Inflammation/Reactive Changes; (3) Atypical squamous cells; (4) Low Grade Squamous Intra epithelial Neoplasia (SIL); (5) High Grade SIL; (6) Squamous Cell Carcinoma; (7) Atypical glandular cells; (8) Other.

In addition to using only MQSA and CLIA certified providers, quality assurance and improvement efforts

should include use of:

- (1) an active medical advisory group;
- (2) established clinical guidelines; and,
- (3) a system that assures that abnormal screening results are followed-up and that rescreening occurs.

7. Establish mechanisms which enhance the State/territory/tribe cancer surveillance system (i.e., linkage to the Central Cancer Registry and other databases) and facilitate program planning and evaluation. [Section 1501(a)(5) of the PHS Act, as amended.]

Monitoring the distribution and determinants of breast and cervical cancer incidence and mortality is necessary to effectively plan, implement, and evaluate a comprehensive early detection program. Linkages and coordination with State/territory/tribe vital statistics, the Central Cancer Registry, the Behavioral Risk Factor Surveillance System and other State/territory/tribe and local surveys are needed to evaluate the status of a program's goals and objectives.

- a. To do this, surveillance systems should be established or enhanced which will:

- (1) Collect Statewide/territory/tribal population-based information on the demographics, incidence, staging at diagnosis, and mortality from breast and cervical cancer.
 - (2) Identify segments of the population at higher risk for disease and for the failure to be screened.
 - (3) Identify factors contributing to the disease burden, such as behavioral risk factors and limited or inequitable access to early detection and treatment services.
 - (4) Monitor the number and characteristics of women screened in the program and the outcome of screening by analyzing data from the State/territory/tribe tracking and follow-up system.
 - (5) Monitor screening resources, including the number of available mammography facilities, cytology laboratories, and providers of cervical cancer screening.
 - (6) When appropriate, develop linkages between the above-mentioned data bases.
- b. Measuring the effectiveness of program activities to modify the screening behavior of women and the

effect on morbidity and mortality is important for the identification of successful intervention strategies for the early detection of breast and cervical cancer. Equally important is the evaluation or the assessment of factors that contributed to the successful or unsuccessful establishment and implementation of program activities.

The design of each program component should ensure that there can be meaningful evaluation. The evaluation plan should assess the implementation and effectiveness of each program component. At a minimum, the evaluation plan should identify those program activities that will be evaluated, the objectives to be measured, how they will be measured, the proposed program time-lines, and resources needed. In addition to evaluating progress in meeting goals and objectives, the program should develop performance indicators to use as a measure of program improvement and resource management and allocation.

Note: Indicator is defined as a performance measure used to track critical processes over time to signify progress toward a particular goal or outcome of the program.

8. Ensure the coordination of services and program activities with other similar programs and establish a broad-based coalition to advise and support the program. [Section 1504(e) of the PHS Act, as amended.] Coordination with other similar programs maximizes the availability of services and program activities, promotes consistency in screening procedures and educational messages, and reduces duplication. An award may not be made under this program announcement unless the State/territory/tribe agrees that the services and activities provided in this program are coordinated with other Federal, State/territory/tribe, and local breast and cervical cancer early detection programs through the development of collaborative partnerships. [Section 1504(e) of the PHS Act, as amended.]

The success of a comprehensive breast and cervical cancer early detection program is improved by broad-based support in the community and active public and private sector involvement. Partnership development with a broad range of stakeholders, including consumers, brings valuable knowledge, skills, and financial resources to the program, and provides access to, and information about, populations of women who have been missed by traditional health service systems.

Linkages should be established with federally funded programs such as the Regional Offices of the National Cancer Institute/Cancer Information Service (NCI/CIS), the Health Resources and Services Administration (HRSA) community/migrant health centers, Title X Family Planning programs, State Offices for Aging and Minority Health, the Indian Health Service (IHS) and the Medicare Program of the Health Care Financing Administration (HCFA).

Linkages and active collaboration are strongly encouraged with private sector organizations such as the American Cancer Society (ACS), the Young Women's Christian Association (YWCA), the Susan G. Komen Breast Cancer Foundation, the National Breast Cancer Coalition (NBCC), the National Alliance of Breast Cancer Organizations (NABCO), the American Association of Retired Persons (AARP), local medical and nursing societies professional organizations, private physicians, survivors of breast and cervical cancer, local women's support groups, community leaders, managed care organizations, and other agencies and businesses in the community that provide health care and related support services to women.

9. Develop a work and management plan for the implementation of a comprehensive breast and cervical

cancer screening program.

The success of a comprehensive breast and cervical cancer early detection program is increased by the existence of a comprehensive, integrated, and realistic plan to address these diseases among all women, with emphasis given to women identified as priority populations under the "Purpose" section. All program components of the comprehensive program should be addressed.

A work plan should include goals, measurable objectives, strategies proposed to attain the goals and performance indicators (if applicable). The goals in the work plan should relate to the State, territory, or tribe Year 2000 Objectives and to the State, territory, and tribe Cancer Control Plan.

The management plan should reflect the development of qualified and diverse technical, program, and program/administrative staff, appropriate organizational relationships including lines of authority, adequate internal and external communication systems, and a system for sound fiscal management.

10. Representation or attendance at CDC sponsored trainings, meetings, site visits, and conferences.

CDC Activities

1. Convene a workshop of the funded Programs every one to two years for information-sharing and problem-solving and hold a Program Director's meeting at least once a year.
2. Provide consultation and technical assistance to plan, implement, and evaluate each component as described under Recipient Activities above, to include:
 - a. Practical application of Public Law 101-354, including amendments to the law;
 - b. Design and implementation of each program component (screening, tracking, follow-up and support services such as case management; public education and outreach; professional education; partnership development and community involvement; quality assurance and improvement; surveillance; and evaluation);
 - c. Interpretation of current scientific literature related to the early detection of breast and cervical cancer;
 - d. Nationally recognized clinical and quality assurance guidelines for the assessment and diagnosis of breast and cervical cancer;
 - e. Evaluation of each program component through the analysis and interpretation of program outcomes,

screening data, and surveillance data;

f. Overall operational planning and program management.

3. Provide training opportunities on selected topics to State, territorial and tribal program staff through the National Center for Chronic Disease Prevention and Health Promotion, Division of Cancer Prevention and Control's National Training Center.
4. Conduct site visits to assess program progress and mutually resolve problems, as needed, and/or coordinate reverse site visits to CDC in Atlanta, Georgia.

G. Application Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The application, including budget, justification and appendices, should be no more than 125 double-spaced unbound pages, printed on one-side of 8 ½ x 11" paper, suitable for photocopying, with one inch margins, and 12 point font.

1. Executive Summary

The applicant should provide a clear, concise one or two page written summary to include: (1) the need for

goals, measurable, time-phased, and realistic objectives, and strategies to attain the goals for: (1) the overall program and (2) specific program components as described under the Recipient Activities. Project the number of women to be screened and rescreened annually by age, racial and ethnic groups, and areas or locality in the State/territory/tribe. [Section 1505(2) of the PHS Act, as amended.] Estimate the number of abnormal screening exams expected annually.

Applicants are encouraged to include a completed Screening and Diagnostic Worksheet (sample included in the NBCCEDP PPM) in their application.

- b. Describe the State/territory/tribe's: (1) health care delivery system; (2) proposed Statewide/territorial/tribal screening system; (3) proposed proactive tracking and follow-up system for women requiring diagnostic procedures and medical treatment not provided by the program; and (4) proposed tracking and follow-up system for women screened and rescreened by the program; and (5) proposed support services such as case management [Section 1501(a) (1) and (2) of the PHS Act, as amended.]
- c. For those applicants previously receiving National

Breast and Cervical Cancer Early Detection Program Cooperative Agreement funding, describe, in detail, the operational plan related to rescreening efforts (including staff responsible for oversight, the process to monitor rescreening rates and the system to assess the strategies used) and rescreening protocol (including a systematic and comprehensive reminder system). Include the calculation of mammography and cervical cancer rescreening rates for clinical services previously provided to eligible enrolled NBCCEDP women.

- d. Document available resources in the State/territory/tribe for the payment or reimbursement of breast and cervical cancer screening, including the Medicaid Program. [Section 1504 (d) of the PHS Act, as amended.]
- e. Describe the ability to establish a screening program that meets FDA regulations for mammography screening; uses the American College of Radiology Breast Imaging Reporting and Data System (BI-RADS); meets the standards and regulations of the Clinical Laboratory Improvement Act (CLIA) for cervical cancer screening; and, uses the Bethesda System.

- f. Provide a projected timetable for program implementation that displays dates for the accomplishment of specific proposed activities.
- g. Describe the current or proposed plan for evaluating (1) the program's progress in meeting specific objectives outlined in the implementation plan by program component area, and (2) overall success based on performance indicators established by the applicant. Describe the types of indicators to be used to assess outcomes that will occur as a result of this funding. Baseline measures should be identified and assessed to allow for comparisons after implementation has begun. Specify the kind of data/performance indicator that will be used, how the data will be obtained, how information will be used to improve the overall efficiency and effectiveness of the program, as well as individual program components, who is responsible for each evaluation task, and a timeline for accomplishing each evaluation task.
- h. Describe how the State/territory/tribe will assure that funds will be used in a cost-effective manner. [Section 1505 (4) of the PHS Act, as amended.]

4. Partnership Development and Community Involvement

The applicant should describe:

- a. How the program will develop linkages and coordinate with other Federal, State and local programs, voluntary and professional organizations, private physicians, and mammography facilities and other groups, agencies, and businesses in the community that provide health care and related support services to women.
[Section 1504(e) of the PHS Act, as amended.]
- b. The current or proposed broad-based coalitions that will advise and support the breast and cervical cancer early detection program, including the identification of current members or proposed representatives, their charge, and their proposed roles and responsibilities. Specific subcommittees of the coalition should be described (e.g., Medical Advisory, public information education and outreach, and professional education).
- c. Letters of support (dated within the last three months) from key partners, participants, and community leaders should be included in the application.

5. Management and Organizational Structure

The applicant should submit a Management plan. This plan should include a description of the structure to ensure the implementation of a comprehensive breast and cervical cancer program that includes development of qualified and diverse technical, program, and administrative staff, organizational relationships including lines of authority, internal and external communication systems, and a system for sound fiscal management. The information should also include the following:

- a. A copy of the organizational chart indicating the placement of the proposed program in the department/organization.
- b. Documentation of available resources in the State/territory/tribe for the payment or reimbursement of breast and cervical cancer screening, including the Medicaid and Medicare Programs. [Section 1504 (d) of the PHS Act, as amended.]
- c. The proposed schedule of fees and charges for breast and cervical cancer screening and diagnostic services, consistent with maximum Medicare reimbursement rates, and include a description of its use in the program. In

States/territories/tribes where there are multiple Medicare rates and a single reimbursement rate is being proposed, the applicant must provide justification for approval. [Section 1504 (b) of the PHS Act, as amended.]

6. **Capability for Program Implementation**

The applicant should describe proposed activities as measured by:

- a. Accomplishments of an existing breast and cervical cancer early detection program funded by CDC or relevant past experiences funded by other sources:

- (1) States Currently Receiving CDC Comprehensive Funds:

Accomplishments in establishing a comprehensive breast and cervical cancer early detection program, including the total number, age and racial/ethnic distribution of women screened; percent of abnormal findings by age and race/ethnicity; rate of cancer age adjusted or age-group specific; follow-up time between screening and diagnosis and between diagnosis and treatment initiation; and, percent of women who are routinely rescreened by the program.

