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ABSTRACT

Reported are proceedings of hearings held on March 9 and 21, 1973 before the select subcommittee on Education of the Committee on Education and Labor of the House of Representatives on House Resolution 4199, a bill to extend the Education of the Handicapped Act for three years. Considered are appropriations for specific parts of the bill dealing with assistance to states for education of handicapped children, centers and services training of personnel, educational research, instructional media, and special programs for children with learning disabilities. Included are names and testimonies of individuals who spoke on behalf of the act's extension, such as Dr. Jack Dinger, William Geer, Executive Secretary, and Frederick J. Weintraub, Assistant Executive Secretary, all of the Council for Exceptional Children; Elizabeth Johns, representing the American Speech and Hearing Association; and Lloyd Nolan, stage and screen actor, and honorary chairman of the National Society of Autistic Children. Also included is a summary on pending and completed litigation regarding education of handicapped children. (MC)

EDUCATION OF THE HANDICAPPED ACT AMENDMENTS

HEARINGS

BEFORE THE

SELECT SUBCOMMITTEE ON EDUCATION

OF THE

COMMITTEE ON EDUCATION AND LABOR

HOUSE OF REPRESENTATIVES

NINETY-THIRD CONGRESS

FIRST SESSION

ON

H.R. 4199

A BILL TO EXTEND THE EDUCATION OF THE HANDICAPPED ACT FOR THREE YEARS

HEARINGS HELD IN WASHINGTON, D.C., MARCH 9 AND 21, 1973

Printed for the use of the Committee on Education and Labor

CARL D. PERKINS, *Chairman*

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EDUCATION OF THE HANDICAPPED ACT AMENDMENTS

FRIDAY, MARCH 9, 1973

House of Representatives,
Select Subcommittee on Education
of the Committee on Education and Labor,
Washington, D.C.

The subcommittee met at 9:45 a.m., pursuant to notice, in room 2175, Rayburn House Office Building, Hon. John Brademas (chairman of the subcommittee) presiding.

Present: Representatives Brademas, Meeds, Landgrebe, Hansen, and Sarasin.

Staff members present: Jack G. Duncan, counsel; James Harvey, assistant staff director; Gladys Walker, clerk, and Martin LaVor, minority legislative associate.

[H.R. 4199, 93d Cong., First Sess.]

[Text of H.R. 4199 follows:]

A BILL To extend the Education of the Handicapped Act for three years

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 604 of the Education of the Handicapped Act is amended by adding at the end thereof the following new sentence: "Subject to section 448(b) of the General Education Provisions Act, the Advisory Committee shall continue to exist until July 1, 1976."

Part B—Assistance to States for Education of Handicapped Children

Sec. 2. Section 611(b) of the Education of the Handicapped Act is amended by striking out "and" after "1972," and by inserting before the period at the end thereof the following: ", $300,000,000 for the fiscal year ending June 30, 1974, $350,000,000 for the fiscal year ending June 30, 1975, and $400,000,000 for the fiscal year ending June 30, 1976".

Sec. 3. Section 612(a)(1)(B) of such Act is amended by striking out "1973" and inserting in lieu thereof "1976".

Part C—Centers and Services To Meet Special Needs of the Handicapped

Sec. 4. Section 626 of such Act is amended by striking out "and" after "1972," and by inserting after "1973," the following: "$75,000,000 for the fiscal year ending June 30, 1974, $80,000,000 for the fiscal year ending June 30, 1975, $85,000,000 for the fiscal year ending June 30, 1976,".

Part D—Training Personnel For The Education of the Handicapped

Sec. 5. Section 636 of such Act is amended by striking out "and" after "1972," and inserting before the period at the end thereof the following: ", $110,000,000 for the fiscal year ending June 30, 1974, $115,000,000 for the fiscal year ending June 30, 1975, and $120,000,000 for the fiscal year ending June 30, 1976".

PART E—RESEARCH IN THE EDUCATION OF THE HANDICAPPED

SEC. 6. Section 644 of such Act is amended by striking out "and" after "1972," and by inserting after "1973," the following: "$50,000,000 for the fiscal year ending June 30, 1974, $55,000,000 for the fiscal year ending June 30, 1975, and $60,000,000 for the fiscal year ending June 30, 1976,".

PART F—INSTRUCTIONAL MEDIA FOR THE HANDICAPPED

SEC. 7. Section 664 of such Act is amended by inserting after "1973," the following: ", $35,000,000 for the fiscal year ending June 30, 1974,".

PART G—SPECIAL PROGRAMS FOR CHILDREN WITH SPECIFIC LEARNING DISABILITIES

SEC. 8. Section 661(c) of such Act is amended by striking out "and" after "1971," and by inserting before the period at the end thereof the following: ", $35,000,000 for the fiscal year ending June 30, 1974, $40,000,000 for the fiscal year ending June 30, 1975, and $45,000,000 for the fiscal year ending June 30, 1976".

Mr. BRADEMAS. The Select Subcommittee on Education will come to order for the purpose of receiving testimony on H.R. 4199, a bill to extend for 3 years the Education of the Handicapped Act.

The Chair would observe initially that this legislation, Public Law 91–230, is scheduled to expire on June 30, 1973. I must say, speaking for myself that I feel we must act now to insure that the Federal effort in the education of handicapped children continues without disruption.

The Chair would also observe at the outset that although the Federal effort in assisting the States in the education of handicapped children has been substantial in the past few years, we still have a long road to travel before reaching our goal of providing every handicapped child with the special educational services he needs.

For example, although the Federal investment, in the training of special education teachers, rose from $2.5 million in fiscal year 1962 to $34.6 million in fiscal year 1972—during which period the number of teachers working with handicapped children rose from 20,000 to 162,000—if we are to provide special educational services to the 7 million handicapped children who require them, we shall need 300,000 specially trained teachers.

The Chair would also observe that in the past 5 years, Federal dollars to assist States educate handicapped children have increased from $45 million to $250 million.

The States advise us, however, that less than one-half of the children who need special education programs are presently being served.

Clearly these figures show the need for prompt action so that we can continue the programs authorized by the Education of the Handicapped Act for the benefit of our disabled children.

This act provides grants to States for the education of preschool, as well as elementary and secondary school handicapped children, including the mentally retarded and the emotionally disturbed.

The act also authorizes centers to meet the special educational needs of handicapped children as well as personnel training, research in education and recreation for the handicapped, and a national center on educational media and materials for the handicapped.

The subcommittee is privileged to have a distinguished list of witnesses scheduled to appear before us this morning.

I would like to caution our witnesses that, in the interest of hearing from everyone, they should summarize the main points of their testimony, and we shall be pleased to insert their complete statements in the official record of the hearings.

If we fail to do that, the Chair wants to observe, it will simply be impossible for us to hear everyone.

Our first witnesses this morning are Dr. Jack Dinger, president-elect of the Council for Exceptional Children and chairman of the department of special education, Slippery Rock State College, Slippery Rock, Pa.

Dr. Dinger is accompanied by William Geer, executive secretary of the council, and Frederick J. Weintraub, assistant executive secretary of the Council for Exceptional Children.

Gentlemen, we are pleased to see you.

STATEMENT OF DR. JACK DINGER, PRESIDENT-ELECT, COUNCIL FOR EXCEPTIONAL CHILDREN AND CHAIRMAN OF THE DEPARTMENT OF SPECIAL EDUCATION, SLIPPERY ROCK STATE COLLEGE, SLIPPERY ROCK, PA., ACCOMPANIED BY WILLIAM GEER, EXECUTIVE SECRETARY, COUNCIL FOR EXCEPTIONAL CHILDREN, AND FREDERICK J. WEINTRAUB, ASSISTANT EXECUTIVE SECRETARY, COUNCIL FOR EXCEPTIONAL CHILDREN

Dr. DINGER. Mr. Chairman, I am Dr. Jack Dinger. The Council for Exceptional Children is a national organization of 47,000 members concerned about the education of handicapped children.

The officers and members of the Council for Exceptional Children would like for you to know that we are deeply appreciative of the efforts of this committee over the past years on behalf of handicapped children.

We are particularly impressed and appreciative of your leadership of this committee, Mr. Chairman, and Congressman Hansen. The handicapped has so few people speaking for them that we need every advocate we can get.

Your contributions on behalf of these children have been most significant. The essence of our visit here this morning is to make certain that your committee is aware of the Council for Exceptional Children support of H.R. 4199 which is designed to extend the Education of the Handicapped Act which we recognize as the foundation of all Federal support for the education of handicapped children.

Our formal statement of our support of H.R. 4199 goes into a great deal of depth on each of the six separate program parts of the Education of Handicapped Act and rather than repeating this detailed statistical report I would like to make a few brief comments to illustrate the impact and the importance of this program as we see them.

In this country there are 7 million handicapped children. Six million of these are school age and it seems incredible that in 1973, with all of the wealth and technology that this country possesses, that there are only 2½ million or 39 percent of these children now receiving any kind of specialized educational services which their handicap would merit.

Conversely, there are about 3½ million of these children who are receiving no special education services. And it seems even more incredible that 1 million of these children are receiving no educational services whatsoever.

They are not in school at all, still in 1973.

Bad as these numbers may sound, if we put this into perspective, we have made a great deal of progress and things are much better today than they were before the Education of the Handicapped Act programs began back in 1958. There has been a vast improvement in the services available to a rapidly increasing number of handicapped children since that date.

We are greatly impressed also with leadership and services provided through Bureau of Education for the handicapped. And in order to make these services a reality they have done a fine job of implementing this act.

While the majority of financial support for education of handicapped children has come from the States and communities, the Federal stimulation and support to the States and to the teacher training institutions has made much of this surge of progress a reality.

Some of the evidences of this that we have seen has been the appearance quite recently as a direct result of this Federal support by this act of such programs as the education of severely and profoundly retarded and education of the seriously emotionally disturbed and recently the education of preschool handicapped children.

Some States are now creating regional resources to help as in the pooling of deaf and blind children together, that we might educate them through 10 regional centers for the deaf-blind.

I think one of the things we might say this morning about the benefits or the impact of this act was rather well stated by one of our directors of special education in a State who said that the Educationally Handicapped Act funds enable us to get out in front of ourselves and to pull the rest of the system along with us.

We have seen the development of many programs within many States aimed at special target populations such as the early childhood group those from birth to 5 years of age who attempt to intervene before the handicap has developed to such proportions that it could not be solved or it would take much longer time and money to solve it.

The model programs that have been developed through these funds of this act have enabled other types of handicapped children in various locations to be established and other States and locations can see these model programs and duplicate them and can set State legislation financing in order to make parallel duplicate models happen.

For the various sections of this act, I am most familiar with the section D, as it relates to the special education manpower production element in the training and special education children.

While you may hear of teacher surpluses in other areas of education I can assure you there is no surplus of teachers in special education.

The Bureau of Education for the handicapped reports the needs for special education teachers for all areas of handicaps as reported by all 50 States to be in excess of 245,000 teachers needed today.

Mr. BRADEMAS. What was that figure again?

Dr. DINGER. 245,000 teachers of special education required yet today. I can validate a tiny piece of this need by stating that every special education teacher that we can prepare at Slippery Rock State College has a job waiting for him and in many cases many job offers.

Across the Nation we have set in motion through leadership, a very fine system of teacher training to meet the demand for more of these highly qualified special lists who are needed to supply these 245,000 unfilled classrooms for handicapped children.

If you would permit a personal observation about the growth of these type of programs, I went to Slippery Rock 10 years ago to start a teacher training program in special education.

The program consisted of 26 students and I was the total faculty. Now 10 years later we have over 700 students in this program which represents one out of every nine students on our campus and we have 12 full-time faculty members.

This kind of growth, both in numbers and we hope quality of program, in our institution and all of the teacher training institutions around the country, particularly those funded by VEH, we think are leading to the supply of this huge gap in personnel requirements to serve these 245,000 classrooms that are yet unfilled.

So we plead that we need to finish this manpower production project which this act has so effectively started.

For the sake of brevity. I will not go into the excellent results we see emerging from the research and project for which we hear excellent results being reported.

Our formal statement contains a clear picture of the effects of these services. I would like to give one example of how Federal support from this act did produce a service and a product of national importance which could not and would not have been developed by any State or any college or any commercial publisher and I refer to Project Life. an anachronism for language instruction to facilitate education for the deaf.

As you know, teaching a deaf child and to develop the language to use to express himself and to go about asking for more information is an extremely difficult task. This project has had top specialists in deaf education and language development working on a type of pupil self-instruction in language development for many years and at a very high cost.

We have had meticulous detailed work going into this and the project has now reached the stage of success where it can be produced and made commercially available to all educators around the country.

We have found that it not only helps deaf children to learn to use his own language system but it has been found to be a great help to retarded, brain damaged and learning disability children as well.

This I think will be one concrete example of how Federal funds have been used to make something happen that could not have happened any other way.

In summary the Education of Handicapped Act has done a great deal for handicapped children of the Nation. We of the Council for Exceptional Children do recognize, however, the needs for another 3½ million children whose needs are yet unserved by any special educational services which their handicap might require.

A new sense of urgency has been forced upon us by the courts in very recent years, 2 years. The court in Pennsylvania has said that we must provide immediately for the educational services to the severely and profoundly retarded who have been denied their educational opportunities in the schools down through history and this landmark decision has been the catalyst for a number of other States and their courts are saying the same thing that these children must be served and must be served now regardless of the cost.

This is going to be paralleled and duplicated by the same court decisions about other types of handicapped children who have been excluded from services in the schools. You have a yellow brochure attached to our formal statement entitled, "A Continuing Summary of Pending and Completed Litigation Regarding the Education of Handicapped Children," regarding education of handicapped children in which these type of court decisions and mandates are presented in very brief form.

All of the 47,000 members of the Council for Exceptional Children are working toward the day when we will be able to say that every handicapped child has been provided with an opportunity for the appropriate educational services, a correctly designed program, and a highly qualified teacher to teach him.

That day will come but it is going to be sometime yet before that day does arrive. The need for further service from the Education of the Handicapped Act is clearly before us and now is not the time to stop this vital service provided under this act.

The Council for Exceptional Children reiterates its strong support of H.R. 4199 and hopes that this committee will give it prompt attention.

We also hope that at a later date the committee will give its attention to a bill which addresses itself to the even larger question of helping States and communities offset the direct and expensive cost of educating all handicapped children.

Mr. Chairman, the Council for Exceptional Children is proud to note that you have already shown your sensitivity to this larger issue by introducing H.R. 70, the Education of the Handicapped Children's Act.

I should like to thank you very much for this opportunity to present the views of the Council for Exceptional Children on H.R. 4199 today.

We of the Council for Exceptional Children again offer any and all assistance we might provide to your future considerations of this final issue and finally if I might add a personal appreciation for the opportunity provided by our national legislative system whereby an unknown person like myself from a very small college and very tiny town in western Pennsylvania, could have the privilege of coming before you here this morning in Washington and adding my views for your consideration of this act.

This is something very good about a government which encourages this type of input from persons like me.

I have been greatly impressed with this new experience of appearing before you on behalf of this act and I think you for hearing me this morning.

[The prepared statement and brochure follows:]

Statement of Dr. Jack C. Dinger, President-Elect, the Council for Exceptional Children, and Professor and Chairman, Department of Special Education, Slippery Rock State College, Slippery Rock, Pa.; Accompanied by William C. Geer, Executive Director, the Council for Exceptional Children, Washington, D.C.; Frederick J. Weintraub, Assistant Executive Director for Government Relations, the Council for Exceptional Children

Mr. Chairman, members of the committee, it is indeed a pleasure to come before this distinguished panel to offer the comments of The Council for Exceptional Children relative to The Education of the Handicapped Act from the standpoint of services provided for this nation's handicapped children.

At the outset, let me emphasize again—in concert with the feelings of past officers of The Council for Exceptional Children—the real and deep gratitude of all of us in the special education profession for the remarkable concern for and efforts on behalf of handicapped children demonstrated by this Subcommittee of the Education and Labor Committee, especially in recent years. This committee long ago acknowledged the special responsibility of the national government for the education of America's exceptional children; and the Education of the Handicapped Act is a singular monument to this committee's attention and this committee's diligence.

And to you in particular, Mr. Chairman, may I extend my special thanks. Throughout your stewardship as chairman of this subcommittee, you have been an unrelenting protector of the interests of handicapped children and an equally unrelenting advocate of their special needs.

Let me make it absolutely clear that The Council for Exceptional Children endorses H.R. 4199 to extend the Education of the Handicapped Act, the foundation of present federal support for the handicapped in education.

Permit me to review briefly the components of this most effective legislation:

(See Appendix A, expenditures by state for handicapped.)
(See Appendix B, handicapped served by state.)
(See Appendix C, state of EHA, authorization, appropriations.)

AID TO STATES PROGRAM

The state grant program under Part B (Title VI) has acted as a most useful catalyst to local and state program growth. Joint planning with the states under this program has meant increased programming on a comprehensive basis involving other federal programs (such as the Elementary and Secondary Education Act Titles I and III) as well as local services.

With appropriation levels for Fiscal 1972 and Fiscal 1973 totalling $37.5 million, this program has stimulated new educational opportunities for an encouraging 215,000 handicapped children in 1972 according to the Bureau of Education For The Handicapped (See Appendix C). The catalytic effect of what might be described as the "seed monies" provided under Part B should not be underestimated. (See Appendix D, grants by states, Title VI B).

Members of this committee may be interested in noting the unusually wide disparity between the authorization level approved by the Congress for Title VI B for Fiscal 1973 and the estimated actual expenditures for Fiscal 1973, i.e. $200 million compared to the actual $37.5 million. (See Appendix C)

SPECIAL TARGET PROGRAMS

The special target programs under the aegis of Part C of the Education of the Handicapped Act have tremendous impact upon our total effort on behalf of exceptional children. (See Appendix E, special target programs by state.)

For instance, the ten regional Deaf-Blind Centers coordinate resources and services for approximately 1,700 deaf-blind children in those regions. As you know, the number of deaf-blind children increased dramatically as a result of the 1964–65 rubella epidemic. In fact, over 4,500 children have been located and identified through the regional deaf-blind program as of December, 1972. The regional centers provide not only educational services (residential and day care) but also diagnostic counseling and tutorial services.

Let me also make brief mention of the crisis care facilities operated under this authority in which approximately 100 children are enrolled. These facilities are aimed at achieving appropriate placement of deaf-blind children in other programs and providing assistance to the parents. A byproduct of such crisis care units not to be underestimated is the reduction of personal anxiety for the parents themselves.

I am pleased to note, as well, the plans at BEH for greatly expanded services at the centers beginning in September 1973. Anticipated are: educational services for 2,900 children in residential and day care facilities; crisis care services for 200 children and their families; diagnostic and educational assessment for 700 children; parent counseling for parents of 2,200 children; inservice training for 1,200 educators, professionals, and parents; summer school and camp programs for 500 children.

Another vital special target component under Part C is the early education programs. This program originally established as the Handicapped Children's Early Education Assistance Act (Public Law 90-538) has as its purposes to:

1. Provide parents with counselling and guidance so that they may effectively respond to the special needs of their handicapped children.
2. Develop programs and materials designed to meet the unique needs of preschool handicapped children and to prepare personnel to work with such children.
3. Acquaint the community with the problems and potentials of handicapped children.
4. Insure continuity of education by demonstrating coordination between various private and public agencies providing services to the handicapped.

The importance of early education for handicapped children can not be minimized. For many handicapped children the early years are nothing more than a period of waiting. While other children develop their readiness skills for education from exploring their environments, the blind child and the physically handicapped child remain confined to rooms or homes because of no mobility training; the deaf child remains in a world without communication, because no effort is undertaken to develop existing hearing or other communication channels; the retarded child falls further behind his peers, because no high intensity teaching program is provided and the disturbed child becomes more and more a social outcast, because no one will help him resolve his problems.

Research is clearly demonstrating that we could reduce the demands for special education services within the compulsory school age range or at least the duration of such services, if comprehensive preschooling were available. Realizing this, many states have begun to undertake this responsibility on their own. As we move in this direction the experimental early childhood education programs and its present centers will be critical.

Part C of the Education of the Handicapped Act also authorized the development of regional resource centers to assist teachers and administrators of programs for handicapped children in bringing effective educational services to the entire population of exceptional children. The six centers now in existence served more than 25,000 handicapped children in eighteen states with direct and indirect services in 1973.

The current goals of these centers reflect their overall mission since being created:

1. Provide educational testing and evaluation services for the children referred to them—especially the severely handicapped.
2. Develop individual prescribed educational programs.
3. Assist state and local agencies in finding handicapped children currently not enrolled in schools and recommend suitable programs.

It is anticipated that approximately 40,000 handicapped children will receive comprehensive services from the centers in 1973: and, since emphasis in the centers is being placed upon the too often hidden and unassisted severely handicapped, it is further anticipated that an additional 2,000 severely and multiply handicapped children will be served. (See Appendix E)

And finally, in the special target category, recognition must be given to the program in learning disabilities (Part G, EHA). The National Advisory Committee on the Handicapped reported in 1969 that some 600,000 to 1,800,000 or one to three percent of the total school-age population have specific learning disabilities. The federal effort is aimed at exploring the nature of the disorders, discovering approaches to treatment, and stimulating an expanded supply of teachers to effectively deal with these disabilities. Grants are made to state education agencies to establish model centers and state program plans for these children. It is expected that during 1973, 40 states will be receiving grants under this program.

The State Education Agencies are required to:

1. Conduct a specific learning disabilities intervention program.
2. Evaluate that program.
3 Design a process for determining the validity of the intervention model.
4. Develop a plan for implementation of that model.

Total federal expenditures for Fiscal 1973 for the learning disabilities project are $3.25 million. (See Appendix E for state by state distribution.)

PERSONNEL TRAINING

Part D of the Education of the Handicapped Act provides for the training of personnel for the education of the handicapped. Much has been accomplished under the authority of this section in the preparation of teachers and other personnel; but perhaps the best way to illustrate the importance of this federal program authority would be to cite the immense unmet need in the preparation of personnel.

If we are to extend quality educational services to *all* handicapped children under current teacher-student ratios, we must have an additional 245,000 teachers for school-age children and 60,000 for preschool children . . . that is notwithstanding the need to upgrade and update the 133,000 teachers currently in service, of whom nearly one-half are uncertified.

The $84 million provided in FY 1973 to states and colleges and universities (See Appendices F and G) has been a critical factor in making educational opportunities for handicapped children a reality. With the movement to provide education for all handicapped children the continuance and growth of this program is imperative.

RESEARCH AND DEMONSTRATION

Research and demonstration is also a vital component of the EHA package. since it supports applied research and related activities. For instance, in 1972 research was produced further demonstrating that retarded children can be taught effective strategies for learning. One project provided learning experiences via educational television for over 200 children in North Carolina. Other research under this component has led to training programs for teachers of low vision children; major curriculum development in the area of programs in the area of post-secondary school vocational training for hearing impaired youth; a computer-assisted course of instruction designed to acquaint regular teachers with the identification of handicapped children in their classrooms. The list trails on impressively; this federal investment must be continued.

Research and demonstration (EHA Part E, Sec. 641 and 642) has been obligated at a level of $9.9 million in Fiscal 1973, and the Administration proposed maintaining that level of funding in Fiscal 1974. In Fiscal 1973, some $7.9 million will have been obligated for continuing research with the remaining $2 million applied to new research. Approximately the same division between the "new" and "continuing" is estimated for Fiscal 1974.

For Fiscal 1974, research priorities have been assigned to improving the delivery of services in preschool education, in establishing new initiatives in career education and supporting continuing education programs for the adult deaf.

MEDIA SERVICES AND CAPTIONED FILMS

The Meda Services and Captioned Film program responds to the need to provide the handicapped child with special education materials. (Part F of the Education of the Handicapped Act) What are examples of accomplishments? In 1973, efforts such as the development of Computer Based Resource Centers have afforded teachers of handicapped children with detailed instructional strategies and materials. Nearly 500,000 CBRU's are in use now by about 75,000 teachers of the handicapped. Another example: Project Life, a programmed language system to teach handicapped children, and Project ME, a learning program for young handicapped children, are now well known. These programs started with the federal funds. Federal activities in the captioned TV area for deaf persons has meant the captioning and broadcasting of numerous programs over the Public Broadcasting Network, including the captioning and broadcasting of the recent Inaugural Address (a first attempt at the captioning of a national event for immediate broadcasting).

Media Services and Captioned Films were obligated at a funding level of $13 million in Fiscal 1973, and the budget proposes to maintain that obligation in Fiscal 1974. (See Appendix H) Objectives for Fiscal 1974 in the communication area show a continuation of many worthy initiatives in early childhood programs, in manpower development, in career education, as well as all full services, examples of which I have previously cited.