Accomplishments in establishing an infrastructure to support a breast and cervical cancer screening program and in resolving program challenges, such as mammography screening for Medicare Part B unenrolled women 50 years and older, the timely follow-up of women with abnormal screening and diagnostic results, or the use of the American College of Radiology BI-RADS by radiologists to report mammogram results.

(2) Territory currently receiving CDC Capacity Building Funds: Accomplishments in establishing a comprehensive infrastructure to support a breast and cervical cancer screening program including screening, tracking, follow-up and case management information, public education and outreach, professional education, quality assurance and improvement, surveillance, and partnership development and community involvement.

(3) Territories/Tribes not currently Receiving CDC Breast and Cervical Cancer Funds: Relevant past experiences of the applicant in conducting screening, tracking, follow-up, case management; public information,

education and outreach; professional education; quality assurance and improvement; surveillance; and, partnership development and community involvement for cancer control, chronic disease control or other relevant areas.

7. Source Data for Matching Requirement

Identify and describe:

- a. Maintenance of Effort (MOE) - The average amount of non-Federal dollars expended for breast and cervical cancer programs and activities made by a State/territory/tribe for the two year period preceding the first Federal fiscal year of the program funding for breast and cervical cancer early detection activities. This amount will be used to establish the maintenance of effort baseline for current and future match requirements;
- b. State/territory/tribe allowable sources of matching funds for the program and the estimated amounts from each;
- c. Procedures for documenting the value of non-cash matching funds;
- d. Procedures for documenting the actual amount of match received.

8. Budget with Justification

- a. Provide a detailed budget request and complete line item justification (for both Federal and non-Federal funds) of all proposed operating expenses consistent with the program activities described in this announcement. Not less than 60 percent of Federal funds will be expended for screening, tracking, follow-up and other support services such as case management. Not more than 10 percent of Federal funds will be expended for administrative expenses. A detailed line-item breakdown of the 60/40 distribution should be incorporated into the budget.
- b. The applicant should submit a Screening and Diagnostic Worksheet that details the projected number of women screened, the reimbursement rate provided for each service, and the overall projected clinical costs. A sample Screening and Diagnostic Worksheet is included in the NBCCEDP PPM.
- c. To request new direct-assistance assignees, include:
 - (1) number of assignees requested;
 - (2) description of the position and proposed duties;

- (3) ability or inability to hire locally with financial assistance;
- (4) justification for request;
- (5) organizational chart and name of intended supervisor;
- (6) opportunities for training, education, and work experiences for assignees; and
- (7) description of assignee's access to computer equipment for communication with CDC (e.g., personal computer at home, personal computer at workstation, shared computer at workstation on site, shared computer at a central office).

F. Submission and Deadline

Submit the original and two copies of the completed application Form PHS-5161-1 (OMB Number 0937-0189). Forms are in the application kit. On or before May 26, 1999, submit the application to:

Mildred S. Garner, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Room 3000, Atlanta, GA 30341.

1. Deadline: Applications will be considered as meeting the deadline if they are either:

- a. Received on or before the stated deadline date; or
- b. Sent on or before the deadline date and received in time for orderly processing. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks shall not be acceptable proof of timely mailing.)

2. Late Applications: Applications which do not meet the criteria in 1(a) or 1(b), above, are considered late applications, will be returned to the applicant.

G. Evaluation Criteria (100 Points)

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

1. Background and Need (10 points)

The extent of the disease burden and the need among the priority populations as measured by:

- a. The State/territorial/tribal breast and cervical cancer age-adjusted mortality rates averaged more than five years and ranking nationally;

- b. The disease burden, including the incidence rates of breast and cervical cancer by age, race and ethnicity (where available);
- c. The number of uninsured women by race/ethnicity who are 18-39, 40-49, 50-64, 65+ years;
- d. The unmet screening needs of uninsured and underinsured women;
- e. Existing access and barriers to early detection services, (e.g., social, financial, geographic).

2. Implementation Plan (50 points)

The degree of comprehensiveness and quality of the Work Plan in relation to:

- a. The applicant's proposed work plan that includes overall goals for the program and program components, describes performance indicators related to goals and details measurable, time phased and realistic objectives for each program component. (10 Points)
- b. Proposed public education, information, and outreach strategies that are likely to increase the number of low income, uninsured women that are screened and rescreened. (10 points)
- c. Proposed professional education strategies that are likely to effect the health care providers knowledge, attitudes, and behaviors in such a way

that more women in the target audience are screened and rescreened appropriately. (10 points).

- d. Proposed a service delivery program that provides quality screening, rescreening and diagnostic services, according to established standards, and a proactive tracking, follow-up and case management system. (10 points)
- e. Proposed surveillance and evaluation strategies that appear to use reliable data and program results to measure program effectiveness and to facilitate program planning, development, and implementation, and to enhance program goals and objectives. (10 points)

3. Partnership Development and Community Involvement (10 points)

The feasibility and extent of the applicant's proposal to develop and maintain collaborative partnerships with other Federal, State and local programs, territories, tribes and voluntary, professional, and private-sector agencies. The extent of involvement of a broad-based coalition that advises and supports the program. The extent to which letters of support reflects assistance from key partners, participants, and community leaders.

4. Management and Organizational Structure (15 points)

The feasibility and appropriateness of the applicant's management plan that describes the development of qualified and diverse technical, program, and administrative staff, organizational relationships including lines of authority, internal and external communication systems, and a system for sound fiscal management.

5. Capability for Program Implementation (15 points)

The extent to which the applicant appears likely to be successful in implementing the proposed activities as measured by:

- a. Accomplishments by comprehensive-funded States and tribes in implementing a breast and cervical cancer early detection program as required through previous funding agreements. These accomplishments should be evaluated in terms of the number of women screened, the number of services provided, and the number of cancers detected.
- b. Accomplishments by capacity-funded States in establishing a comprehensive public health infrastructure to support a breast and cervical cancer early detection program.
- c. Relevant past experiences of unfunded applicants

in conducting breast and cervical cancer early detection programs.

6. Budget and Justification (Not Weighted)

The extent to which the proposed budget is adequately justified, reasonable, and consistent with this program announcement.

7. Human Subject (Not Weighted)

Whether or not exempt from the DHHS regulations, does the application adequately address the requirement of 45 CFR Part 46 for the protection of human subjects? Recommendations on the adequacy of protections include: (1) protections appear adequate and there are no comments to make or concerns to raise, or (2) protections appear adequate, but there are comments regarding the protocol, or (3) protections appear inadequate and the Objective Review Group (ORG) has concerns related to human subjects, or (4) disapproval of the application is recommended because the research risks are sufficiently serious and protection against risks are inadequate as to make the entire application unacceptable.

H. Other Requirements

Technical Reporting Requirements

Provide CDC with the original plus two copies of:

1. Semiannual progress reports are required and must be

submitted no later than 30 days after each semiannual reporting period. The semiannual progress reports must summarize the following: (1) major accomplishments including information on women screened; (2) problems encountered in program implementation; and (3) efforts or proposed strategies to resolve problems. All manuscripts published as a result of the work supported in part or whole by the cooperative agreement will be submitted with the progress reports.

2. An annual financial status report (FSR) must be submitted no later than 90 days after the end of each budget period.
3. The final financial status report and progress report is required no later than 90 days after the end of the project period.

Send all reports to:

Nealean K. Austin, Grants Management Specialist
Grants Management Branch, Procurement and Grants
Office, Centers for Disease Control and Prevention
(CDC), Room 3000, 2920 Brandywine Road, Atlanta, GA
30341.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I in application package.

AR-1

Human Subjects Requirement

AR-2	Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research
AR-7	Executive Order 12372 Review
AR-9	Paperwork Reduction Act Requirements
AR-10	Smoke-Free Workplace Requirements
AR-11	Healthy People 2000
AR-12	Lobbying Restrictions

I. Authority and Catalog of Federal Domestic Assistance
Number

This program is authorized under sections 1501, 1502, 1507 and 1509 [42 U.S.C. 300k, 42 U.S.C. 300l, and 42 U.S.C. 300n-3] of the Public Health Service Act, as amended. The Catalog of Federal Domestic Assistance number is 93.919.

J. Where to Obtain Additional Information

To receive additional written information and to request an application kit, call 1-888-GRANTS4 (1-888-472-6874). You will be asked to leave your name and address and will be instructed to identify the Announcement number of interest. If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from:

Nealean K. Austin, Grants Management Specialist
Grants Management Branch, Procurement and Grants Office
Announcement 99052

Centers for Disease Control and Prevention (CDC)
Room 3000, 2920 Brandywine Road, Atlanta, GA 30341,
telephone (770)-488-2754, E-mail address NEA1@CDC.GOV

For program technical assistance, contact:

Amy Harris, Acting Manager: Policy Development and
Administrative Coordination, Program Services Branch,
Division of Cancer Prevention and Control, National
Center for Chronic Disease Prevention and Health
Promotion, Centers for Disease Control and Prevention
(CDC), 4770 Buford Highway, NE., Mailstop K-57,
Atlanta, GA 30341-3724, telephone (770) 488-4880, fax
(770) 488-4727, or

See also the CDC home page on the Internet:

<http://www.cdc.gov> or <http://www.cdc.gov/cancer> for a copy
of the PPM.

Addendum 1

Background

Breast Cancer

In the United States, approximately 500,000 women will die this decade from breast and cervical cancer. Among women, breast cancer accounts for 29 percent of all new cancer cases and is the second leading cause of cancer related deaths. An estimated one of every eight women in the United States will develop breast cancer in her lifetime. In 1998, the American Cancer Society estimates that 178,700 women will be diagnosed with invasive breast cancer and 43,500 women will die of this disease. Death rates from the disease are highest among women aged 40 or more years, and among black women as compared to white women for those aged less than 70 years.

It is not currently known how to prevent breast cancer from occurring. Thus, detecting carcinoma of the breast at an early stage is the key to more treatment options, improved survival, and decreased mortality. Research has shown that the use of mammography can reduce the mortality due to breast cancer among women 50 years and older by 30 percent.

The percent of women who are regularly screened for breast cancer decreases with age. The baseline data on mammography use from the 1994 National Health Interview Survey show that only 60.6 percent of women 50 years and older reported having received a mammogram within the past two years. This proportion was lower for racial and ethnic minority women, for women who had less than a high school education, for women who were over age 65 years, and for women who were living below the poverty level. In Healthy People 2000, the Public Health Service (PHS) recommended that by the year 2000, 60 percent of women aged 50 years and older should receive a mammogram every two years.

Cervical Cancer

The overall incidence of invasive cervical cancer has decreased steadily over the last several decades. As Pap screening has become more prevalent, carcinoma in situ of the cervix is now more frequent than invasive cancer, particularly in women under 50 years of age. In 1997, invasive cervical cancer was diagnosed in approximately 14,500 women, and carcinoma in situ was diagnosed in about 65,000 women, and about 4,800 women died of cervical cancer.

The primary goal of cervical cancer screening is to increase

detection and treatment of precancerous cervical lesions and thus prevent the occurrence of cervical cancer. Although no clinical trials have studied the efficacy of Papanicolaou (Pap) test in reducing cervical cancer mortality, experts agree that it is an effective technology. Since the introduction of the Pap test in the 1940s, cervical cancer mortality rates have decreased by 75 percent.

In 1991, the PHS established that by the year 2000, 85 percent of women should be receiving a Pap test within the preceding one to three years. Baseline data on the use of the Pap test from the 1987 National Health Interview Survey (NHIS) showed that only 65 percent of women aged 18 years and older reported having received a Pap test within the past three years. As with mammography screening, this proportion was lower for racial and ethnic minority women, for women who had less than a high school education, for women who were over age 75 years, and for women who had low incomes.

Attachment 1

AR-1

Human Subjects Requirements

If a project involves research on human subjects, assurance (in accordance with Department of Health and Human Services Regulations, 45 CFR Part 46) of the protection of human subjects is required.

In addition to other applicable committees, Indian Health Service (IHS) institutional review committees also must review the project if any component of IHS will be involved with or will support the research. If any American Indian community is involved, its tribal government must also approve that portion of the project applicable to it.

Unless the grantee holds a Multiple Project Assurance, a Single Project Assurance is required, as well as an assurance for each subcontractor or cooperating institution that has immediate responsibility for human subjects.

The Office for Protection from Research Risks (OPRR) at the National Institutes of Health (NIH) negotiates assurances for all activities involving human subjects that are supported by the Department of Health and Human Services.

AR-2

Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research

It is the policy of the Centers for Disease Control and Prevention (CDC) and the Agency for Toxic Substances and Disease Registry (ATSDR) to ensure that individuals of both sexes and the various racial and ethnic groups will be included in CDC/ATSDR-supported research projects involving human subjects, whenever feasible and appropriate. Racial and ethnic groups are those defined in OMB Directive No. 15 and include American Indian or Alaska Native, Asian, Black or African American, Hispanic or Latino, Native Hawaiian or Other Pacific Islander. Applicants shall ensure that women, racial and ethnic minority populations are appropriately represented in applications for research involving human subjects. Where clear and compelling rationale exist that inclusion is inappropriate or not feasible, this situation

must be explained as part of the application. This policy does not apply to research studies when the investigator cannot control the race, ethnicity, and/or sex of subjects. Further guidance to this policy is contained in the Federal Register, Vol. 60, No. 179, pages 47947-47951, and dated Friday, September 15, 1995.

AR-7

Executive Order 12372 Review

Applications are subject to Intergovernmental Review of Federal Programs, as governed by Executive Order (E.O.) 12372. The order sets up a system for State and local governmental review of proposed Federal assistance applications. Applicants should contact their State single point of contact (SPOC) as early as possible to alert the SPOC to prospective applications and to receive instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC for each State affected. (The application kit contains a current list of SPOCs.) SPOCs who have recommendations about the State process for applications submitted to CDC should send them, in a document bearing the program announcement number, no more than 60 days after the application deadline date, to:

Nealean K. Austin, Grants Management Specialist
Grants Management Branch, Procurement and Grants Office
Announcement Number 99052
Centers for Disease Control and Prevention, Room 3000
2920 Brandywine Road
Atlanta, GA 30341

Indian tribes must request tribal government review of their applications.

If Indian tribes are eligible for the program, change the sentence about SPOC recommendations as follows:

SPOCs or tribal governments that have recommendations about an application submitted to CDC should send them, in a document bearing the program announcement number, no more than 60 days after the application deadline date, to:

Nealean K. Austin, Grants Management Specialist
Grants Management Branch, Procurement and Grants Office
Announcement Number 99052
Centers for Disease Control and Prevention, Room 3000
2920 Brandywine Road
Atlanta, GA 30341

CDC does not guarantee to accept or justify its nonacceptance of recommendations that are received more than 60 days after the application deadline.

AR-9

Paperwork Reduction Act Requirements

Projects that involve data collection from 10 or more persons and that are funded by grants and cooperative agreements will be subject to review and approval by the Office of Management and Budget (OMB).

AR-10

Smoke-Free Workplace Requirements

CDC strongly encourages all recipients to provide a smoke-free workplace and to promote abstinence from all tobacco products. Public Law 103-227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, or early childhood development services are provided to children.

AR-11

Healthy People 2000

CDC is committed to achieving the health promotion and disease prevention objectives of "Healthy People 2000," a national activity to reduce morbidity and mortality and improve the quality of life. For a copy of "Healthy People 2000" (Full Report: Stock No. 017-001-00474-0) or "Healthy People 2000" (Summary Report: Stock No. 017-001-00473-1), write or call:

Superintendent of Documents

Government Printing Office

Washington, DC 20402-9325

Telephone (202) 512-1800

AR-12

Lobbying Restrictions

Applicants should be aware of restrictions on the use of HHS funds for lobbying of Federal or State legislative bodies. Under the provisions of 31 U.S.C. Section 1352 (which has been in effect since December 23, 1989), recipients (and their subtier contractors) are prohibited from using appropriated Federal funds (other than profits from a Federal contract) for lobbying congress or any Federal agency in connection with the award of a particular contract, grant, cooperative agreement, or loan. This includes grants/cooperative agreements that, in whole or in part, involve conferences for which Federal funds cannot be used directly or indirectly to encourage participants to lobby or to instruct participants on how to lobby.

In addition, the FY 1998 Department of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act (Public Law 105-78) states in Section 503 (a) and (b) that no part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the Congress or any State legislature, except in presentation to the Congress or any State legislature itself. No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress or any State legislature.

AMENDMENT

OFFERED IN THE SENATE

TO: SCS CSHB 65(), Draft Version "F"

1 Page 2, line 11:

2 Delete "and"

3

4 Page 2, line 13:

5 Delete "."

6 Insert "; and

7 (3) to the extent that the information is available to the department in the
8 billings submitted for assistance under sec. 1 of this Act, the cost per person paid for by the
9 state under sec. 1 of this Act during the fiscal year preceding the date of the report and the
10 total medical costs per person for the fiscal year preceding the date of the report, whether paid
11 for by the state or not; the information provided in the department's report under this
12 paragraph shall be provided separately for each person who received assistance under sec. 1
13 of this Act, but the information shall be presented in a manner that does not allow
14 identification of the person."



Alaska State Legislature

Please enter into the record my testimony to the SENATE HESS
 committee name
 committee on SB38, dated 4/30/01
 bill/subject

Testimony for SB38

I support the passage of SB38. To go even further, I support implementation of insurance for every resident in this state equivalent to that of elected officials. I would think there could be some option for people to buy in to a program with their permanent fund dividends to allow this.

In my previous employment with this state, people frequently came to the LIO office seeking financial assistance for their medical bills. These people had worked their whole lives at jobs without insurance. They had worked hard and saved their money. They had acquired a home and, in some cases, other possessions which made them ineligible for public assistance. I know of one case, in Wasilla, a woman had to chose between making her house payments or purchasing her prescriptions drugs, costing \$600 per month, to prolong her life while she suffered from breast cancer. She choose the house payment and death.

Cancer has certainly touched each one of your lives and you know how costly it can be. My mother, a small business owner, was able to purchase and pay for her own insurance. She had cervical cancer and died from pancreatic canccr. There were still many bills due to the illness. My daughter, on the other hand, has been a practicing alcoholic for the majority of her adult life. She has been diagnosed with a tumor in her cervix that has

Signed: Mary A. Fulkerson
 Testifier

leg
 Representing (Optional)

1001 E. PULLMAN, WASILLA 99654
 Address

(907) 316-5742
 Phone No.



Alaska State Legislature

PAGE 2

Please enter into the record my testimony to the SENATE HESS
 committee name
 committee on SB 38 , dated 4/30/01
 bill/subject

invaded her bladder. I am very grateful she is eligible for state assistance. Even though she chose to live in this manner and acquired nothing she receives excellent medical assistance. In response to a statement from a member of the Senate HESS committee, my mother had two sexual partners in her life, the man who raped her at 14 and my father and did not smoke. My daughter has been with the same man for 11 years. My hope is the senator will check factual data regarding this disease before making such statements in the future.

But, what about the Alaskan with no insurance? They are forced to liquidate assets as well as suffer through a physical and emotional trauma.

I do not ask you on the Senate HESS committee to vote for this bill. I simply request you vote to move it out of committee. Put a do not pass on it if it is objectionable to you but please move it forward to give these people who are affected by this legislation a chance. Thank you.

Signed: *Nancy A. Furdess*
 Testifier

 Representing (Optional)

 Address

 Phone No.

To Alaska State Legislature

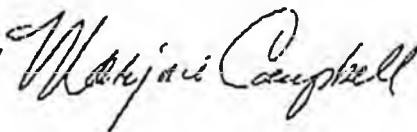
Re: SB 38 and HB 65

I am a retired State of Alaska public servant and , like hundreds of other Alaskan employees both past and present, including past and present elected officials, I enjoy the privilege and security of having health insurance. Next month I have an appointment for a mammogram and a pap test. But if I were one of the many woman in Alaska who have no health insurance and no financial reserves to cover large unexpected medical expenses I probably would not even have bothered to make an appointment for screening knowing that if the results were bad there would be nothing I could do about it.

On April 23 I watched Senator Green try to dismiss this bill as quickly as possible. She said she didn't understand why breast and cervical cancer should be selected out from a host of other illnesses for follow-up care. I have no objection to Senator Green expanding the list of illnesses to be covered, but in the meantime for about the same price it costs us to keep a senator in Juneau we could begin to make sense of the screening program by providing necessary follow-up for the needy. And the reason breast and cervical cancer has been specified in this bill is because the \$585,000 offered by the federal government was not designated to be used for a triple bypass. Senator Green said she was not without a heart, but if she fails to support this bill it will reflect an unconscionable partisan political act.

Also on April 23 I was disturbed by the inference of Senator Leman that perhaps cervical cancer should not be covered because a few of these cases of cancer might be the result of the persons behavior. He preferred to spend the money on education. Education is good and if 100% effective would eliminate most of our behavior related costly diseases such as lung cancer, diabetes and heart disease. In the meantime I hope we are living in a country where we strive to act in a humane and caring way. Senator Leman also said that to his knowledge follow-up treatment was already available to everybody in Alaska. This is not true. Emergency room treatment is available to everybody but that is quite different than someone looking for recommended follow-up care after being told their screening results are suspicious of cancer. Because the cost to the State is only \$175,000 I sincerely hope that this bill will receive that humane and caring support.