Simply by way of reiteration then, Mr. Chairman, The Council for Exceptional Children supports extension of the Education of the Handicapped Act for all of the reasons previously cited.

In closing, Mr. Chairman, I would like to offer a postscript relative to future considerations of the handicapped in relation to federal legislation. The fairly recent flurry of suits which have generated court decrees mandating full appropriate public education for exceptional children may be viewed in two aspects by this Congress: namely, a compliment to the even earlier determination of the Congress that handicapped children be in full possession of those very rights the courts are now demanding for them; and a signpost to the Congress of what may be new dimensions in the federal role.

It might be suggested that what has thus far been a useful and productive relationship between the federal government and handicapped children may in time become a fullblown partnership.

With the best information indicating that, of the six million handicapped children of school age, roughly sixty percent of these children are still not receiving appropriate special educational services and with the courts now decreeing that such services be provided (in significant cases nationwide)—you in the Congress are, of course, because of the force of events coupled with your own concerns, considering the question of increased federal educational support.

It is our conviction that the Education of the Handicapped Act is the foundation of the present and future federal commitment. The EHA maintains some vital basic services in the development of educational personnel, in continuing research, in model programs, in promoting flexibility from state to state, and perhaps, most significantly—in initiating the "untried" in numerous areas.

However, the joining of our own concerns with the growth of the "right to education" mandate have brought all of us to the next level in the public finance equation. Quite frankly, it is estimated that it will cost $7 billion to educate all handicapped children. The federal commitment is, at best, spending some $230 million. The federal government is providing only slightly more than 3 percent of the cost of educating handicapped children, while providing almost 7 percent of the cost of educating all other children.

In consequence, this distinguished committee confronts the basic dilemma: shall an excellent program of stimulation and improvement represented by the EHA be expanded into a partnership in which the federal government does in fact share a significant position of the overall cost of the education of the handicapped?

That you, Mr. Chairman, have become highly sensitive to this question and have become determined to confront it is well illustrated by your introduction of the "Education for Handicapped Children Act," H.R. 70. Which we hope will be given the most serious consideration after the basic programs have been extended.

Let me say, finally, that all the resources of The Council for Exceptional Children will be at your disposal as you deliberate on this difficult problem.

APPENDIX A

STATE BY STATE COMPARISON OF SPECIAL EDUCATION EXPENDITURES, FISCAL YEAR 1972

[Dollar amounts in thousands]

State	Total State education expenditures	Total State special education expenditures	Percent of funds expended for special education
Alabama	$465,221	$11,576	2.49
Alaska	151,586	4,488	2.96
Arizona	444,030	11,967	2.70
Arkansas	289,012	3,046	1.05
California	4,524,818	294,000	6.50
Colorado	555,349	22,429	4.04
Connecticut	788,742	66,304	8.41
Delaware	190,000	5,381	2.83
District of Columbia	204,443	4,887	2.39
Florida	1,383,147	57,451	4.15
Georgia	873,067	18,485	2.12
Hawaii	218,738	5,455	2.49
Idaho	147,297	2,551	1.73
Illinois	2,648,941	131,464	4.96
Indiana	1,100,179	28,121	2.56
Iowa	767,208	26,517	3.46
Kansas	489,158	23,686	4.84
Kentucky	487,273	14,594	3.00
Louisiana	763,062	15,070	1.97
Maine	219,712	2,900	1.32
Maryland	1,164,454	24,272	2.08
Massachusetts	1,121,059	36,724	3.28
Michigan	2,720,628	94,368	3.47
Minnesota	1,039,735	47,187	4.54
Mississippi	377,764	6,146	1.63
Missouri	870,542	62,239	7.15
Montana	160,919	7,442	4.62
Nebraska	281,200	11,659	4.15
Nevada	136,200	4,200	3.08
New Hampshire	148,244	3,832	2.58
New Jersey	1,959,000	78,392	4.00
New Mexico	248,615	6,756	2.72
New York	5,524,988	344,304	6.23
North Carolina	893,509	26,000	2.91
North Dakota	117,100	9,765	8.34
Ohio	2,255,000	60,400	2.68
Oklahoma	400,672	8,771	2.19
Oregon	498,557	8,743	1.75
Pennsylvania	2,801,000	114,310	4.08
Rhode Island	204,327	10,130	4.96
South Carolina	482,550	13,380	2.77
South Dakota	137,664	2,033	1.91
Tennessee	639,237	31,424	4.92
Texas	2,165,745	86,500	3.99
Utah	238,842	15.722	6.43
Vermont	143,544	3,205	2.23
Virginia	1,079,350	39,002	3.61
Washington	821,571	45,859	5.58
West Virginia	298,935	3,369	1.13
Wisconsin	1,077,007	54,038	5.02
Wyoming	84,341	3,169	3.74

APPENDIX B

HANDICAPPED CHILDREN: STATE BY STATE BREAKDOWN[1]

State	Number of handicapped children	Number of handicapped children served	Percent served
Alabama	111,149	22,384	20
Alaska	5,050	1,875	37
Arizona	40,059	12,678	32
Arkansas	121,665	12,492	10
California	541,085	321,765	59
Colorado	75,855	37,566	50
Connecticut	89,866	35,344	39
Delaware	15,722	8,351	53
District of Columbia	21,907	9,568	44
Florida	139,843	105,321	75
Georgia	129,864	65,061	50
Hawaii	19,590	9,016	46
Idaho	36,561	8,595	24
Illinois	255,381	180,877	71
Indiana	145,091	86,599	60
Iowa	94,731	36,521	38
Kansas	54,556	27,713	51
Kentucky	78,386	24,331	31
Louisiana	122,344	45,056	37
Maine	30,743	6,758	22
Maryland	123,639	66,359	54
Massachusetts	108,612	63,466	58
Michigan	288,297	165,018	57
Minnesota	122,665	76,432	62
Mississippi	116,066	16,587	14
Missouri	221,578	65,116	29
Montana	23,600	5,358	23
Nebraska	93,568	23,734	25
Nevada	13,640	6,300	46
New Hampshire	19,374	6,070	31
New Jersey	231,055	99,189	43
New Mexico	53,126	8,655	16
New York	372,811	221,219	59
North Carolina	172,580	73,739	43
North Dakota	47,215	3,947	8
Ohio	335,898	175,300	52
Oklahoma	144,586	23,746	16
Oregon	48,004	26,274	55
Pennsylvania	265,449	156,830	59
Rhode Island	39,475	13,475	34
South Carolina	106,505	38,275	36
South Dakota	17,795	4,414	25
Tennessee	131,903	49,173	36
Texas	777,731	175,662	23
Utah	44,179	27,079	61
Vermont	20,631	4,612	22
Virginia	146,748	44,768	30
Washington	79,294	64,223	81
West Virginia	80,561	15,161	19
Wisconsin	155,813	66,236	43
Wyoming	18,475	2,665	14
Total	6,559,301	2,557,551	39

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[1] Fiscal year 1972 data.

APPENDIX C

STATUS OF: AUTHORIZATION, APPROPRIATIONS, REQUESTS EDUCATION OF THE HANDICAPPED ACT (ESEA TITLE VI)

[In millions of dollars]

Program	Title VI Public Law 91-230 and purpose	Fiscal 1972 appropriations	Fiscal 1973 authorization	Fiscal 1973 estimated, actual	Fiscal 1974 administration budget request
Grants to States	Pt. B—Grants to States to initiate, expand and improve programs and projects for education of the handicapped.	$37.50	$220.00	$37.50	[1] $37.50
Preschool education	Pt. C—To provide grants for research and demonstration projects relating to preschool and early childhood education.	7.50		12.00	12.00
Regional resource centers	Pt. C—To create regional resource centers to provide educational evaluation and assistance in developing educational strategies for handicapped children.	3.55	66.50	7.24	7.24
Education of deaf-blind children	Pt. C—To provide for the establishment and operation of centers for children who are both deaf and blind.	7.50		10.00	10.00
Recruitment and information	Pt. D—To provide programs to recruit personnel in special education and to disseminate information on programs in the field and the public.	.50	103.50	.50	.50
Personnel training	Pt. D—To provide fellowships, traineeships and institutes for the training of professional personnel for education of the handicapped.	34.59		37.61	37.70
Research and demonstration	Pt. E—To support research and demonstration projects on the education of handicapped children.	11.17	45.00	9.91	9.91
Media services and captioned films.	Pt. F—Originally to provide films and other educational media for the deaf, loan service of material and research and training in the use of media. Now expanded to all areas of the handicapped.	10.50	20.00	13.00	13.00
Learning disabilities	Pt. G—To provide grants for research, personnel, training and model center development for children with specific learning disabilities.	2.25	31.00	3.25	3.25
Total includes funds for administration of programs.		115.06	486.00	131.01	131.10

[1] Transferred to revenue sharing.

APPENDIX D

EDUCATION FOR THE HANDICAPPED—STATE GRANT PROGRAM

State or outlying area	1972 actual	1973 estimate[1]	1974 estimate[2]
Total	$37,499,378	$37,500,000	
Alabama	714,722	623,197	
Alaska	200,000	200,000	
Arizona	281,316	292,683	
Arkansas	372,783	330,113	
California	3,000,969	3,385,395	
Colorado	357,041	401,127	
Connecticut	462,435	508,420	
Delaware	200,000	200,000	
Florida	921,515	1,071,232	
Georgia	853,556	832,051	
Hawaii	200,000	200,000	
Idaho	200,000	200,000	
Illinois	1,863,550	1,901,098	
Indiana	932,742	926,786	
Iowa	541,816	492,895	
Kansas	423,897	388,245	
Kentucky	638,302	572,173	
Louisiana	714,466	696,632	
Maine	200,000	200,000	
Maryland	618,153	691,156	
Massachusetts	939,707	958,174	
Michigan	1,587,955	1,624,522	
Minnesota	691,697	693,438	
Mississippi	500,272	423,539	
Missouri	803,303	789,238	
Montana	200,000	200,000	
Nebraska	272,180	248,063	
Nevada	200,000	200,000	
New Hampshire	200,000	200,000	
New Jersey	1,084,951	1,180,056	
New Mexico	220,142	200,000	
New York	2,917,989	2,934,166	
North Carolina	1,007,815	916,643	
North Dakota	200,000	200,000	
Ohio	1,902,397	1,875,154	
Oklahoma	459,249	430,532	
Oregon	349,280	355,386	
Pennsylvania	2,092,856	1,946,284	
Rhode Island	200,000	200,000	
South Carolina	561,765	494,334	
South Dakota	200,000	200,000	
Tennessee	741,666	678,849	
Texas	2,001,270	2,020,909	
Utah	207,289	210,893	
Vermont	200,000	200,000	
Virginia	826,445	822,173	
Washington	565,723	595,157	
West Virginia	393,108	296,941	
Wisconsin	782,823	800,113	
Wyoming	200,000	200,000	
District of Columbia	200,000	200,000	
American Samoa	70,000	70,000	
Guam	80,000	80,000	
Puerto Rico	652,233	652,233	
Trust territory	80,000	80,000	
Virgin Islands	80,000	80,000	
Bureau of Indian Affairs	130,000	130,000	

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[1] Distribution estimated on the basis of the 3-21 population, Apr. 1, 1970, with a minimum of $200,000. Three percent of the 50 States and the District of Columbia amount reserved for the outlying areas.

[2] Legislation will be submitted to consolidate this activity into special education revenue sharing.