Marjorie Campbell
4365 Wickersham Way
Wasilla, Ak. 99654



Tel: 376-5437
E-mail: marji@matnet.com

**SENATE COMMITTEE REPORT
First Committee of Referral**

*** CORRECTED REPORT ***

DATE: 1/16/01

FURTHER: HESS
Finance

Date of 5-Day Notice: 1/24/01
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 3/12/01

Labor and Commerce Committee considered

SENATE BILL NO. 38

MEDICAL ASSISTANCE: BREAST/CERVICAL CANCER

"An Act relating to a new optional group of persons eligible for medical assistance who require treatment for breast or cervical cancer; and providing for an effective date."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:

same title

new title

House Bill:

same title

technical title

new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
DH + SS	1/8/01	589.2		1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Wm. Custer</i>			✓	
<i>Drew D. Heman</i>			✓	
<i>[Signature]</i>			✓	
<i>Bette Davis</i>	✓			
CHAIR: <i>Paul E. Kelly</i>			✓	

**SENATE COMMITTEE REPORT
First Committee of Referral**

DATE: 1/16/01

FURTHER: HESS
Finance

Date of 5-Day Notice: 1-24-01
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 2-15-01

Labor and Commerce Committee considered

SENATE BILL NO. 38

"An Act relating to a new optional group of persons eligible for medical assistance who require treatment for breast or cervical cancer; and providing for an effective date."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:

- same title
- new title

House Bill:

- same title
- technical title
- new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
DH&SS	1/8/01	589.2		1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>			✓	
<i>[Signature]</i>				
<i>[Signature]</i>			✓	
<i>[Signature]</i>			✓	
<i>[Signature]</i>			✓	
CHAIR <i>[Signature]</i>			✓	

SB

40

22-GS1010\F
Ford
4/27/01

CS FOR SENATE BILL NO. 40(HES)

**IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - FIRST SESSION**

BY THE SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

**Offered:
Referred:**

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the education of children with disabilities and to the Governor's**
2 **Council on Disabilities and Special Education; and providing for an effective date."**

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

4 *** Section 1.** AS 14.16.050(a) is amended to read:

5 (a) The following provisions apply with respect to the operation and
6 management of a state boarding school as if it were a school district:

7 (1) requirements relating to school district operations:

8 (A) AS 14.03.030 - 14.03.050 (defining the school term, day in
9 session, and school holidays);

10 (B) AS 14.03.083 - 14.03.140 (miscellaneous provisions
11 applicable to school district operations);

12 (C) regulations adopted by the board under authority of
13 AS 14.07.020(a) that are applicable to school districts and their schools, unless
14 the board specifically exempts state boarding schools from compliance with a

- 1 regulation;
- 2 (D) AS 14.12.150 (authorizing school districts to establish and
- 3 participate in the services of a regional resource center);
- 4 (E) AS 14.14.050 (imposing the requirement of an annual
- 5 audit);
- 6 (F) AS 14.14.110 (authorizing cooperation with other school
- 7 districts);
- 8 (G) AS 14.14.140(b) (establishing a prohibition on
- 9 employment of a relative of the chief school administrator);
- 10 (H) AS 14.18 (prohibiting discrimination based on sex in
- 11 public education);
- 12 (2) requirements relating to the public school funding program and the
- 13 receipt and expenditure of that funding:
- 14 (A) AS 14.17.500 (relating to student count estimates);
- 15 (B) AS 14.17.505 (relating to school operating fund balances);
- 16 (C) AS 14.17.500 - 14.17.910 (setting out the procedure for
- 17 payment of public school funding and imposing general requirements and
- 18 limits on money paid);
- 19 (3) requirements relating to teacher employment and retirement:
- 20 (A) AS 14.14.105 and 14.14.107 (relating to sick leave);
- 21 (B) AS 14.20.095 - 14.20.215 (relating to the employment and
- 22 tenure of teachers);
- 23 (C) AS 14.20.220 (relating to the salaries of teachers
- 24 employed);
- 25 (D) AS 14.20.280 - 14.20.350 (relating to sabbatical leave
- 26 provisions for teachers);
- 27 (E) AS 23.40.070 - 23.40.260 (authorizing collective
- 28 bargaining by certificated employees), except with regard to teachers who are
- 29 administrators and except that the board may delegate some or all of its
- 30 responsibilities under those statutes;
- 31 (F) AS 14.25 (provisions regarding the teachers' retirement

1 system);

2 (4) requirements relating to students and educational programs:

3 (A) AS 14.30.180 - 14.30.350 (relating to educational services
4 for [EXCEPTIONAL] children with disabilities):

5 (B) AS 14.30.360 - 14.30.370 (establishing health education
6 program standards);

7 (C) AS 14.30.400 - 14.30.410 (relating to bilingual and
8 bicultural education).

9 * Sec. 2. AS 14.30.180 is amended to read:

10 **Sec. 14.30.180. Purpose.** It is the purpose of AS 14.30.180 - 14.30.350 to

11 (1) provide an appropriate public education for each child with a
12 disability [EXCEPTIONAL CHILDREN] in the state who is [ARE] at least three
13 years of age but less than 22 years of age;

14 (2) allow procedures and actions necessary to comply with the
15 requirements of federal law, including 20 U.S.C. 1400 - 1487 [20 U.S.C. 1400 - 1485]
16 (Individuals with Disabilities Education Act).

17 * Sec. 3. AS 14.30.186(a) is repealed and reenacted to read:

18 (a) Special education and related services shall be provided by

19 (1) a borough or city school district for a child with a disability residing
20 within the district;

21 (2) the board of a regional educational attendance area operating a school
22 in the area for a child with a disability residing in the area served by the school;

23 (3) the borough, city school district, or regional educational attendance
24 area in which a treatment facility or a correctional or youth detention facility is located
25 for a child with a disability placed at the facility;

26 (4) a state boarding school established under AS 14.16 for a child with a
27 disability enrolled at a state boarding school; or

28 (5) a school district that provides a statewide correspondence study
29 program for a child with a disability who is enrolled in the program.

30 * Sec. 4. AS 14.30.186(e) is amended to read:

31 (e) If the parent of a child with a disability [EXCEPTIONAL CHILDREN

1 BEING EDUCATED AS PROVIDED UNDER AS 14.30.010(b) MAY RECEIVE
2 SPECIAL EDUCATION AND RELATED SERVICES AS PROVIDED UNDER
3 AS 14.30.180 - 14.30.350. THE EXCEPTIONAL CHILD OF A PARENT WHO]
4 elects to educate the child as allowed under AS 14.30.010(b), the child may not be
5 compelled to receive the special education and related services provided under
6 AS 14.30.180 - 14.30.350.

7 * Sec. 5. AS 14.30.186 is amended by adding a new subsection to read:

8 (f) The department shall, by regulation, establish standards for the allocation of
9 financial responsibilities and the coordination of the provision of special education and
10 related services among the educational agencies listed in (a) of this section when more
11 than one educational agency is responsible for providing those services.

12 * Sec. 6. AS 14.30.191(a) is amended to read:

13 (a) A school district shall obtain the written informed consent of the child's
14 parent before an initial evaluation or placement of a child with a disability in a
15 program of special education and related services.

16 * Sec. 7. AS 14.30.191(b) is amended to read:

17 (b) After initial placement in a program of special education and related
18 services and not less than once every three years for as long as the child is assigned to
19 the program, a [AN EXCEPTIONAL] child with a disability shall receive an
20 educational evaluation [FOR THE IDENTIFICATION AND CLASSIFICATION OF
21 EXCEPTIONAL CHILDREN].

22 * Sec. 8. AS 14.30.191(c) is amended to read:

23 (c) Before a school district initiates or refuses a change in the [A CHILD'S]
24 placement or educational program of a child with a disability, the district shall
25 notify the child's parent.

26 * Sec. 9. AS 14.30.191(d) is amended to read:

27 (d) Upon completion of an [THE] evaluation or reevaluation under this
28 section [AND BEFORE PLACEMENT], the school district shall provide to the parent
29 of each [EXCEPTIONAL] child evaluated under this section an opportunity to
30 participate in the determination of the

31 (1) child's eligibility for special education and related services;

1 [FOR CONSULTATION ABOUT THE EVALUATION. A CONSULTATION
2 MUST BE AVAILABLE AFTER EACH REEVALUATION OF THE CONDITION]
3 and

4 (2) educational placement of the [EXCEPTIONAL] child if the child
5 is determined to be eligible for special education and related services.

6 * **Sec. 10.** AS 14.30.191 is amended by adding new subsections to read:

7 (h) A school district shall provide written notice of its decision under this
8 section to the parent of the child. The notice must include a description of the
9 procedural safeguards available to the parent and child under federal law.

10 (i) In this section, "hearing" means a due process hearing under AS 14.30.193.

11 * **Sec. 11.** AS 14.30.193 is repealed and reenacted to read:

12 **Sec. 14.30.193. Due process hearing.** (a) A school district or a parent of a
13 child with a disability may request a due process hearing on any issue related to
14 identification, evaluation, or educational placement of the child, or the provision of a
15 free, appropriate, public education to the child. A request is made by providing written
16 notice to the other party to the hearing. A parent shall make a request for a due process
17 hearing under this section not later than 12 months after the date that the school district
18 provides the parent with written notice of the decision with which the parent disagrees.
19 A school district shall make its request for a due process hearing in accordance with the
20 time limit established by the department by regulation.

21 (b) If a due process hearing is requested by either a school district or a parent, the
22 school district shall contact the department to request appointment of a hearing officer.
23 The department shall select a hearing officer through a random selection process, from a
24 list maintained by the department under (g) of this section. Within five working days
25 after receipt of the request, the department shall provide to the school district and the
26 parent a notice of appointment, including the name and a statement of qualifications, of
27 the hearing officer that the department determines is available to conduct the hearing.

28 (c) The school district and the parent each have the right to reject, without stating
29 a reason, one hearing officer appointed under this section. The rejecting party shall
30 notify the department of that rejection in writing within five days after receipt of the
31 department's notice of appointment. If a hearing officer is rejected under this subsection,

1 the department shall, within five working days after receipt of the written rejection,
2 provide a notice of appointment, including the name and a statement of qualifications, of
3 another hearing officer that the department determines is available to conduct the
4 hearing. Each appointment is subject to a right of rejection under this subsection by a
5 party who has not previously rejected an appointment.

6 (d) After a hearing officer is appointed and the time for rejection under (c) of
7 this section has expired, the hearing officer shall immediately inform the parent and
8 the school district of the availability of the mediation process provided under
9 AS 14.30.194 and encourage use of that process to attempt to resolve the disagreement
10 between the parent and the school district. If the mediation process does not result in
11 settlement of all of the issues, the hearing officer shall conduct a hearing in
12 conformance with the requirements of federal law, including 34 C.F.R. 300.507 - 509.
13 After the hearing is completed, the hearing officer shall issue a written decision that

14 (1) upholds the school district's decision; or

15 (2) overturns the school district's decision with specific instructions for
16 modification of the identification, evaluation, educational placement, or provision of the
17 education program by the district.

18 (e) A hearing officer's decision under this section is final and binding on the
19 school district and parent unless appealed under (f) of this section. Notwithstanding a
20 decision by the hearing officer, a child may not be evaluated, placed, transferred, or
21 compelled to receive special education or related services from the school district until
22 the period for filing an appeal under (f) of this section has expired or, if an appeal is
23 filed, until the appellate review process has been completed.

24 (f) A hearing officer's decision under this section is a final administrative
25 order, subject to appeal to the superior court for review in the manner provided under
26 AS 44.62.560.

27 (g) The department shall maintain a list of qualified hearing officers and shall
28 provide for qualification of hearing officers through a training program that is open to
29 all individuals who meet the criteria set by the department by regulation. The list of
30 qualified hearing officers shall be maintained as a public record.

31 (h) For purposes of this section, a student with a disability aged 18 - 21 has the

1 same rights and obligations under this section as a parent of a child with a disability.

2 * Sec. 12. AS 14.30 is amended by adding a new section to read:

3 Sec. 14.30.194. Mediation. (a) The department shall, by regulation,
4 establish and implement a voluntary mediation process in conformance with the
5 requirements of federal law, including 34 C.F.R. 300.506. The department shall
6 encourage the use of mediation for settlement of disputes under AS 14.30.180 -
7 14.30.350.

8 (b) The department shall

9 (1) maintain a list of individuals who are qualified mediators
10 knowledgeable in the federal and state statutes and regulations relating to the
11 provision of special education and related services; and

12 (2) provide for qualification of mediators through a training program
13 that is open to all individuals who meet the criteria set by the department by
14 regulation.

15 * Sec. 13. AS 14.30.231 is amended to read:

16 Sec. 14.30.231. Advisory panel [COMMITTEE]. The Governor's Council
17 on Disabilities and Special Education established under AS 47.80 shall serve as the
18 state [AN] advisory panel [COMMITTEE], the function of which is to provide
19 information and guidance for the development of appropriate programs of special
20 education and related services for [EXCEPTIONAL] children with disabilities.

21 * Sec. 14. AS 14.30.250 is amended to read:

22 Sec. 14.30.250. Teacher qualifications. A person may not be employed as a
23 teacher of [EXCEPTIONAL] children with disabilities unless that person possesses a
24 valid teacher certificate and, in addition, the [SUCH] training that [AS] the
25 department requires [MAY REQUIRE] by regulation.

26 * Sec. 15. AS 14.30.270 is amended to read:

27 Sec. 14.30.270. Substitutes. AS 14.30.250 does not prohibit the employment
28 of a person, otherwise qualified to serve as a substitute teacher, to serve as a substitute
29 teacher of [EXCEPTIONAL] children with disabilities.

30 * Sec. 16. AS 14.30.272 is amended to read:

31 Sec. 14.30.272. Procedural safeguards. (a) A school district shall inform

1 the parent of a [AN EXCEPTIONAL] child with a disability of the right

2 (1) to review the child's educational record;

3 (2) [,] to review evaluation tests and procedures;

4 (3) [,] to refuse to permit evaluation or a change in the child's
5 educational placement;

6 (4) [,] to be informed of the results of evaluation;

7 (5) [,] to obtain an independent evaluation by choosing a person from a
8 list provided by the school district or by choosing a person by agreement between the
9 parent and school district;

10 (6) [,] to request a due process [AN IMPARTIAL] hearing;

11 (7) [,] to appeal a hearing officer's decision; and

12 (8) [, AND] to give consent or deny access to others to the child's
13 educational record.

14 (b) The department shall establish, by regulation, impartial procedures for a
15 school district to follow for due process hearings [UNDER AS 14.30.193] to comply
16 with requirements necessary to participate in federal grant-in-aid programs, including
17 20 U.S.C. 1400 - 1487 [20 U.S.C. 1400 - 1485] (Individuals with Disabilities
18 Education Act).

19 * Sec. 17. AS 14.30.274 is amended to read:

20 Sec. 14.30.274. **Identification of [EXCEPTIONAL] children with**
21 **disabilities**. Each school district shall establish and implement written procedures to
22 ensure that all [EXCEPTIONAL] children with disabilities under the age of 22 for
23 **whom the agency is responsible under AS 14.30.186 to provide special education**
24 **and related services** [WHO RESIDE IN THE DISTRICT] are identified and located
25 for the purpose of establishing their need for special education and related services.

26 * Sec. 18. AS 14.30.276 is amended to read:

27 Sec. 14.30.276. **Least restrictive environment.** Each school district shall
28 ensure that, to the maximum extent appropriate, [EXCEPTIONAL] children with
29 **disabilities**, including children in public or private institutions or other care facilities,
30 are educated with children who are not children with disabilities [EXCEPTIONAL]
31 and that special classes, separate schooling, or other removal of [EXCEPTIONAL]

1 children with disabilities from the regular educational environment occurs only when
2 the nature or severity of the child's disability [EXCEPTIONALITY] is such that
3 education in regular classes with the use of supplementary aids and services cannot be
4 achieved satisfactorily.

5 * Sec. 19. AS 14.30.278 is repealed and reenacted to read:

6 **Sec. 14.30.278. Individualized education program.** A school district shall
7 develop an individualized education program for special education and related
8 services for each eligible child with a disability. The plan must be completed not later
9 than 30 days after the determination of the child's eligibility. Each individualized
10 education program shall be developed and periodically reviewed and revised as
11 necessary in conformance with federal requirements, including 34 C.F.R. 300.340 -
12 350.

13 * Sec. 20. AS 14.30.285(a) is amended to read:

14 (a) The department shall institute a statewide program for the education of
15 [EXCEPTIONAL] children with disabilities [,] to ensure that whenever possible
16 children are educated in the state at locations in or near their resident school district.

17 * Sec. 21. AS 14.30.285(b) is amended to read:

18 (b) An identified [EXCEPTIONAL] child with a disability may be sent to an
19 educational program or residential school outside the child's community or school
20 district if the child resides in a community or school district where an appropriate
21 educational program cannot reasonably be made available and if the school district
22 [DEPARTMENT] determines that provision of special education and related services
23 in another educational program or residential school is appropriate. If the school
24 district approves [AND THE DEPARTMENT APPROVE] the enrollment of a [THE
25 EXCEPTIONAL] child with a disability in another educational program or
26 residential school outside the child's community or school district and the child is
27 enrolled, the child's education expenses shall be paid as follows:

28 (1) except as otherwise provided by (2) of this subsection, the sending
29 district shall pay all costs associated with the transfer;

30 (2) the department may provide financial assistance to the school
31 district for a child's education provided for in (1) of this subsection under regulations

1 adopted by the department.

2 * **Sec. 22.** AS 14.30.285(e) is amended to read:

3 (e) The educational assessment of a [AN EXCEPTIONAL] child with a
4 disability that indicates that the educational program that is locally available is
5 inappropriate for the needs of the child must conform to the standards set out in
6 AS 14.30.191.

7 * **Sec. 23.** AS 14.30.285(f) is amended to read:

8 (f) A school district shall obtain informed [THE] consent of the child's parent
9 before a child may be transferred to a school outside the district in which the child
10 resides.

11 * **Sec. 24.** AS 14.30.285(g) is amended to read:

12 (g) The withholding of informed consent by a parent [OR
13 DEPARTMENTAL APPROVAL] for the transfer of a [AN EXCEPTIONAL] child
14 with a disability under this section does not relieve a school district of the obligation
15 to provide special education and related services to the [AN EXCEPTIONAL] child
16 [UNDER AS 14.30.186].

17 * **Sec. 25.** AS 14.30.325(a) is amended to read:

18 (a) The department shall [MAY] by regulation provide for the appointment of
19 surrogate parents to represent a child with a disability [EXCEPTIONAL
20 CHILDREN] in matters relating to the provision of an appropriate public education.

21 * **Sec. 26.** AS 14.30.335 is amended to read:

22 **Sec. 14.30.335. Eligibility for federal funds.** Notwithstanding any other
23 provision of AS 14.30.180 - 14.30.350, the department may do all things necessary to
24 qualify for federal funds that are available to the state for the education of
25 [EXCEPTIONAL] children with disabilities.

26 * **Sec. 27.** AS 14.30.340 is amended to read:

27 **Sec. 14.30.340. Provision of special education in a private school, home, or**
28 **hospital setting.** (a) If a parent of a [AN EXCEPTIONAL] child with a disability
29 enrolls the child in a private school, including a religious school, at the parent's
30 expense or teaches the child at home, the school district in which the child resides [IS
31 LOCATED] shall make special education and related services available in

1 conformance with federal requirements, including 34 C.F.R. 300.450 - 462. A
2 parent teaching the parent's child at home may refuse special education and
3 related services for the child [AN INDIVIDUALIZED EDUCATION PROGRAM
4 UNDER AS 14.30.278].

5 (b) If a physician certifies in writing, and if the child's individualized
6 education program under AS 14.30.278 provides [TEAM THEN DETERMINES]
7 that a child's bodily, mental, or emotional condition does not permit attendance at a
8 school and the child's parents do not elect to teach the child at home as permitted
9 under AS 14.30.010(b), the school district in which the child is located shall enroll the
10 child in public school and provide the child with special education and related services
11 in conformance with the child's [AN] individualized education program [UNDER
12 AS 14.30.278] at the child's home or at a medical treatment facility.

13 * Sec. 28. AS 14.30.347 is amended to read:

14 Sec. 14.30.347. Transportation of [EXCEPTIONAL] children with
15 disabilities. When transportation is required to be provided as a related service, a
16 child with a disability [SERVICES, AN EXCEPTIONAL CHILD] shall be
17 transported [CARRIED] with children who are not children with disabilities
18 [OTHER CHILDREN] if the district provides transportation to [OTHER] children in
19 the district, except when the nature of the physical or mental disability is such that it is
20 in the best interest of the [EXCEPTIONAL] child with a disability, as provided in
21 the child's individualized education program [DETERMINED BY THE SCHOOL
22 DISTRICT], that the child be transported separately. State reimbursement for
23 transportation of [EXCEPTIONAL] children with disabilities shall be as provided for
24 transportation of all other pupils except that eligibility for reimbursement is not
25 subject to restriction based on the minimum distance between the school and the
26 residence of the exceptional child with a disability.

27 * Sec. 29. AS 14.30.350(2) is repealed and reenacted to read:

28 (2) "child with a disability" means a child with one or more of the
29 following:

30 (A) mental retardation;

31 (B) learning disabilities;

- 1 (C) emotional disturbance;
2 (D) deafness;
3 (E) deaf-blindness;
4 (F) hearing impairment;
5 (G) orthopedic impairment;
6 (H) other health impairment;
7 (I) speech or language impairment;
8 (J) visual impairment;
9 (K) multiple disabilities;
10 (L) early childhood development delay;
11 (M) autism;
12 (N) traumatic brain injury;

13 * Sec. 30. AS 14.30.350(8) is repealed and reenacted to read:

14 (8) "parent" means a

15 (A) child's natural or adoptive parent;

16 (B) child's guardian, but not the state if the child is in the legal
17 custody of the state;

18 (C) person who is acting in the place of a child's natural or
19 adoptive parent, such as a grandparent or stepparent with whom the child lives,
20 or a person who is legally responsible for the child's welfare; and

21 (D) child's surrogate parent who has been appointed under
22 AS 14.30.325;

23 * Sec. 31. AS 14.30.350(9) is repealed and reenacted to read:

24 (9) "related services" means services described in 34 C.F.R. 300.24;

25 * Sec. 32. AS 14.30.350(10) is repealed and reenacted to read:

26 (10) "school district" means a borough school district, a city school
27 district, a regional educational attendance area, a state boarding school, and the state
28 centralized correspondence study program;

29 * Sec. 33. AS 14.30.350(11) is repealed and reenacted to read:

30 (11) "special education" means an educational program described in 34
31 C.F.R. 300.26;

1 * Sec. 34. AS 14.30.350 is amended by adding new paragraphs to read:

2 (12) "due process hearing" means a hearing conducted under
3 AS 14.30.193;

4 (13) "informed consent" means that

5 (A) a child's parent has been fully informed, in the parent's
6 native language or other mode of communication, of all information relevant to
7 the activity for which consent is sought;

8 (B) the parent understands and agrees in writing to the carrying
9 out of the activity for which the parent's consent is sought;

10 (C) the consent describes that activity and lists any records that
11 will be released and to whom; and

12 (D) the parent understands that the granting of consent is
13 voluntary on the part of the parent and may be revoked at any time.