APPENDIX E

SPECIAL TARGET PROGRAMS FISCAL YEAR 1972

	Early education pt. C	Deaf-blind center pt. C	Regional resource centers pt. C	Learning disabilities pt. C
Total	7,500,000	7,500,000	4,498,261	2,249,810
Region:				
I:				
Connecticut	110,000			
Maine	59,981			
Massachusetts	254,111	700,000	275,561	
New Hampshire	60,000			
Rhode Island	0			125,000
Vermont	39,500			
II:				
New Jersey	182,818			
New York	640,070	830,000	361,020	
Puerto Rico				125,000
Virgin Islands				
III:				
Delaware	0			
District of Columbia	155,264		259,843	
Maryland	125,000			
Pennsylvania	335,000			125,000
Virginia	198,000		399,557	125,000
West Virginia	90,000			125,000
IV:				
Alabama	228,333	795,000		
Florida	66,550			
Georgia	195,788			111,981
Kentucky	110,000		465,732	
Mississippi	230,000	350,000		25,000
North Carolina	241,030	550,000		
South Carolina	99,439			
Tennessee	196,758		316,963	
V:				
Illinois	287,501			
Indiana	110,000			
Minnesota	50,000			
Michigan	120,000	875,000	282,287	124,990
Ohio	125,000		250,000	64,585
Wisconsin	178,142		288,504	58,507
VI:				
Arkansas	51,342			
Louisiana	44,000			
New Mexico	167,251			125,000
Oklahoma	60,000			
Texas	390,412	975,000	360,124	125,000
VII:				
Iowa	165,777			123,515
Kansas	58,500		275,000	125,000
Missouri	185,000			
Nebraska	45,100		54,000	125,000
VIII:				
Colorado	147,988	800,000	275,000	
Montana	60,000			
North Dakota	50,000			
South Dakota	60,000			
Utah	60,000			
Wyoming	96,520			
Bureau of Indian Affairs				124,204
IX:				
Arizona	141,119			
California	559,541	975,000	339,698	367,028
Hawaii	60,000			
Nevada	99,834			
American Samoa				
Guam				
Trust territory				125,000
X:				
Alaska	59,700			
Idaho	100,000			
Oregon	233,331		294,972	
Washington	105,000	650,000		

APPENDIX F

BEH FUNDS OBLIGATED FISCAL YEAR 1972 MANPOWER

	Division of colleges and universities	S.E.A.	Total
Total	28,680,409	5,940,000	34,620,409
Region:			
I:			
Connecticut	578,225	106,541	684,766
Maine	170,200	67,893	238,093
Massachusetts	1,148,147	157,902	1,306,049
New Hampshire	20,000	61,750	81,750
Rhode Island	81,000	66,260	147,266
Vermont	190,110	56,360	246,470
II:			
New Jersey	307,300	188,332	495,632
New York	2,598,316	200,000	2,798,316
Puerto Rico	170,367	102,249	272,616
Virgin Islands	0	0	0
III:			
Delaware	42,400	58,435	100,835
District of Columbia	987,538	64,395	1,051,935
Maryland	551,801	121,451	673,252
Pennsylvania	1,320,900	200,000	1,520,900
Virginia	1,038,552	138,822	1,177,374
West Virginia	196,180	84,797	280,977
IV:			
Alabama	479,300	119,417	598,717
Florida	950,916	167,869	1,118,785
Georgia	641,823	138,416	780,239
Kentucky	434,447	112,705	547,152
Mississippi	227,726	95,537	323,263
North Carolina	684,166	149,175	833,341
South Carolina	134,200	100,663	234,863
Tennessee	576,200	126,638	702,838
V:			
Illinois	1,263,032	200,000	1,463,032
Indiana	528,207	148,708	676,915
Minnesota	540,223	120,658	660,881
Michigan	1,469,100	200,000	1,669,100
Ohio	969,100	200,000	1,169,100
Wisconsin	697,400	132,761	830,161
VI:			
Arkansas	106,100	87,787	193,887
Louisiana	267,100	121,573	388,673
New Mexico	212,300	68,382	280,682
Oklahoma	270,000	98,385	368,585
Texas	1,193,257	200,000	1,393,257
VII:			
Iowa	305,915	104,141	410,056
Kansas	896,400	94,276	990,676
Missouri	658,648	140,836	799,484
Nebraska	110,445	77,271	187,716
VIII:			
Colorado	595,436	87,767	683,203
Montana	83,000	62,279	145,279
North Dakota	93,800	61,079	154,879
South Dakota	109,100	61,812	170,912
Utah	690,855	68,483	759,338
Wyoming	66,200	54,489	120,689
Bureau of Indian Affairs			
IX:			
Arizona	524,886	80,607	605,493
California	2,234,191	200,000	2,434,191
Hawaii	65,400	62,788	128,188
Nevada	89,800	56,767	146,567
American Samoa	0	500,000	500,000
Guam	0	500,000	500,000
Trust territories	0	500,000	500,000
X:			
Alaska	31,200	53,390	84,590
Idaho	[illegible]	62,178	167,578
Oregon	645,500	88,133	733,633
Washington	328,400	109,837	438,237

APPENDIX G

TEACHER EDUCATION

	Individuals directly supported	Personnel outputs from supported projects (estimate)	Amount
Fiscal year 1972:			
New:			
Undergraduate	2,500	11,200	$2,230,000
Master's	3,000	9,500	7,450,000
Postmaster's	825	2,000	1,420,000
Summer trainees	3,150	3,150	3,122,000
Institute trainees	12,700	12,700	2,153,000
New program development grants		(30)	2,476,000
New special projects (program)		(20)	
Subtotal	22,175	38,550	18,851,000
Continuing:			
Undergraduate		(100)	1,900,000
Master's		(200)	5,820,000
Postmaster's		(45)	2,600,000
Special projects		(45)	3,484,000
Supplemental stipends			
Administrative costs (SEA)			1,240,000
Subtotal			15,044,000
Total	22,175	38,550	[1] 33,895,000
Fiscal year 1973:			
New:			
Undergraduate	2,800	11,000	2,000,000
Master's	3,500	10,000	7,600,000
Postmaster's	950	2,200	1,650,000
Summer trainees	3,500	3,500	3,200,000
Institute trainees	15,500	15,500	2,200,000
New program development grants		(35)	2,660,000
New special projects		(10)	
Subtotal	26,250	42,200	19,310,000
Continuing:			
Undergraduate		(100)	2,100,000
Master's		(200)	6,600,000
Postmaster's		(45)	3,200,000
Special projects		(50)	4,360,000
Supplemental stipends			100,000
Administrative costs (SEA)			1,240,000
Subtotal			17,600,000
Total	26,250	42,200	[1] 36,910,000
Fiscal year 1974:			
New:			
Undergraduate	1,900	35,000	2,000,000
Master's	3,600	12,900	8,100,000
Postmaster's	800	2,800	1,940,000
Summer trainees	3,500	3,500	3,200,000
Institute trainees	16,000	16,000	2,200,000
New program development grants		(35)	2,660,000
New special projects		(10)	
Subtotal	25,800	70,200	20,100,000

See footnote at end of table.

APPENDIX G—Continued

TEACHER EDUCATION—Continued

	Individuals directly supported	Personnel outputs from supported projects (estimate)	Amount
Fiscal year 1974—Continued			
Continuing:			
Undergraduate		(100)	$2,100,000
Master's		(200)	6,600,000
Postmaster's		(45)	3,200,000
Summer trainees		(50)	4,360,000
Supplemental stipends			100,000
Administrative costs (SEA)			1,240,000
Subtotal			17,600,000
Total	25,800	70,200	[1] 37,700,000

In fiscal years 1972 and 1973, at least 54 State agencies (50 States plus 4 outlying territories) and 304 institutions of higher education have participated in manpower preparation.

	1973 estimate		1974 estimate	
	Number	Amount	Number	Amount
New institutions	10	$260,000	10	$250,000
Continuing institutions	314	36,650,000	324	37,450,000
Total	324	[1] 36,910,000	334	[1] 37,700,000

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[1] In the tables for fiscal years 1972 and 1973, the physical education and recreation training program was not included in the totals. In tables for fiscal year 1974 it is.

APPENDIX H

MEDIA SERVICES AND CAPTIONED FILMS

Program financial data	1973	1974
Captioned films—cultural	$1,000,000	$1,000,000
Captioned films—educational	1,000,000	1,000,000
SEIMC/RMCN	7,000,000	7,000,000
Demonstrations	2,100,000	2,100,000
National Theater of Deaf	500,000	350,000
National Center Educational Media and Materials	500,000	750,000
Captioned Television	900,000	800,000
Total	13,000,000	13,000,000

Mr. BRADEMAS. Thank you very much, Dr. Dinger, for a comprehensive and thoughtful and illuminating statement. I wonder if I could put a few questions to you. You speak of the great need for support of the education of handicapped children.

Could you tell us what States are now spending for special educational programs for handicapped children?

Dr. DINGER. This is provided in one of our appendixes. Mr. Weintraub might answer that.

Mr. WEINTRAUB. If you refer to appendix A of the statement, you will see a comparison, this is fiscal year 1972, of total State education expenditures and total State special education expenditures by State and then the percentage of general education funds that are spent on handicapped children.

Our estimate is that it will cost, in order to educate all handicapped children, it will cost approximately $7 billion. We are now spending somewhere in the neighborhood of slightly over $2 to $3 billion on these programs.

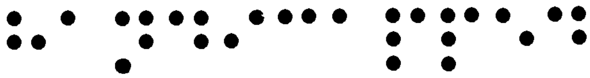
Mr. BRADEMAS. I might ask at this point, unanimous consent to insert in the record the text of two articles in the March 1973 issue of Learning magazine. One of the articles is entitled "Public Education for the . . ." and then the rest of the article title is in braille, so I will have to have somebody interpret that for me.

That article is by Louis Dolinar. And another article by Michael Alexander, "Let Me Learn With the Other Kids," from the same journal, contains a chart entitled, "Our State and the Handicapped Child."

[The articles referred to follow:]

[From Learning, March 1973]

PUBLIC EDUCATION FOR THE



by Louis Dolinar

Ancient Sparta left its handicapped children on mountainsides to starve or be killed by wild animals or the elements. America has disposed of the problem by institutionalizing such children or allowing them to languish in their parents' homes. Handicapped children have long been one of this society's visible and most neglected minorities.

As late as 1971, according to the Department of Health, Education and Welfare, less than half of the nation's six million school-age physically and mentally handicapped were getting special education. Of the other three million, more than one million were receiving no education at all. The remaining two million were shunted into ordinary public school classes, where they quickly fell behind their classmates, dropped out and became a new generation of welfare cases and social misfits.

Teachers and school administrators all too often have sought to exclude the child who is different, arguing, in effect, as the Wisconsin State Board of Education did in 1919, that they produce a "depressing and nauseating effect on the teachers and school children" and demand "an undue portion of the teacher's time and attention." Some states have provided certain caretaker services, but only for the most serious mental or physical problems. Those with lesser problems—weak eyesight or dyslexia, for example—were seldom identified by the available unsophisticated tests, and teachers have remained unaware of why such children had learning difficulties. Public education, in sum, has missed and mistreated the handicapped.

That situation is changing rapidly, and most rapidly in the last year. Court decisions and/or legislation in 43 states mandate public education for the mentally and physically handicapped. Moreover, special education has been described as one of the top priorities of the Nixon administration, and Undersecretary of Education Sidney Marland has vowed that all three million handicapped children currently neglected or ignored by the public schools will be receiving adequate care and training by 1980. As Robert Lucky, an official for the National Association for Retarded Children, put it: "Nobody wants to be against public education for the handicapped any longer. It's as bad as being against mom and apple pie."

Because legislation and court actions have evolved on a state-by-state basis, the commitment to special education varies widely in different regions, and even in different school districts within a region. It is becoming increasingly clear, however, that in the next two years, thousands of teachers for whom the assignment will be a new experience will face the challenge of teaching the mentally and physically handicapped in the regular classroom.

Walk down any street in your home town. Knock on ten doors and the statistics say that behind at least one of them, you will find a child with mental or physical handicaps of sufficient seriousness to keep him from learning in a regular school environment.

The child you find could be an "EMR"—educable mentally retarded—with an IQ slightly below the normal range. While abstract concepts may come slowly to him, with special training and support he can probably be integrated into your classroom and eventually acquire the skills he will need to become self-supporting. Without that attention, he faces a life on the public dole. There are nearly a million and a half kids like him, some receiving care and education, some not.

Or he could be physically handicapped. A bright kid, maybe, but with defective speech, hearing, eyesight or motor control. Something as simple as a hearing aid could get *him* back into the classroom, but if he's sitting at home, it's not likely the school doctors will have identified his problem. He's probably been labeled "mentally retarded" and excluded from the normal educational process. There are more than three million like him.

Or he could be a "TMR"—trainable mentally retarded. He has severe learning problems and will never go to a regular public school. With special attention, he may be able to become at least partially self-supporting. As things stand today, however, he and the 300,000 like him face a life of institutionalization and neglect.

Reduced to financial terms alone, the impact of the entry of these children into the mainstream of education will be tremendous. According to one study directed by Richard Rossmiller for the National Educational Finance Project, the price tag for a modest program of training and services for handicapped children could run as high as $10 billion a year—and that on top of an annual national education expenditure of $86 billion, or 8.2 percent of the gross national product.