14 * Sec. 35. AS 14.30.640 is amended to read:

15 **Sec. 14.30.640. Eligibility for service.** The services of the agency shall be
16 available to school districts that serve children whose special education needs occur
17 infrequently, who require specialized services not normally available in the school
18 district, and who cannot be easily served by local school district personnel because of
19 the low number of students in the district in need of the particular service. The agency
20 may provide services to a child with a disability [EXCEPTIONAL CHILDREN], as
21 that term is defined in AS 14.30.350.

22 * Sec. 36. AS 29.60.599(7) is amended to read:

23 (7) "school district" means a borough school district, a city school
24 district, or a regional educational attendance area under AS 14 [HAS THE
25 MEANING GIVEN IN AS 14.30.350];

26 * Sec. 37. AS 44.21.410(a) is amended to read:

27 (a) The office of public advocacy shall

28 (1) perform the duties of the public guardian under AS 13.26.360 -
29 13.26.410;

30 (2) provide visitors and experts in guardianship proceedings under
31 AS 13.26.131;

1 (3) provide guardian ad litem services to children in child protection
2 actions under AS 47.17.030(e) and to wards and respondents in guardianship
3 proceedings who will suffer financial hardship or become dependent upon a
4 government agency or a private person or agency if the services are not provided at
5 state expense under AS 13.26.112;

6 (4) provide legal representation in cases involving judicial bypass
7 procedures for minors seeking abortions under AS 18.16.030, in guardianship
8 proceedings to respondents who are financially unable to employ attorneys under
9 AS 13.26.106(b), to indigent parties in cases involving child custody in which the
10 opposing party is represented by counsel provided by a public agency, to indigent
11 parents or guardians of a minor respondent in a commitment proceeding concerning
12 the minor under AS 47.30.775;

13 (5) provide legal representation and guardian ad litem services under
14 AS 25.24.310; in cases arising under AS 47.15 (Uniform Interstate Compact on
15 Juveniles); in cases involving petitions to adopt a minor under AS 25.23.125(b) or
16 petitions for the termination of parental rights on grounds set out in
17 AS 25.23.180(c)(3); in cases involving petitions to remove the disabilities of a minor
18 under AS 09.55.590; in children's proceedings under AS 47.10.050(a) or under
19 AS 47.12.090; in cases involving appointments under AS 18.66.100(a) in petitions for
20 protective orders on behalf of a minor; and in cases involving indigent persons who
21 are entitled to representation under AS 18.85.100 and who cannot be represented by
22 the public defender agency because of a conflict of interests;

23 (6) develop and coordinate a program to recruit, select, train, assign,
24 and supervise volunteer guardians ad litem from local communities to aid in delivering
25 services in cases in which the office of public advocacy is appointed as guardian ad
26 litem;

27 (7) provide guardian ad litem services in proceedings under
28 AS 12.45.046;

29 (8) establish a fee schedule and collect fees for services provided by
30 the office, except as provided in AS 18.85.120 or when imposition or collection of a
31 fee is not in the public interest as defined under regulations adopted by the

1 commissioner of administration;

2 (9) provide visitors and guardians ad litem in proceedings under
3 AS 47.30.839;

4 (10) provide legal representation to an indigent parent of a child with
5 a disability: in this paragraph. "child with a disability" has the meaning given in
6 AS 14.30.350 [PARENTS UNDER AS 14.30.195(e)].

7 * Sec. 38. AS 47.80.090(9) is amended to read:

8 (9) provide information and guidance for the development of
9 appropriate special educational programs and services for a child with a disability
10 [EXCEPTIONAL CHILDREN] as defined in AS 14.30.350;

11 * Sec. 39. AS 47.80.900(6) is amended to read:

12 (6) "person with a handicap" means a person with a developmental
13 disability as defined in (7) of this section or a person who is hard of hearing, deaf,
14 speech impaired, visually handicapped, seriously emotionally disturbed,
15 orthopedically or otherwise health impaired, or who has a specific learning disability;
16 the term includes a child with a disability [BUT IS NOT LIMITED TO
17 "EXCEPTIONAL CHILDREN"] as defined in AS 14.30.350;

18 * Sec. 40. AS 14.30.186(b), 14.30.195, 14.30.315(b), 14.30.350(3), 14.30.350(5),
19 14.30.350(6), and 14.30.350(7) are repealed.

20 * Sec. 41. The uncodified law of the State of Alaska is amended by adding a new section to
21 read:

22 TRANSITION: REGULATIONS. (a) The state Board of Education and Early
23 Development may immediately proceed to adopt regulations necessary to implement the
24 changes made by this Act. The regulations take effect under AS 44.62 (Administrative
25 Procedure Act), but not before the effective date of the statutory change.

26 (b) To the extent they are not inconsistent with the statutory changes made by this
27 Act, regulations adopted by the state Board of Education and Early Development and in effect
28 on July 1, 2001, continue in effect until amended or repealed by the board, and may be
29 enforced and implemented.

30 * Sec. 42. The uncodified law of the State of Alaska is amended by adding a new section to
31 read:

1 REVISOR'S INSTRUCTIONS. The revisor of statutes is requested to change the
2 following:

3 (1) the heading of Article 3 of AS 14.30 from "Education For Exceptional
4 Children" to "Education for Children With Disabilities";

5 (2) the catchline of AS 14.30.285 from "Transfers of exceptional children" to
6 "Transfers of children with disabilities."

7 * **Sec. 43.** Section 41(a) of this Act takes effect immediately under AS 01.10.070(c).

8 * **Sec. 44.** Except as provided in sec. 43 of this Act, this Act takes effect July 1, 2001.

**SENATE COMMITTEE REPORT
First Committee of Referral**

DATE: 1/17/01

FURTHER: Finance

Date of 5-Day Notice: _____
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 04/28/01

Health, Education and Social Services Committee considered **SENATE BILL NO. 40**

"An Act relating to the education of children with disabilities and of gifted children; relating to the Governor's Council on Disabilities and Special Education; making conforming amendments; and providing for an effective date."

and recommends:

- be replaced with _____ CS SB 40 (HES)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:

same title

new title

House Bill:

same title

technical title

new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
DEED	4/28/01		x	1

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>			✓	
<i>[Signature]</i>			✓	
<i>[Signature]</i>			✓	
<i>[Signature]</i>				✓
CHAIR: <i>[Signature]</i>	✓			

1215 Fifth Street
Douglas, AK 99824
February 7, 2001

Senator Lyda Green
Alaska State Senate

Dear Senator Green,

I am writing in regard to SB 40. I am the parent of a gifted child who is a student in the Juneau School District. First, I want to support the Department of Education's effort to gain some additional funds for a departmental staff with responsibility for gifted education. For too long DOE has refused to provide any support to parents or districts on issues of gifted education, despite statutory responsibility. Their rationale has been lack of funds. I hope that you will recommend funding for a gifted education position. This position is needed because so many districts fail to provide parents with any information about gifted children and too many districts do not live up to their responsibilities to identify gifted children and to provide them with an appropriate public education. Even districts, such as Juneau, which make an effort to identify gifted students do a less than adequate job of providing for their educational needs.

Gifted students need academic challenge and support. Without the challenge, they may become bored and frustrated and act out in classes. An informal survey of local high school teachers in Juneau showed me that a significant number of our most gifted children become school drop-outs or school failures, because they have become so turned off to school. Parents of gifted children often use the summer as a time to provide academic challenge to students who can't be bothered with school during the academic year.

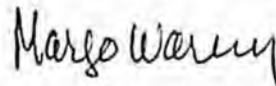
Educational research into the needs of gifted children shows that academic challenge is provided through acceleration and enrichment in settings which maximize the numbers of ability peers learning together.

For this reason, I urge you to substitute the following language for the section of SB 40 which specifies the least restrictive environment for the education of gifted students:

For purposes of gifted education, the least restrictive setting is provision of academically appropriate materials to classes or groups of gifted students with similar educational needs or "pull-outs" where the needs of groups of similarly gifted students are addressed. If instruction is in inclusive classrooms, then the curriculum must be differentiated for gifted students by teachers trained to provide a differentiated curriculum.

Gifted students are frequently "underachievers" in Alaska because their educational needs are not addressed. I appreciate any support you can give to change this situation and assure their educational needs are addressed.

Sincerely,



Margo Waring

Post-It* Fax Note	7671	Date	# of pages 4
To: MESS		From: Valdez PIO	
Co./Dept.		Co.	
Phone #		Phone #	
Fax #		Fax #	

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LOUISE PARISH

Questions for AkDEED:

Why has the dept. completely ignored my numerous requests to change the word language to speech-language in eligibility regulations, even though IDEA uses the term speech-language? Are you trying to ignore the needs of language impaired kids like my daughter? I have commented on this forever. Does AkDEED read the comments submitted by parents re:their regulations? If so, why haven't they changed that? If their regs are improper, how can I assume their statutes are better? In fact, this bill allows for a child with a disability to be identified with a (Section 29 AS 14.30.350 (2) (I)) "Speech impairment" but not a "Speech-Language Impairment." I have shouted this neglect to the rooftops and in many formal comments to AkDEED regarding their regs. They don't listen. Therefore, why should I trust this bill? IDEA says SPEECH OR LANGUAGE IMPAIRMENT (for the millionth time!!!!) My daughter, despite being referred in for language evaluation in third grade, was not identified as having a language disorder until she was in 7th grade. That was because I took her to a private SLP. THIS LANGUAGE MUST BE FIXED!!!!It seems that everything is stacked against families. We have no voice.

Testimony for 2/7/01

I asked Dr. Johnson why the dept. never invited regular parents to participate in any legislative review of this bill as it was constructed. We were left out of the picture. Dr. Johnson told me it was because the dept. didn't "have to." He said I could REAC. after the bill was constructed to the legislature. Why does AkDEED exclude parents?

My reaction is that I have no certainty whatsoever that this bill is adequate or appropriate for our kids. I asked Dr. Johnson and the state board to conferr with private counsel in the construction so that parents could feel that their interests were represented.

Has the Dept. ever conferred as it promised it would do with PRIVATE counsel practicing in this area of LAW BEFORE submitting this bill, and if so, please identify such private counsel?

Why is it that AKDEED never asked its hearing officers for input comment etc on current or proposed state regs or statutes?

Why has the department refused to consider the proposal to set up a hearing panel as adopted by Missouri?

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Why does the bill fail to state Alaskan policy on exceptional children?

I have heard that counsel representing your department stated a year ago that forcing an endorsed teacher to take a special ed. position was unconstitutional though in fact such placement is provided for in statute, how accurate do you believe such counsel is now with respect to this bill?

Didn't the PTPC accept a complaint against Dr. Johnson for violation of numerous portions of state law but then dismissed that complaint based on the PTPC staff's belief that it was because Dr. Johnson was just doing what he was told..... Could Dr. Johnson address whether he disagrees with the PTPC and if not, could he explain from where he received the erroneous information that caused him to violate so many portions of our statutes and regulation?

Why did the department propose regulations that would disqualify a hearing officer who has ever represented a parent in any action against any school district but not put that in the statute?

Why should we believe that the dept. is in favor of maintaining an appropriate cadre of qualified hearing officers when the dept has never complied with the 1993 amendments regarding hearing officers?

I don't like that this bill allows the dept. to establish by regulation "impartial procedures for a school district to follow for due process hearings to comply with 20 USC 1400-1487." After going through due process steps I have reservations about what regs AKDEED may or may not write.