More serious, perhaps, this added financial burden will fall unevenly on different states, depending mostly on how much they already spend on a combination of special education, caretaker programs and welfare.

A few states, when they take a hard look, may even save money. Rhode Island for example, has always provided comprehensive care and institutionalization for handicapped children, but until recently, offered them little or no education. In 1971, the Rhode Island Association for Retarded Children presented the state legislature with figures showing that a program for 57 then-institutionalized children could have enabled them to become at least partially self-supporting. Because over a ten-year period the state would save at least two million dollars in institutionalization and welfare costs, the legislature responded by passing one of the most comprehensive special-education programs in the country.

At the far end of the scale from Rhode Island is Tennessee. Until 1972, there was no statewide legislation for the handicapped in Tennessee. Half the counties had no programs at all; in the rest, the quality of services was generally low. Under a 1971 legislative act, the state must provide public education for 17,000 to 20,000 handicapped children. Unlike Rhode Island, Tennessee spends little on caretaker programs and so has no readily available funds to divert to special education. For a program comparable to Rhode Island's, Tennessee will have to raise an additional $60 million a year, a 12 percent increase in annual school expenditures.

Officials in many states aren't sure where the additional revenues will come from. But that painful fact isn't likely to change the attitudes of the courts, which have become the cutting edge of the movement to gain full educational rights for the handicapped. With remarkable consistency, courts in one state after another have set up tough guidelines for the swift integration of the handicapped into some system of public education.

One of the most far-reaching of such decisions was handed down by the Pennsylvania State Supreme Court in October 1971. Under a consent agreement, the state was required to provide "access to a free public program of education and training" for every mentally retarded child from ages 6 to 21, "as soon as possible, but in no event later than September 1, 1972." Where preschool programs are a regular part of the educational process, they, too, must be made available to mentally retarded children, the court ruled.

Some dislocation has inevitably accompanied the rapid and far-reaching push for special education in Pennsylvania, and one state educator claims the program is meeting covert but persistent resistance. "Some districts seem to be withholding funds for special training for teachers in hopes that the failure of handicapped children within regular classes will discourage their parents from trying to keep these children in public schools," he says.

The Pennsylvania decision, as do dozens of similar court actions in other states, requires the state to hold a hearing before making any change in the educational status of a mentally retarded child, or a child who is thought to be mentally retarded, and "to reevaluate the educational assignment of every mentally retarded child not less than every two years or annually if the parents request it." What this amounts to is the legal recognition that it is difficult to separate the children affected by these laws and court cases into neat categories.

There are no sharp distinctions between normal and retarded intelligence; rather, there is a shading off in both directions. The courts have recognized these subtleties and set up strict guidelines for classification. The principal thrust of such guidelines is to give the handicapped and their parents the right to administrative due process, allowing parents to bring in outside experts to challenge both the classification of their children as "abnormal" and their assignment to segregated classes. Thus the burden of proof that a borderline child should be excluded from the regular classroom rests with school authorities.

In the District of Columbia, one of the first jurisdictions to implement special-education laws, this parental prerogative had led to a growing inclusion of physically and mentally handicapped in regular classrooms. Says one Washington teacher, "It's just too much trouble to get kids classified as unfit for regular classes; the process here generally takes a couple of months. It's less trouble just to keep the handicapped in regular classes."

But there will be foot dragging by state and local officials, and parents of and associations for the handicapped know that and are prepared to deal with it. In 1969, for example, the Indiana state legislature passed a law making special education for the mentally and physically handicapped manadtory by early 1973. According to Ron Cutter, assistant director for Governmental Affairs for the Indiana Associtaion for Retarded Children, funds for implementation have not yet been appropriated, and at least half of the mentally handicapped in his state are still being excluded from the schools. Its patience and other approaches exhausted, the state association is now considering a suit to force the legislature to move. The tactic is to give lawmakers and administrators a chance to move, and if they don't, to turn to the courts for relief.

Clearly, the resources most states can devote to coping with the coming influx have practical limits. The lucky ones, like Rhode Island, can transfer some of the funds—and children—from existing caretaker programs into educational ones. Others, like Tennessee, are as severely limited in their options as they are in their resources. Whatever the specific local situation, the basic approaches will probably lie somewhere in these three areas:

Raise taxes: The obvious solution. But voters all across the United States are showing increasing reluctance to appropriate money for schooling of any kind. School bond issues that passed with votes to spare a decade ago now are regularly voted down in rich districts and poor.

Reslice the pie: Schools might take money away from regular classes to set up new ones for the handicapped. But this would have such undesirable consequences as an increase in teacher-pupil ratios, and the forced retraining of some teachers for special education, a move both expensive and likely to be resisted by teacher organizations.

Muddling through: Raise taxes as much as the voters will allow. Chisel away at school budgets. Integrate as many handicapped into the classrooms as possible. Retrain personnel, set up resource centers, share special-education teachers, recruit volunteer aids—all to the degree finances and the courts permit.

The best guess is that the muddle-through course, whether consciously opted for or not, will be the one most states will follow for the next two or three years. But when the legislative and judicial dust begins to settle toward the end of the decade, it seems likely that two basic programs for the handicapped will emerge. Both, or variations and combinations of the two, may well be found in the same school.

In the first, the "heterogeneous classroom" will prevail. The moderately handicapped will be included in the regular classroom to the largest degree possible, hopefully with adequate funding for supporting personnel and resources. Kids who can't make the grade there will receive various kinds of institutional care and training.

In the second, the "homogeneous classroom" will be used. There will be "normal" classes for normal children, and "special" classrooms for the physically and mentally handicapped.

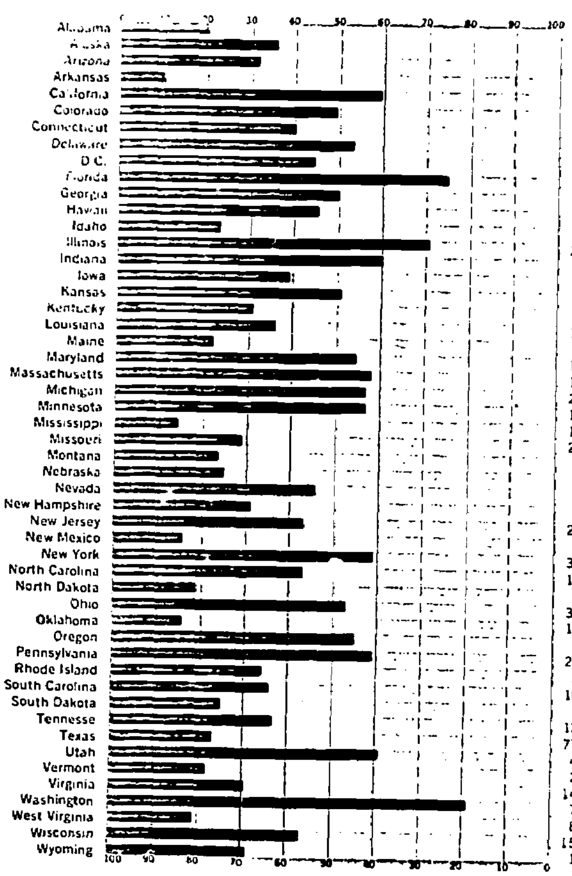
It is also reasonably certain that there will be considerable disagreement over which of the two models is preferable. While it is too early for any firm battle lines to be drawn, it appears that the state and national association for the handicapped will favor integration, with considerable staffing and resources. Teacher organizations—most notably those associated with the American Federation of Teachers—now favor special classes for the handicapped and their complete exclusion from the regular classroom. The National Education Association favors inclusion of the children in regular classes, but could conceivably move closer to the AFT position if special education is poorly funded.

But excluding these children from the educational mainstream imposes yet another handicap on them. For school is a vital socializing experience, and what they learn from their classmates can be as important as what they learn from special-education teachers.

The harsh truth seems to be that for the foreseeable future, at least, the choice for many parents of handicapped children will be between inadequate education in the public schools, or no education at all. Given that choice, and the legal muscle to back it up, most parents will opt for sending their handicapped children into public systems not fully ready to cope with them. As usual, the schools, and the teachers in them, will have to depend mostly on their own resourcefulness, energy and initiative until such time as they get the money and staffing to do the job. For better or for worse, the United States has once again put its public school teachers on the firing line in an effort to solve a pressing social problem.

Your State and the Handicapped Child

How well is your state doing in providing special education services for handicapped children?



	TOTAL NUMBER OF HANDICAPPED CHILDREN*	ADV[illegible]**	
Alabama	111,149	G. [illegible] H. Owens	[illegible]
Alaska	5,050	Jeff [illegible]	[illegible]
Arizona	40,059	Jon [illegible]	[illegible]
Arkansas	121,665	Thomas [illegible]	[illegible]
California	541,085	Leslie Brinegar	[illegible]
Colorado	75,855	A. J. Palumbo	[illegible]
Connecticut	89,866	[illegible]	[illegible]
Delaware	15,722	Robert Hawkins	[illegible]
D.C.	21,907	[illegible] Dyer	[illegible]
Florida	139,843	Landis M. Stetler	[illegible]
Georgia	129,864	Herbert D. Nash	[illegible]
Hawaii	19,590	[illegible]	[illegible]
Idaho	36,561	John F. [illegible]	[illegible]
Illinois	255,381	Fred Rozum	[illegible]
Indiana	145,091	James R. [illegible]	[illegible]
Iowa	94,731	[illegible]	[illegible]
Kansas	54,566	James E. Marshall	[illegible]
Kentucky	78,416	Tom [illegible]	[illegible]
Louisiana	122,344	Joseph [illegible]	[illegible]
Maine	30,743	Joseph [illegible]	[illegible]
Maryland	123,639	[illegible]	[illegible]
Massachusetts	108,612	William A. Philbrick	[illegible]
Michigan	288,297	Marvin E. Beekman	[illegible]
Minnesota	122,665	John C. [illegible]	[illegible]
Mississippi	116,066	Herman White	[illegible]
Missouri	221,578	Donald V. Cox	[illegible]
Montana	23,600	Jack Rudio	[illegible]
Nebraska	93,568	John [illegible]	[illegible]
Nevada	13,640	Larry D. Davis	[illegible]
New Hampshire	19,374	Arthur [illegible], Jr.	[illegible]
New Jersey	231,055	Daniel Ringelheim	[illegible]
New Mexico	53,126	Elie Gutierrez	[illegible]
New York	372,811	Raphael Simches	[illegible]
North Carolina	172,580	Theodore R. Drain	[illegible]
North Dakota	47,215	Janet Smaltz	[illegible]
Ohio	335,898	Patrick Gibbons	[illegible]
Oklahoma	144,586	Maurice Walraven	[illegible]
Oregon	48,044	Mason McQuiston	[illegible]
Pennsylvania	265,449	William F. Ohrtman	[illegible]
Rhode Island	39,475	Grace M. Glynn	[illegible]
South Carolina	106,505	Joseph Davis	[illegible]
South Dakota	17,795	Robert T. Rinaldi	[illegible]
Tennesse	131,903	Vernon L. Johnson	[illegible]
Texas	777,731	Don L. Partridge	[illegible]
Utah	44,179	R. Elwood Pace	[illegible]
Vermont	20,631	Jean S. Garvin	[illegible]
Virginia	146,748	James T. Micklem	[illegible]
Washington	79,294	John P. Mattson	[illegible]
West Virginia	80,561	Roger P. Elser	[illegible]
Wisconsin	155,813	John A. Melcher	[illegible]
Wyoming	18,475	Lemar Gordon, Jr.	[illegible]

Key: ■ Percentage of children receiving special education help
ı__ Percentage of children still waiting for special education help

* Includes children with one or more of the following handicaps: speech impairment, visual impairment, crippled and other health impairments, deaf, hard of hearing, learning disability, mentally retarded, emotionally disturbed. (1971–72 estimates of children served and unserved [ages 0–21].)

** Person in your state to contact for additional information.

Source: U.S. Office of Education/Bureau of Education, for the Handicapped figures supplied by HACHE (Handicapped Children Education Program of The Education Commission of the States)

Learning graph • 1973

LET ME LEARN WITH THE OTHER KIDS

(By Michael Alexander)

(*Michael Alexander is a free-lance photographer-writer specializing in education.*)

"I don't care what's supposed to be wrong with a kid; there are so many things going on in my classroom, he'll belong."