Why does the statute still fail to provide for a hearing officers subpoena power? Parents should not have to have a two-tier system that wastes their time and money with no subpoena power, etc.

Isn't the selection process identified impracticable as it requires both district and parent to simultaneously challenge an appointment which raises the question of

3/6

whether such simultaneous challenge results in loss of both sides pre-empts... and what about a further appointment which is not mentioned, etc. ?

WHY considering the adamant opposition from parents as well as the fact that every argument in support has been debunked is **AKDEED** still trying to adopt one set of laws for one set of exceptional children and another set for another set of exceptional children?

Investigation has demonstrated that the department has been unable to comply with state law with respect to the existing lenient statutes and regulations..... isn't it time to make those requirements a bit stricter and place oversight provisions to put an end to the department's gross misconduct with respect to supervising the issuance of credentials?

In 1994 a proposal was put forth that would have required all teachers to be endorsed in special ed to obtain certification by the Millenium. AkDEED scoffed at the proposal then and has proposed nothing remotely similar since (still allowing unqualified staff to be placed for entire years in situations where IEPs require endorsed staff), could you explain why you feel that such training is unwarranted?

Where is the Comprehensive System of Personnel Development statute? There are other items that appear to be unaddressed, but I am not a lawyer. I want a private lawyer to review this. To read more of my concerns, visit

<http://www.akceptional.org/cgi-bin/HyperNews/get/akceptionalities.html>

I don't like that AkDEED appears to have no oversight in this important legislation.

ADDITIONAL COMMENTS FOR SB40 FROM PARISH

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IDEA 97 says the act has been....

....."impeded by low expectations, and an insufficient focus on applying replicable research on proven methods of teaching and learning for children with disabilities...." And "Over 20 years of research and experience has demonstrated that the education of children with disabilities can be made more effective by having high expectations for such children and ensuring their access to the general curriculum to the maximum extent possible...." *(This does not necessarily mean "mainstreaming" but having the opp to learn the same content...Louise)* "supporting high-quality, intensive professional development for all personnel who work with such children in order to ensure that they have the skills and knowledge necessary to enable them to meet developmental goals and to the maximum extent possible, those same challenging expectations that have been established for all children.....

I have quickly reviewed some of IDEA 20 USC 1400.....and 34CFR Part 300 regulations. I have concerns with our proposed statutes. Without writing a huge paper, I'd like to ask that these items be put into statute. It is very hard to fit everything in as a parent with a real life. I have attached refs as I was able. I am again on deadline:

- 1.) State Performance Goals and Indicators – DEED should **publicly disaggregate** the information about reg kids and sped kids performances. This requirement should be in statute. See 20USC1412 (16)
- 2.) LRE ... allow for kids to be pulled out as needed ...add words "if cannot be achieved satisfactorily." See 20USC1412 (5) (A)
- 3.) Participation in Assessments – DEED should allow for **appropriate participation** in statewide assessments. See 20USC 1412 (17)
- 4.) **Addn'l procedural safeguards** 20USC 1412 (6) (B)testing and evaluation materials and procedures utilized for the purposes of evaluation and placement of children with disabilities will be selected and administered so as not to be racially or culturally discriminatory. Such materials or procedures shall be provided and administered in the child's native language or mode of communication, unless it is clearly not feasible to do so, and **no single procedure shall be the sole criteria for determining an appropriate educational program for a child.**
- 5.) Evaluation procedures ---Conduct of evaluation - ...LEA shall...."use a **variety of assessment tools and strategies to gather relevant functional and developmental information, including information**

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- provided by the parent.....abling the child to.....progress in general curriculum..see 20USC 1414 (b) (2)
- 6.) State Advisory Panel – the panel should include parents of kids with disabilities, teachers, with a majority of the panel either those with disabilities or parents of kids with disabilities. See USC 1412 (21) (I, ii and iii) and (21) (c)
 - 7.) Advisory Panel Duties – the advisory board must make public comment on all proposed regs See 20USC 1412 21 (D) (ii)
 - 8.) Comprehensive System of Personnel Development – DEED must have a written plan. See 20USC 1412 (14)
 - 9.) Personnel Standards – Does the state require the educators to have the highest licensing in the state such as Speech Language Pathology? If not, what steps are they taking to ensure that paraeducators are working to that standard? See 20USC (15) (A)
 - 10.) Evaluation Process –DEED must provide notice to parents that describes all evaluation procedures for determination of eligibility. They must use a variety of assessment tools. 20USC 1414 B....
 - 11.) Additional Evaluation Requirements – Districts must review existing evaluation data, including evals and info provided by parents. See 20USC 1412 (6)
 - 12.) ADDN'l requirements for eval and reeval...."Review existing evaluation data on the child...including evaluations and information provided by the parents...." See 1414 5C
 - 13.) IEP team – No unnecessary members...."at the discretion of the parent or the agency other individuals WHO HAVE KNOWLEDGE OR SPECIAL EXPERTISE regarding the child," Parents tell me sometimes reps are there who do not personally know the child are not protecting the child, but others. see 1414 2 B vii
 - 14.) Development of IEP team – the IEP team SHALL...take.....the concerns of parents for enhancing the education of their child....the results of the most recent eval (*parentally obtained or district made.*)
 - 15.) Considering opps for direct instruction – IEP team MUST consider opportunity...for direct instruction....
 - 16.) Form for due process request – regs say nothing about DEED-made form. Parents can just write a letter. Don't make them do a scary form....districts have lawyers on retainer....parents have to struggle...
 - 17.) Childfind – FAPE & GRADE ADVANCEMENT is new. CHILDFIND notices should include that the child may be referred in for evaluation of any suspected disability even though advancing from grade to grade. Write it in statute.

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18.) DISABILITY DEFINITIONS – 300.7, Child with a disability.

Change speech impairment to speech or language impairment. Change entire section to include IDEA definitions, not just “names” of categories.

AGAIN, I cannot seem to fit the time in to cite all of these. If we had had an opp for regular PARENTS to participate together with agencies and discuss all of these potential problem areas, perhaps I would not have to expend so much of my personal energy to try to help our kids.

Thank you,

Louise Parish
Box 1182
Valdez, AK 99686

Additions:

- 12 month Due Process should be 24
- Speech changed to speech-language thru/out

List of Participants for Legislative Review Meeting

Sept. 14th & 15th, 2000

Anchorage, AK

Governor's Council

David Maltman: Executive Director
Darrell Sanborn: Council Member and Superintendent, Unalaska City Schools
Reggie Joule: Council Member; State Representative
Kathy Fitzgerald: Parent; Member of Council's Executive Committee
Kathy Craft: Parent; AK Children's Mental Health Coordinator

Disability Law Center

Belinda Patrick: Advocate
Janel Wright: Staff Attorney
Bob Briggs: Staff Attorney
Ann Hutchins: Parent
Don Shackelford: Parent; former school administrator; UAA faculty member

PARENTS, Inc.

Faye Nieto: Executive Director
Tim Weiss: Program Director
Gail Igo: Staff Advocate
Ardyce Turner: PARENTS, Inc. Board Member
Jan Guertin: Juneau Staff Advocate

EED Participants

Bruce Johnson: Deputy Commissioner
Greg Maloney: State Director of Special Education
Wendy Tada: Special Education Staff Member
Phil Reeves: Asst. Attorney General working with EED

District Participants

Robyn Rehmann: Special Education Director, Anchorage School District
Ann Shortt: Assistant Superintendent, Fairbanks School District
Ron Delay: Student Services Director, Juneau
Ron Erickson: Superintendent, Haines Borough School District
John Owens: Special Education Director, Northwest Arctic Borough School District

State of Alaska
 Department of Education
 & Early Development

MEMORANDUM

To: Members of Senate HESS Committee Date: February 15, 2001

Through: Bruce Johnson Phone: 465-2972
 Deputy Commissioner, EED

From: Greg Maloney *GM* Subject: Proposed Changes in HB 71/
 State Director of Special SB 40 Relating to Private School
 Education Children with Disabilities

During a recent hearing on HB 71/SB 40, *An Act Relating to the Education of Children with Disabilities and Gifted Children*, members of the Senate HESS Committee requested clarification regarding proposed changes to services provided to private school children with disabilities. This memorandum provides a summary of the changes while the attached memorandum from the U.S. Department of Education, Office of Special Education Programs (OSEP), provides more detailed information.

Proposed Changes to Services Provided to Private School Children with Disabilities
 The table below provides the current statutory requirement for serving private school children with disabilities along with the proposed changes contained in HB 71/ SB 40.

Current Statutory Requirement	Proposed Statutory Changes in HB 71 /SB 40
<p>Sec. 14.30.340. Provision of special education in a private school, home, or hospital setting. (a) If a parent of an exceptional child enrolls the child in a private school at the parent's expense or teaches the child at home, the school district in which the child is located shall make special education and related services available in conformance with an individualized education program under AS 14.30.278 .</p>	<p>Sec. 14.30.340. Provision of special education in a private school, home, or hospital setting. (a) If a parent of a [AN EXCEPTIONAL] child <u>with a disability</u> enrolls the child in a private school, <u>including a religious school</u>, at the parent's expense or teaches the child at home, the school district in which the child <u>resides</u> [IS LOCATED] shall make special education and related services available in conformance with <u>federal requirements, including 34 CFR 300.450 - 462 as amended.</u> [AN INDIVIDUALIZED EDUCATION PROGRAM UNDER AS 14.30.278].</p>

Under current state law, school districts are responsible for providing special education and related services to all children with disabilities voluntarily enrolled in private schools. This may result in a financial burden to school districts who may not be able to claim these children

through the foundation formula. Although the foundation allows school districts to claim partial child attendance, the minimum level is .25. Some children with disabilities do not require services that meet this minimum level so school districts would not receive any additional federal or state funding.

Overall, special education funding at the state and federal level has not kept pace with the rising costs of providing special education and related services. Under SB 36, school districts receive a block grant for providing special education and related services, gifted education, bilingual education, and vocational education that is based on total student enrollment. If a district's total enrollment decreases, so does the funding available under the block grant. However, the district's costs for providing special education services would not necessarily decrease and may conceivably increase. The federal special education funding formula has also been changed and is also no longer based on the annual count of children with disabilities. The new formula uses the state's child count from FY 99 as its basis, and then adds additional funds based on a state's total student enrollment and the state's population of children living in poverty. Although the government has increased federal funding for special education, recent estimates suggest these funds cover only 12% of special education costs; far short of Congress's stated goal of 40%.

Under HB 71/SB 40, school districts will continue to be required to locate, identify, and evaluate all private school children with disabilities, including religious school children residing in the district. However, HB 71/SB 40 will reduce the responsibility that school districts have for providing services to private school children to the level required by the Individuals with Disabilities Education Act, as amended in 1997 (IDEA 97). IDEA 97 regulations stipulate that "no private school child with a disability has an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school" (34 CFR 300.454 (a)(1)). Instead, each school district is required to "consult with appropriate representatives of private school children with disabilities" to determine:

- which children will receive services;
- what services will be provided;
- how and where the services will be provided; and,
- how the services provided will be evaluated.

Instead of an individualized education program (IEP) document, school districts will develop service plans for private school children with disabilities. These describe the services that will be provided to the child and are created by the same individuals, along with representatives of private schools, who develop IEPs in the school district.

Consistent with IDEA 97, districts must only demonstrate that they have spent a proportionate level of their federal special education funds on providing services to private school children with disabilities. The proportion is based on the number of private school children with disabilities (ages 3-21) residing in the school district compared to the total number of children with disabilities (ages 3-21) residing in the

school district. For example, if a school district has 500 children with disabilities and 25 of these children are voluntarily placed by their parents in private schools, the district would be required to provide services in an amount that equals 5% of its federal special education grant. Districts may use any combination of local, state, and/or federal funds to demonstrate they have spent this amount. Under IDEA 97, this is the total amount that districts would be required to spend on providing services to private school children with disabilities.

For more detailed information, please refer to the attached memorandum on private school children with disabilities issued by U.S. Department of Education, Office of Special Education Programs (OSEP).



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

MAY 4 2000

CONTACT PERSONS:
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MEMORANDUM

To: Chief State School Officers

From: Kenneth R. Warlick, Director *KRW/ps*
Office of Special Education Programs

Subject: Questions and Answers on Obligations of Public Agencies in Serving Children with Disabilities Placed by Their Parents at Private Schools

In response to requests from the field for a document that restates and consolidates guidance that the Department has provided regarding the nature and extent of school districts' obligations to parentally-placed private school children with disabilities under Part B of the Individuals with Disabilities Education Act (Part B), the attached question and answer document is being issued. Some of the questions contained in this document were raised by individuals who attended the six regional meetings conducted following publication of the final regulations implementing the Individuals with Disabilities Education Act Amendments of 1997, Pub. L. 105-17 (IDEA '97); others were raised subsequent to the issuance of the final regulations. This question and answer document restates the requirements reflected in these final regulations published on March 12, 1999, at 64 Fed. Reg. 12406, and the explanations provided in Attachment 1, Analysis of Comments and Changes, in response to public comments on the proposed regulations applicable to parentally-placed private school children with disabilities.

In determining school district responsibility for children with disabilities in private schools, generally such children are in one of two groups, and public agency responsibility will vary based on the group into which the children fall. The first group includes children with disabilities placed at private schools by public agencies as a means of providing special education and related services. Specifically, if a public agency places or refers a child with a disability to a private school or facility for the purpose of providing a free appropriate public education (FAPE) to that child, the child must receive a program of special education and related services at the private school at no cost to the parents, and the child and his or her parents have all of the rights that they would have if the child were served by the public agency. 34 CFR §300.401. The second group of children includes children with disabilities placed at private schools by their parents, and this second group consists of two subgroups. The children with disabilities in the first subgroup are placed by their parents at private schools when FAPE from a

public agency program or placement is not at issue, and this subgroup of children, which must be provided special education and related services consistent with their numbers and needs, has no individual entitlement to services under Part B. 34 CFR §§300.403(a) and 300.450-300.462.

The second subgroup includes children with disabilities placed at a private school by their parents without the consent of or referral by the public agency because the parents believe that the public agency has failed to offer their child FAPE. If a hearing officer or court agrees with the parent and finds that there has been a denial of FAPE, the parents may be able to obtain tuition reimbursement for part or all of the cost of their unilateral private school placement. 34 CFR §300.403(c). The specific requirements relating to disputes about FAPE are not addressed by this guidance. Rather, the guidance set forth in this question and answer document focuses on the responsibilities of public agencies to provide for the participation of all children with disabilities placed by their parents in private schools in the Part B program in accordance with 34 CFR §§300.450-300.462.

The Department believes that the right of parents to choose where their children should be educated, whether at public or private school, is extremely important. Nevertheless, the rights of parentally-placed private school children with disabilities under Part B are not the same as those of children with disabilities who are enrolled in public schools and are served at public agency programs or public agency placements at private schools.

In the 1997 reauthorization of IDEA, Congress amended Part B to include explicit statutory provisions that reflect the Department's longstanding interpretations of the obligations of State and local educational agencies (SEAs and LEAs) to parentally-placed private school children with disabilities under Part B and the Education Department General Administrative Regulations (EDGAR). The following is a brief summary of the major applicable provisions in IDEA '97 that are relevant to parentally-placed private school children with disabilities:

- (1) Provision is made for the participation of children with disabilities enrolled by their parents in private preschool, elementary, and secondary schools, consistent with their number and location in the State, in the program assisted or carried out under Part B by providing for such children special education and related services;
 - (2) Activities are conducted to locate, identify, and evaluate children placed by their parents in private schools, including religious schools, who may need special education and related services. This requirement is known as child find;
 - (3) A proportionate amount of the Federal funds available under Part B is expended for services for parentally-placed private school children with disabilities, and
 - (4) Special education and related services may be provided to parentally-placed private school children with disabilities on the premises of private, including religious schools, in a manner that does not violate the Establishment Clause of the First Amendment to the U.S. Constitution and is consistent with applicable State constitutions and laws.
- 20 U.S.C. §1412(a)(10)(A); 34 CFR §300.451-300.462.

Department regulations at 34 CFR §§300.450-300.462, which implement the above statutory provision, also contain some of the general provisions governing the participation of children

enrolled in private schools in programs assisted or carried out with Federal education program funds at 34 CFR §§76.651-76.662 of EDGAR that apply to a number of other Department programs.

Let me emphasize that there is nothing in IDEA '97 or the final Part B regulations that alters or diminishes school districts' obligations to ensure the equitable participation of parentally-placed private school children with disabilities in programs assisted or carried out under Part B. Nor is there anything in the Statute or the implementing regulations that is intended to confer an individual entitlement on these children. However, the statute and regulations in no way prohibit States or local school districts from providing services to parentally-placed private school children with disabilities in excess of those required under Part B, consistent with State law or local policy.

The attached questions and answers have been prepared to assist state and local education officials and private school representatives, as well as parents of children with disabilities in understanding the requirements of Part B, as amended by IDEA '97, and the implementing regulations that relate to the participation of parentally-placed private school children with disabilities in programs assisted or carried out under Part B. This question and answer document represents informal policy guidance; however the statute and regulations upon which it is based are binding on public agencies receiving funds under Part B. Therefore, the statute and regulations which constitute the legal authority for this document--20 U.S.C. §1412(a)(10)(A) and 34 CFR §§300.450-300.462--should be used for legal citation purposes.

We hope that the attached question and answer document is helpful. Please ensure that this document is widely disseminated throughout your State so that this information can be provided to a large variety of interested individuals and organizations. If you or members of your staff have questions, please contact either of the contact persons whose names and telephone numbers are listed at the top of this memorandum.

Attachment

cc: State Directors of Special Education
Federal Resource Center
Regional Resource Centers
Office of Non-Public Education
Secretary's Regional Representatives
National Disability Organizations
Protection and Advocacy Agencies
Parent Training and Information Centers
RSA Regional Commissioners
Independent Living Centers

**Questions and Answers on Obligations of Public Agencies
in Serving Children with Disabilities
Placed by Their Parents at Private Schools**

I. Child Find

Question 1: What is child find for parentally-placed private school children with disabilities?

Answer: The Individuals with Disabilities Education Act Amendments of 1997, Pub. L. 105-17 (IDEA '97) clarify the Department's longstanding policy and explicitly provide that the child find requirements in section 613(a)(3) of IDEA apply to private school children, including religious school children. 20 U.S.C. §1412(a)(10)(A)(ii). Child find refers to ongoing activities undertaken by SEAs and LEAs to locate, identify, and evaluate all children residing in the State who are suspected of having disabilities under Part B of IDEA (Part B), so that a free appropriate public education (FAPE) can be made available to all eligible children. 34 CFR §§300.121, 300.125 and 300.220. (For parentally-placed private school children with disabilities, the offer of FAPE is accomplished by offering to make available to an eligible child a public agency program or a public agency placement at a private school. Parents can choose not to accept public education in favor of their parental private school placement.) Under Part B, each LEA must conduct child find for all children in public and private schools, including religious schools, residing in the jurisdiction of the LEA, regardless of the severity of their disability, who are in need of special education and related services. 34 CFR §300.451.

In carrying out child find for parentally-placed private school children, SEAs and LEAs undertake activities similar to those undertaken for their publicly enrolled or publicly-placed children, such as widely distributing informational brochures, providing regular public service announcements, staffing exhibits at health fairs and other community activities, and creating direct liaisons with private schools. Once children are identified who are suspected of having disabilities under Part B, LEAs must have procedures for conducting, at no cost to parents, Part B evaluations of such children residing in their jurisdiction within a reasonable period of time and without undue delay.

Since public agencies need to have data to develop an accurate count of the total number of eligible private school children with disabilities residing in their jurisdiction in calculating the proportionate share of their Part B subgrant that must be expended annually for services for these children, child find for parentally-placed private school children with disabilities is particularly important.

Question 2: Can amounts expended for child find, including individual evaluations, be deducted from the required amount of funds to be expended on services for parentally-placed private school children with disabilities?

Answer: No. The statutory provisions regarding child find and participation of parentally-placed private school children with disabilities in programs assisted or carried out under Part B of IDEA are separate and distinct obligations. The child find obligation, including individual evaluations, exists independently from the services provision. (Compare 20 U.S.C. §1412(a)(3))

with 20 U.S.C. §1412(a)(10)(A)). Therefore, the costs of child find activities, including individual evaluations, may not be considered in determining whether an LEA has met the annual expenditure requirement for services for parentally-placed private school children with disabilities under Part B. 34 CFR §300.453(c).

Question 3: Must child find for private, including religious-school children be comparable to child find for public school children?

Answer: Yes. Activities undertaken to carry out child find for parentally-placed private school children, including religious-school children, must be comparable to activities undertaken for child find for children in public schools. 34 CFR §300.451(a). This would include the timing of these activities, and LEAs may not delay conducting child find, including individual evaluations, for parentally-placed private school children with disabilities until after child find for publicly-enrolled or publicly-placed children has been conducted. In determining how and when to carry out child find, public agencies must consult with appropriate representatives of parentally-placed private school children with disabilities. 34 CFR §300.451.

Question 4: How can LEAs meet their child find obligations for parentally-placed private school children residing in their jurisdiction, including religious schools?

Answer: LEAs can choose to meet this obligation by conducting the relevant activities or through contract, interagency agreement with some other entity, or through some other arrangement. If such an arrangement were undertaken, the LEA, and ultimately the SEA, still would retain responsibility for ensuring that all applicable Part B requirements are met. Whether an LEA could contract with a private school to conduct certain aspects of its child find, including individual evaluations, would have to be determined on a case-by-case basis.

Question 5: May LEAs restrict their child find activities to children with certain disabilities, and exclude from child find some children, if the LEA determines, through consultation, that it will offer its population of parentally-placed private school children with disabilities only certain specified services?

Answer: No. In conducting child find of all children residing in their jurisdiction, LEAs must identify and evaluate all children suspected of having any disabilities specified in Part B, regardless of whether such children are parentally-placed at private schools, including religious schools. 34 CFR §§300.125 and 300.220. Therefore, LEAs may not exclude children suspected of having certain disabilities, such as those with mild or moderate disabilities, from their child find activities. This is so, regardless of whether State laws or policies specify which children parentally-placed at private schools suspected of having certain disabilities must be evaluated.

Question 6: Once parentally-placed private school children suspected of having disabilities under Part B are identified, are the requirements applicable to evaluations of such children the same as requirements applicable to other children suspected of having disabilities?