In one swift statement, Diana Levy underscores a philosophy that will soon be relevant for thousands of teachers across the country. Levy has a combined third and fourth grade class of 31 students at Independent School in Castro Valley, California, a middle-class bedroom community near the eastern edge of San Francisco Bay. Among her students are 12 gifted children, one educable mentally retarded (EMR), two educationally handicapped (EH) and Richard, who is blind. "The rest," says Levy, "are, uh . . . normal, whatever that is."

An unreasonable mixture of students for one teacher to handle? Perhaps, at least according to today's definition of heterogeneous grouping. But the legislative and judicial flags are up and waving; the mandate to incorporate into the mainstream of public education the millions of hitherto ignored or isolated physically or mentally handicapped children has been handed down. The cost to taxpayers and the challenge to teachers could be staggering, but the cry for schools to assume the educational responsibilities of children with diverse handicaps cannot be muffled.

Castro Valley educators did more than heed the cry; they anticipated it. They are now in the tenth year of an evolutionary process that has seen the district move from a program that segregated its handicapped kids into self-contained special-education classes to the present policy of total integration whenever possible. Piloted by Anne TeSelle, district supervisor of special education, Castro Valley's approach has been bulwarked by aggressive administrators, competent classroom teachers and 76,000 federal dollars from Title VI funds (1972–73 allocation to be used solely for EH and EMR kids).

Selecting Independent School as the site to initiate an integration program for multihandicapped children was a rather simple task for TeSelle. She knew two essential facts: that Independent had adequate space and that principal Gene McCormick had converted his staff into a community capable of accepting the new children.

A key figure in that community was Diana Levy, a young teacher working on a master's degree in special education at Hayward State University.

"On the day before the program began," says Levy, "I showed my class slides of kids—hydrocephalics and cerebral palsied—kids much more severely handicapped than the ones we would be getting. I taped my talk so that I could watch the group. I wanted to desensitize them so they could see the kids behind those deformities Here were kids who had to wear helmets to protect their heads when they fell because they had epilepsy. But we took the time to talk about the handicaps, and my gang asked a lot of sharp questions. Out of it came an understanding, a feeling for the new kids.

"I did the same thing with the other teachers, except they were harder. They ohhed and ahhed a lot longer than my kids. 'You mean hydrocephalics can learn to read? and *write*?' They were all locked up, full of stuff they'd heard years before that these kids couldn't learn anything. As far as I'm concerned, all kids are normal. Getting these kids in the mainstream, that's my pet number one thing."

This feeling of understanding—not pity—and acceptance permeated Levy's class and generated itself far beyond the initial period of orientation. A case in point occurred at mid-year. The class had just returned from winter vacation.

"I gave them a creative writing assignment to ease them back into school. Each student was to write about what he would see if he had a third eye in the middle of his forehead that was open only when his other eyes were closed. But this didn't sit too well with the kids. A lot of them were concerned about the assignment. They thought it would hurt the feelings of Richard, their blind classmate. 'His eyes are *always* closed.' So I said, 'Let's ask him.' They did, and he said it didn't bother him at all because he could see all kinds of things—colors, monsters, animals. . . .

" 'Wow! How do you know what purple looks like, Richard?'

"He could remember that it was dark and kind of bluish. They wanted to know, 'What do you mean, *remember*?' He told them that he wasn't always blind, that he'd had a brain tumor....

" '*Kids* don't get brain tumors, Richard.'

"So he set them straight on that."

It was three years ago that Richard underwent the life-saving operation that removed a tumor from his brain. The price he paid was complete loss of sight and partial loss of motor coordination.

Richard spends the first 20 minutes of his school day in a special class for multihandicapped students. There are two of these classes staffed by a pair of young and remarkable teachers—Molly Wheary and Roberta Sheppard—and several full- and part-time aides. Otherwise, Richard is with Levy's class all day. And while he is the most successfully integrated of the 11 multihandicapped children at Independent, life hasn't always been a bed of roses for him.

"My fears became a reality only once," recalls Levy. "Gary got mad at Richard and suggested that his mom take him downtown and get him a pair of new eyes. The other kids were so mad at Gary they were ready to beat him up, and I was so mad I was ready to let them. They were yelling at him: 'You can't do that. You can't say that. Don't hurt him like that.' They were on Gary fast and hard. No one was on his side and he knew it."

For all her dedication and hard work, Levy isn't satisfied with her record. "I guess my real worry is that I haven't done enuogh," she reflects. "You have to give each kid a chance. EMR, MH and EH are only labels that don't mean very much. You've got to try them at different things so you can find where they're weak and where they're strong.

"It's important to start small and keep your goals reasonable. You've got to stay open and not hesitate to yell for help when it's needed."

In a different section of town, attending Vannoy School, lives Jeff. Jeff falls under the label of educationally handicapped and is therefore eligible to benefit from the Title VI program being directed by Barbara Tyler.

Jeff has had learning problems since he first entered school. According to his first grade teacher, he was "quite immature, very shy, almost retiring." He had speech problems and a poor memory. His math was inconsistent. Sometimes he would breeze through a number exercise then the next day fail a review of the same material. He was fearful, reticent and having a difficult time gaining any mastery over early reading skills. These problems continued until midway through his fourth year, when the Title VI program was put into operation.

Jeff didn't enter the program alone. His classroom teacher was as deeply involved as he was. While Barbara Tyler's staff was observing Jeff, his teacher was giving them a complete composite of his present status. Together they decided which of the nearly 30 diagnostic tests at their disposal would help them identify how Jeff could best learn. They discovered above-average intelligence but poor visual memory and visual discrimination skills.

With that as a starting point, the diagnostic teacher, the special education and referring teachers, and the Title VI psychologist prepared a learning prescription. They decided Jeff needed about an hour of special work daily. The rest of the time he was capable of functioning in his regular classroom.

So now, each day, Jeff slips from his class and walks across the hall to Mrs. Teerling's Learning Center. Wilhelmina Teerling flashes word cards at him, after which he must cross the room before writing the words on the blackboard. He listens to a paragraph on a tape recorder, then repeats it. Teerling has a dozen ways to help Jeff build his memory. She also helps him with his class assignments, and at the beginning of each week she talks with Helen Collier, Jeff's classroom teacher, to find out what his class will be doing and to decide specifically how they will work with him.

Collier has taught at Vannoy for 14 years and has been a participant in the gradual change from no special education, to "self-contained" classes for EH and EMR children, to increasing integration of these children into her class.

"As a teacher, I can't believe in anything but our present approach," she says. "There is a time when they need one-to-one help, but when that was all they were getting they weren't making the same progress as they are under integration. Our job is getting them ready for life. Where in the world will they again learn with seven other children, a teacher and an aide?

"When integration was in the first phase of a trial period, my EHs and EMRs could come from their self-contained class for one 30-minute period a day. That was tough. They weren't with me long enough for anybody to feel comfortable; they were just like kindergartners away from their mothers the first time, just waiting to rush back to their safe haven. Now they're with me most of the day. They're part of the class, and they commune with the other kids.

"I'd be crazy to say it's not harder on us. I have to spend more time planning in order to successfully incorporate them, and I had to find ways to make them work independently. They were used to having somebody always working with them.

"Jeff can't complete a fifth grade speller. But he can write words. Instead of having him fill in complete word blanks, I write the first ten words and let him fill in just the vowels. When we read biographies and gave oral reports on why that person was important and what influence he had on others, Jeff gave an outstanding report on Ben Franklin. He was one of the group, even though the book he read wasn't as long or sophisticated as the others.

"It's more important for me to know that he can be successful in my class than to pretend he can do *everything* the others can. That's true of all children. When they begin to fail, the teacher's job is to step in."

But the classroom teacher needs continual support and advice. And Barbara Tyler and her Title VI staff are aware of this fact. In-service workshops are an integral part of Title VI, and the thrust of these training sessions centers around behavior-modification teaching techniques.

"Precision teaching and contingency contracting," says Tyler, "are a major part of the entire project."

In most classes, for example, children take precisely timed one-minute tests of academic skills. They begin the test simultaneously. Their cue to begin is the almost inaudible jump of the minute hand on the wall clock. Precision teaching is the daily charting of these timed academic (or behavior) skills. Contingency contracting is the carrot on the stick. A child keeps a daily record of his progress toward a predesignated objective. When he makes it, he gets the agreed-upon reward.

"The two courses I took in precision teaching were Title VI's biggest help," says Helen Collier. "They gave me lots of ideas about how thin to slice the lessons for the EH kids, and they helped me with my regular children, too."

Castro Valley has no miracle cures to show for its efforts. But it is demonstrating on a day-to-day basis that children with diverse handicaps have a place in the regular classroom.

Mr. Brademas. I observe that you refer to the new financial burdens imposed on the States by the court cases, beginning with the Pennsylvania case, assuring the constitutional right of handicapped children to special education. And you indicated your awareness of the bill that I introduced, H.R. 70, the Education for Handicapped Children Act, along with Senator Williams of New Jersey, the Chairman of the Senate Labor and Public Welfare Committee.

I am hopeful, may I say, that later this year we shall be able to conduct hearings on that legislation.

I wonder if you could give us any judgment on how much money—in addition to the funds currently being spent by all units of government, Federal, State, and local—would be needed to meet the mandates that the courts seem to be directing?

That is perhaps a difficult question to answer—but could you give us any judgment on it?

Dr. Dinger. The attitude of the courts has been an interesting one in the test cases around the Nation so far but basically my understanding is that the courts are taking a very dim view of the financial aspects of this.

They are taking a humanitarian view that children have a right to an education, mentally ill people, children and adults, have a right to treatment, and the financial issue is not at stake. They are mandating that the service be provided.

Some of our State governments are appealing this kind of thing, that it would bankrupt them. It is going to be an interesting situation to see how this is resolved as compromise between reality of financing and the moral right to provide these people with what they need.

Mr. Weintraub, do you have data on that?

Mr. WEINTRAUB. The data as you can imagine, is rough, but we now estimate that if you include the Education of the Handicapped Act plus, if you take the set-aside provided in title III of the ESEA, the program for children in institutions provided under title I of ESEA as well as the program under vocational education, that we are probably spending in the Federal Government approximately $230 million.

I might also apologize for the error in the testimony, I believe on page 10, it is $230 million and not $230 billion, although we would like that certainly.

If we figure that the States are now spending somewhere between 2 and 3 billion, that gives us a figure of a total Federal and State expenditure in the neighborhood of $3 billion.

The estimate for doing the total job is approximately $7 billion. Therefore I think we could figure that we are talking about an additional $4 billion.

Mr. BRADEMAS. Thank you.

I have two other general areas of questions before yielding to my colleagues.

There are of course several alternatives to funding State assistance to serving handicaped children. One is the program we are now considering extending.

A second is a proposal of my colleague, Mr. Quie, of Minnesota, that would include services for handicapped children under title I of the Elementary and Secondary Education Act.

Under Mr. Quie's proposal, as I understand it, the Federal Government would pay for the excess cost of providing remedial services to bring the performance of any student, handicapped or nonhandicapped, up to a level of performance expected of a student of that age.

And a third alternative is, of course, special revenue sharing for education under which there would be no program earmarked for handicapped children at all. As I understand the special education revenue-sharing proposal which the administration will soon present, handicapped children in effect would compete with nonhandicapped children for the funds.

You have already, in effect, endorsed the first alternative. Could you give us any comment on the other two?

Dr. DINGER. I am not sure that we are sufficiently familiar with the other proposals at this time to make a definitive statement on them. I believe it would be our opinion at this point that funds should still be earmarked for handicapped children, else they get lost in the shuffle as we have seen happen a number of times in other States.

Mr. GEER. I would like to add briefly from the history of things before this Congress over the last 15 years, our experience has been that there is too competitive a situation, that the handicapped always lose out. We don't think we should unduly strive for special privilege but the very existence of the Education of the Handicapped Act is a product of the Congress correcting that indifference to the education of handicapped children.

Mr. **Brademas**. I would ask unanimous consent at this point in the record to include the text of an article in the New York Times of last Sunday, by Prof. Henry Steele Commager.

The point of this article was that if one looks at the history of the response of government in the United States, in the last generation, to the problems of our people, one can see that, in instance after instance, it has been at the initiative of the National Government—not the State governments, not the local governments—that there has been a response to human needs. In particular, this appears to be true with respect to a response to the needs of people whom former Secretary of Health, Education, and Welfare Elliot Richardson, in another context, called the vulnerables in American society.

It was the national government that provided for legislation for minimum wages and hours. It was the National Government that outlawed slavery. It was the National Government that outlawed child labor and provided social security.

It was the National Government that provided medicine. It was the National Government that has been providing funds for the rehabilitation of handicapped people. It is the National Government that is providing funds for the education of handicapped children.

I must say that I view, with ill disguised hostility, the proposals of the present administration to take these funds and give them back to those units of government which have a record of ignoring the needs of the vulnerables in our society. Perhaps the administration hopes that somehow they will have been converted to Christian charity over night.

What we have seen in State after State, it seems to me over the last generation, is that State legislatures and governments respond political muscle, which is normally not with the vulnerables.

So I hope I have made my own position on this matter clear.

I would finally request, Dr. Dinger, that you submit for the record your best estimates of the authorization, by title in the bill under consideration, needed to meet the needs over the next 3 years. And second, would you give us your best estimates of the minimum amount of money required by title.

Dr. **Dinger**. We would be happy to.

[The information requested follows:]

The Council for Exceptional Children,
Arlington, Va., June 8, 1973.

Hon. John Brademas,
U.S. House of Representatives,
Rayburn House Office Building, Washington, D.C.

Dear Congressman Brademas: When The Council for Exceptional Children testified before the Select Subcommittee on Education on extension of the Education of the Handicapped Act, you and Congressman Orval Hansen requested of the Council our estimates of what adequate authorization levels in various programs contained in the Education of the Handicapped Act would be. The purpose of this letter is to attempt to answer that question.

Part D of The Education of the Handicapped Act has as its purpose to provide grants to states to initiate, expand and improve programs and projects for education of the handicapped. This program was created initially for the purpose of helping to relieve fiscal burdens placed upon states as they sought to educate more and more handicapped children. However, the fact that this program has never been funded higher than $37.5 million has resulted in the program assuming a lesser but more important function of stimulating states to do more and providing opportunities for innovation. In 1973, Part B was authorized at $220 million. This sum divided by 7 million children would provide $31 per child. A great deal could be achieved with that level of funding. However, $37.5 million divided by 7 million children is only $5 per child, making little more than stimulation or innovation possible. If it is the intent of commitment in Part B to provide stimulation, innovation and development, as opposed to basic support, then we believe a funding level ranging from $50–100 million is reasonable. If however, basic support is the purpose then even the $220 million authorization is extremely low.

Part C of the Education of the Handicapped Act provides for model centers for early childhood education, regional resource centers for educational evaluation and centers for education of children who are both deaf and blind. In Fiscal Year 1973. $66.5 million was authorized and $29.24 million budgeted. For the purpose of these programs. we believe an authorization ranging from $35–80 million is reasonable. This assumes however, that the purpose of each project and regional resource center is not to underwrite the cost of developing all such needed services across the country, but rather to create models from which states and local communities can create similar services under their own resources.

Part D provides for special education and manpower. The purpose of this program is to provide fellowships, traineeships, and institutes for the training of special personnel needed to educate handicapped children. For Fiscal Year 1973, $103.5 million has been authorized and $37.7 budgeted. When this program was initiated in 1958 there were practically no training programs in the United States to prepare educators of the handicapped. Perhaps no other federal program has more clearly demonstrated what federal investment has done in developing resources to meet a critical national need. The need for teachers of the handicapped is still critical as our testimony pointed out. The federal money provided under this part is still the underpinning of the handicapped in training programs throughout the country. However. there has grown a very strong state and local participation in this effort which is extremely encouraging. Thus we believe an authorization level ranging from $45–90 million may be sufficient to accommodate the task.

Part E of the Education of the Handicapped Act provides for innovation and development. The purpose of this act is to support research and demonstration projects along with education of handicapped children. In Fiscal Year 1973. $45 million was authorized and $13.5 budgeted. As you know, some of the money previously in this program has been transferred to the National Institute of Education. It is our understanding that NIE will assume the basic research function and the Bureau of Education for the Handicapped the more applied function. We support this concept if it works. However. we must admit we have anxieties about NIE's commitment in this regard. Assuming that BEH maintains the applied function and realizing the great importance of such a function, we believe an authorization level of $20–30 million is reasonable. However, if NIE does not follow through on its commitments or the basic research programs are transferred to BEH. then higher authorizations may be required.

Part F provides for technology and communication. Its purpose is to provide films and other educational media for the handicapped. In 1973. $20 million was authorized and $13.5 million budgeted. We believe this has been a very strong program and one which needs to be maintained. Thus. we suggest that an authorization level ranging from $15–25 million is reasonable.

Part G of the Education of the Handicapped Act is to provide grants for the model centers for children with specific learning disabilities. as well as research and personnel training for such children. This program was authorized at $31 million in Fiscal Year 1973 and $3.25 million was budgeted. However. we believe the Congress may have a dilemma. If this program. which serves one of the most underserved disabilities, is to grow as was originally conceived. then the $31 million authorization is acceptable. If however. the function of research and personnel training is highly integrated as appears will be happening into the basic research and personnel program, then the authorization might reasonably range from $10–15 million.

We hope these comments have been helpful. It is very difficult as I am sure you are aware to determine realistic authorization while fighting so hard for appropriation survival. We appreciate greatly the efforts of the committee and are certainly willing to be of assistance in any way that would be helpful.

Sincerely yours,

FREDERICK J. WEINTRAUB,
Assistant Executive Director for Governmental Relations.

Mr. BRADEMAS. Mr. Hansen?

Mr. HANSEN. Thank you, Mr. Chairman.

Let me extend a warm welcome to you. We are always delighted to have you at these hearings. I would note particularly our appreciation for your leadership and for the invaluable assistance that the Council on Exceptional Children has furnished to the Congress and to this committee.

We have been aided immensely by the help of Bill Geer and Fred Weintraub over the years.

So it is a particular pleasure to have you back again.

I have one or two questions that I would like to raise.

One perhaps not quite so directly related to the bill before us but you made reference to the subject matter and I am going to take advantage of the opportunity when we have all three of you here to ask for your comments.

You made reference to some of the preschool handicapped children and that is a subject that is very close to the hearts of those of us on this subcommittee.

I was wondering, as you related the statistics on the number of handicapped children of school age in the country, what impact we might have on those numbers or on their handicaps if we could develop effective programs to reach the children at the very earliest ages to identify handicaps that they may have, physical, emotional, or other, and respond to them during the first, second, third, fourth years of life.

I would judge that much of this has to be speculative but I would guess that you probably have some views on the question and I would welcome them.

Dr. DINGER. I would like to make a couple of personal reactions to your question. It is my understanding the blind child or a deaf child, if he waits until he is school age and begins then to start his education, has lost 3 to 4 years.

We have a 3- to 4-year lag in just developing the vocabulary and communication system, be it speech reading or braille, that he is going to have that lag built in and it will follow him through the rest of his schooling.

This is an unreparable handicap that we have added to his original handicap. That is what we should be doing as an example with 2- or 3-year-old children.

In preparation of coming here today I spoke to our special education superintendent in Pennsylvania asking him what impacts he might give me specifically as examples of what we are talking about here today and he mentioned particularly the preschool program in Pennsylvania and developed a figure of 2,504 children who are currently being served as preschool handicapped children who would otherwise have been denied this opportunity because our State laws do not permit the spending of money for State money for those age children.

Those are the two specific things that I would like to bring to your attention as ways.

Mr. Weintraub?

Mr. **WEINTRAUB.** I would be glad to provide for the record at a later time a number of studies that have been done that just clearly demonstrate, one, exactly what Mr. Dinger was mentioning in terms of eliminating the lag.

And the other thing is that if we could reach more children at the early ages, what we find is that we don't need to provide as must service for them at the later ages. So several studies have been done and supported by the Bureau for the Handicapped have shown a cost benefit that 1 or 2 years of preschool eliminates the need for 6 or 7 years of elementary or secondary school programing for some children.

I don't think we can generalize this to all children but I think for many handicapped kids if we could deal with it early as you are saying, Mr. Hansen, we could reduce the problem substantially.

Mr. **HANSEN.** I might note that there is in the budget something on the order of $12 million for that portion of part C for that purpose.

If I interpret your comments correctly and I will appreciate the more detailed information that you can furnish for the record.

This is one of the areas we could demonstrate one of the greatest returns for the investment.

I think anyone that could make that case would be extremely useful for us.

Let me ask one final question again on the matter of authorizations.

We note to our distress a very large gap between the authorizations and the appropriations. This has two effects, it seems to me, while not conceding that the authorization still reflects the actual needs.

Nevertheless, it does raise expectations and it tends to build in opposition when we go to the floor with these bills, the high authorization figures at least to the extent that they are much higher than the realistic expectation for appropriations, generate opposition to the bills themselves.

I would welcome your comments, if you care to make any observations now, and certainly would second the chairman's suggestion that you furnish for the record any information you can giving your best judgment on what the level of spending ought to be and where we should set these authorization figures.

Dr. **DINGER.** I am not a knowledgeable person in this area of legislation and financial commitments by it is my understanding that what you said is my understanding that by tying very high authorization figures to a bill, that we just generate reluctance to be involved in it and the actual appropriation is getting a lot of things done and of course we need more money.

Every witness who has sat at this time has said that. But I think the authorization should be more realistic with the actual appropriation.

Mr. **WEINTRAUB.** I would think that certainly if one deals with need, I think the authorizations that are in the bill now in H.R. 4199 are realistic in terms of children's needs. I think the council's great concern is the extension of this act and I think the committee has to weigh many political questions about what is necessary to extend this act.

I think that tosses the critical question to extend the act and to have the program continue to grow and I don't think we are hereby hung up one way or the other as to what that authorization figure finally is.

What is best for passage of the act is what will be best for the kids.

Mr. HANSEN. Any guidance you can give the committee in the course of our consideration of the bill on those matters will be appreciated.

Mr. GEER. I would like to add briefly to that. I think what both Dr. Dinger and Mr. Weintraub have said are true. Some of us cherish the hope that the time will come, however, when the authorization and the appropriation will both be gained upon the needs as we are able to determine them and in justifying that, there is no question at this point in time in our civilization but that any child who presents himself to school ought to be given an appropriate education.

So in that line of philosophy, the matter of appropriation or authorization becomes academic. The facts of life are that they would have to wait further for that time for the education of the handicapped.

Mr. HANSEN. I think that is well said.

Thank you very much.

Mr. BRADEMAS. Mr. Meeds?

Mr. MEEDS. Thank you, Mr. Chairman.

I would like to ask, is my understanding correct that about $4 billion nationally is being spent for the education of the handicapped?

Mr. WEINTRAUB. I would be glad to provide some better calculations but it is our estimate that it ranges somewhere between $3 and $4 billion.

Mr. MEEDS. Let's just take that for a ball park figure right now.

How much did the Federal Government contribute to that last year in fiscal 1972?

Mr. WEINTRAUB. $230 million.

Mr. MEEDS. $230 million of $4 billion?

Mr. WEINTRAUB. Mr. Meeds, that also includes, now we are talking about a wide variety of programs. We are talking about teacher training and research.

So that is not necessarily support to the education of those children.

Mr. MEEDS. I understand that. The Federal Government spent approximately then around 15 percent or something like that.

Mr. WEINTRAUB. I think that would be misleading because of that, for example, $230 million, 30 million is teacher training. We are not adding the amount of money that is spent on teacher training of general education students.

So that actually, if you look at the base program which is title VI–B, of part B of this act, which is the base program that goes to help relieve the cost, that is 37.5 million.

So in a sense we are really talking about $37.5 million in regard to the $3 to $4 billion that is being spent.

I think that would be a more valid comparison.

Mr. MEEDS. Then it is a rather insignificant amount of the total cost.

Mr. WEINTRAUB. That is right. In most States it is running 1 to 2 to 3 percent of the State expenditure.

Mr. MEEDS. Thank you.

That is all the questions I have, Mr. Chairman.

Mr. BRADEMAS. Thank you very much Dr. Dinger, and Mr. Weintraub, and Mr. Geer. We appreciate your having taken the time to be with us this morning.

Dr. DINGER. Thank you again for the opportunity.

Mr. BRADEMAS. Our next witness is Clarke Ross, Federal programs consultant, United Cerebral Palsy Association, accompanied by Una Haynes, associate director, and nurse consultant, professional services program department, United Cerebral Palsy Association.

Mr. Ross and Miss Haynes we are glad to have you with us.

STATEMENT OF CLARKE ROSS, FEDERAL PROGRAMS CONSULTANT, UNITED CEREBRAL PALSY ASSOCIATION; ACCOMPANIED BY UNA HAYNES, ASSOCIATE DIRECTOR AND NURSE CONSULTANT, PROFESSIONAL SERVICES PROGRAM DEPARTMENT, UNITED CEREBRAL PALSY ASSOCIATION

Mr. BRADEMAS. If you would be kind enough to try to summarize your statement, we will put it in its entirety in the record.

[The prepared statement referred to follows:]

STATEMENT OF E. CLARKE ROSS, FEDERAL PROGRAMS CONSULTANT, UNITED CEREBRAL PALSY ASSOCIATIONS, INC.

Mr. Chairman, I am E. Clarke Ross, Federal Programs Consultant and Assistant to the Washington Representative for United Cerebral Palsy Associations, Inc.

I am pleased to introduce to you our primary witness, Mrs. Una Haynes, Nurse Consultant and Associate Director of the UCPA Professional Services Program Department. Mrs. Haynes will relate to you today her experiences as Project Director of a truly innovative and exciting program, the UCPA Nationally Organized Collaborative Project to Provide Comprehensive Services to Handicapped Infants and their Families.

UCPA, Inc. appreciates very much the opportunity to appear before the Select Subcommittee on Education in support of H.R. 4199, the extension of the Education of the Handicapped Act.

We not only endorse H.R. 4199 but also support the need for increased federal government involvement in the areas proposed in H.R. 70 and H.R. 331.

United Cerebral Palsy Associations, Inc. have long been involved in both providing educational services and advocating increased public responsibility for the provision of such services.

The Elementary and Secondary Education Act has given the states a boost in initiating and expanding educational services to the handicapped. However, even with this assistance, not all of the handicapped, and especially the substantially and multiply handicapped, have received the education they require. A great deal remains to be done. ESEA must be extended. Its need will continue for quite a few years to come. We hope that this subcommittee will give special attention to the needs of substantially handicapped children.

UCPA PHILOSOPHY OF SPECIAL EDUCATION

A number of guiding educational principles has developed over the years with UCPA as professional, parental, and consumer opinion has matured and combined. Briefly stated, those principles include:

(1) Handicapped children have the same needs as all children, as well as some that are uniquely their own. Integration with non-handicapped children, wherever possible, is a basic concept UCPA operates under.

(2) Because physically handicapped children so often experience difficulties in making direct contact with their environment, the environment must be adapted to their special needs.

(3) The education of multiply handicapped children has to be based on the combined efforts of many people: teachers, physicians, psychologists, therapists, social workers, aides, and most importantly, parents.

(4) The comparison through standard instrument testing, of multiply handicapped children with non-handicapped children has been found to have limited value. Of far greater value is the measuring of the progress of he handicapped child as he matures, taking into consideration his strengths and weaknesses and the developmental patterns common to all children.

(5) All children learn from day one and handicapped children, especially, need early intervention programs.

In keeping with the philosophy underlining these principles, UCPA educational programs attempt to achieve three general objectives.

(1) To develop each child's potential in order that he may live as independent and fulfilled a life as possible.

(2) To ameliorate the developmental lag created by slow neuromotor maturation.

(3) To prepare the multiply handicapped child for academic achievement in a program as much like those offered non-handicapped children as possible.

In working toward the fulfillment of these objectives, UÇPA educational programs emphasize careful observation, individualized programs, small classes, continuing professional education, and increased parental involvement.

UCPA ENDORSEMENT OF BEH PHILOSOPHY AND EFFORTS

UCPA believes that the Bureau for the Education of the Handicapped (BEH) has played a very dynamic and innovated role in improving both quality of services and quantity of services since being established by PL 91-230 in 1969.

UCPA wholeheartedly endorses BEH's goal of achieving full educational opportunity for all handicapped children by 1980. We also concur with the statement of former U.S. Commissioner of Education, Sidney P. Marland, Jr.:

> "The right of a handicapped child to the special education he needs is as basic to him as is the right of any other young citizen to an appropriate education in the public schools. It is unjust for our society to provide handicapped children with anything less than the full and educational opportunity they need to reach their maximum potential and attain rewarding satisfying lives."

THE NEED

According to BEH estimates, at least 10% of the nation's school age children (about 7 million children) are sufficiently handicapped to require special education. Of these, only 2.6 million are presently receiving any special education services at all and many of these are in private programs.

There are millions of children in the United States who are currently non-attenders. Unless a child has some means for entering the educational system, he is largely invisible. In a nation where there is a strong belief that everyone goes to school and that universal education is taking place, it is difficult to conceive that there are children who are not enrolled in the educational process. Almost every state has compulsory school attendance laws stating that parents do not have the right to deprive their children of an education. But the states themselves deny this right. Handicapped children, especially the substantially and multiply handicapped, are denied entrance into the system. Major reasons given by states are (1) cost and (2) complexity in educating such children.

Many present public school programs that offer special education:

(1) do not serve the multiply and severely handicapped child,

(2) are inadequate and/or inappropriate for many of the handicapped children now being served by them,

(3) are not realistically goal oriented,

(4) are not cost effective.

A BEH survey of 15,000 school districts revealed that only one-half offered any special educational programming. The majority of these programs were classes only for the educable retarded and therapy only for the speech and hearing impaired. Multiply handicapped children are either being served in private programs at the parent's expense, are custodial cases in public institutions, or are neglected.

The challenge has been made a long time ago. Public schools have not yet responded to totally meet this challenge. Private programs cannot satisfy all the needs. Resources are scarce. Only through a system om public-private cooperation can the challenge ever be met.

UCPA HAS A ROLE TO PLAY

UCPA came into existence because cerebral palsied individuals with severe multiple dysfunctions were being written off and denied services. We have therefore used as our operating definition for cerebral palsy, a very broad one. Since cerebray palsy usually is accompanied with one or more other handicaps, our centers tend to be non-exclusionary in their admissions. We are therefore by tradition accustom to dealing with a wide spectrum of disabilities.

With the zero reject mandate of the courts in state after state, with the non-categorical approach for human services, with the trend toward mainstreaming and integration of children with handicaps into programs with their peers wherever possible, and with the continuing expansion of school system contracts with community agencies to serve the multiply and severely handicapped. UCPA, as an experienced professional deliverer of education services with parental and consumer oversight, has a major role to play in the future of educating the handicapped.

(1) UCPA infant program

One of the most successful examples of public-private cooperation and one in which we are extremely proud—is the UCPA National Organized Collaborative Project to Provide Comprehensive Services to Handicapped Infants and their Families. Inaugurated in July 1971, the program is now funded through Part C of the Education of the Handicapped Act (Title VI of the Elementary and Secondary Education Act). (BEH grant number (O-71-4492). The program's original funding was through PL 90-538, the Handicapped Children's Early Education Assistance Act which has since been incorporated into Title VI.

The UCPA project is a component of a much larger network of projects funded by BEH for early intervention into the care of handicapped infants. The network's appropriation is $7.5 million out of a total of $12 million authorized. We are thrilled over the demonstrated achievable successes of both the network and the UCPA project.

Unlike most of the other projects funded by the Handicapped Children's Early Education Assistance Act, all of the centers utilized in the cooperative project have their own basic funding, so that the federal dollar acts as a *catalystic* dollar.

UCPA's first year project chose five exemplary centers—with diverse financial support, representing a variety of geographic areas, established policies for selection of children to be served, and potentially different ethnic groups. Universities, state agencies, and private agencies were all selected. Of four geographic areas, one serves a statewide area with mixed rural and urban population and two serve metropolitan areas.

Each center has its own delivery system, ranging from two weeks residential care, to once a month half-day session with parents and therapists.

Basic principles in the delivery system, it was agreed, would stress the importance of helping parents to cope with the problems involved in the care of handicapped children, by increasing the parents skills and knowledge, and providing a pattern of management which took cognizance of family structure and strengthened family relationships. Parent involvement was present in all centers and as a result most parents increased their skills and knowledge, not only in management of their handicapped children, but they were able to transfer this knowledge to other siblings and thus provide early input in learning for them.

(a) *Basic Objectives of the UCPA Project.*—A number of major objectives, all realized, were attempted by the UCPA project. They included:

1. To prepare tested models reflecting the content and process strategies utilized in the cross-disciplinary and cross-modality approach in developing and implementing the infant curriculum.

2. To foster transfer of atypical infants served by the project into generic community service programs.

3. To engender public support for extending public school programs for handicapped children to serve those three years of age or younger.

4. To foster the role of the parents as primary programmers without deleterious effect on the lifestyle of the family.

5. To train new teams by means of familiarization and orientation, development and reproduction of training materials and approaches.

(b) *Project Centers.*—The UCPA project included five centers scattered around the country:

1. Atypical Infant Development Program
   Marin County, Calif.
2. University Hospital School
   Iowa City, Iowa.
3. UCPA of Greater New Orleans, Inc.
   New Orleans, La.
4. Meeting Street School
   Providence, R.I.
5. UCLA Infant Program, University of California Medical Center
   Los Angeles, Calif.

(c) *Target Population.*—In the initial group of children selected, 95% were "multiply handicapped"—crippled, deaf/blind, educable and trainable retarded, emotionally disturbed. Most of the children (92%) were under two years of age.

(d) *Major Results.*—Recent findings in research which highlighted (1) that babies learn within the first days of life and (2) that most learning in babies occurs through the neuro-sensory and neuro-motor avenues (touching, seeing, feeding, hearing, and relating) and that disability to these avenues constitute substantial obstacles to the learning process motivated UCPA to develop and demonstrate the cross-disciplinary/cross-modality approach in developing and implementing the infant curriculum.

The cross-disciplinary/cross-modality approach is a method of delivering therapeutic services in which two or more practitioners representing different professions teach each other their professional skills so that one of them can provide the several therapeutic services on approaches needed. Each member of the team retains professional (and creditial) accountability. The method can be particularly useful when an individual (e.g. an infant or young child) has multiple disabilities needing several different procedures or services but cannot tolerate excessive or inconsistent handling by several different persons and when an individual with multiple handicaps need highly integrated therapeutic approaches throughout his daily activity program. The term cross-disciplinary/cross-modality is used because different disciplines may be primarily concerned with different modalities while the individual may require an integrated program utilizing several modalities.

Research has demonstrated the importance of attachment behavior of babies with their parents. As such, the parents play a crucial role as the primary programmer in the cross-disciplinary/cross-modality approach.

(e) STATISTICAL RESULTS—CLIENT FOLLOW-ALONG[1]

Item	UCPA	67 project network
1. Children screened	305	3,790
2. Children screened who need help	277	(2)
3. Children graduating to other programs which would not previously accept them	19	492
4. Children placed in special education classes	42	425
5. Children who have progressed sufficiently to be approved for enrollment in regular nursery schools, kindergartens, or day care programs for the coming school year	20	521
6. Number of children in other programs provided diagnostic or resource assistance	10	1,953
7. Parents served	455	(2)
8. Staff personnel receiving inservice training	52	2,796
9. Personnel outside the program trained by the program	14	3,953

[1] For the 1st year of operation, 1971–72.

[2] Not available by BEH.

COST FACTORS—UCPA PROJECT

(f) 1. Matching Funds, 1971–72:	
a. UCPA	$27, 300
b. Local centers	346, 750
c. Federal	87, 000
d. Total (a+b+c)	461, 050
2. Average cost per child screened	1.511
3. Average cost per child screened who required specialized help	1, 664
4. Average Federal cost per child screened	285
5. Average Federal cost per child screened who required specialized help	314

(h) *Replication of the Projects.*—Since 1971, 153 other centers serving handicapped infants have replicated one of the models demonstrated by one of the 67 network projects in its entirety. Eighty-one other developmental centers for infants have replicated in part the models demonstrated by some of the 67 network projects.

During 1972, 45 agencies already serving over 600 infants have asked UCPA for training in the cross-disciplinary/cross-modality approach. This includes requests for staff training workshops, consultation, inter-team visitation, and the use of the project's site visit team. These programs are now providing primarily medical services to these 600 infants.

(i) *Proven Success.*—The UCPA Collaborative Infant Project has demonstrated what desirable effects early intervention can have on the development of severely and multiply handicapped infants. The cross-disciplinary/cross-modality approach has been developed and proven effective. This has required little federal matching monies.

(2) UCPA affiliate involvement

Education is a basic service offered by UCPA affiliates to handicapped children denied entrance into the public school system. Attached are the returns of a survey by the UCPA Washington Office indicating tax supported funding of UCPA affiliate educational services. These affiliates are providing varied and creative services. The public sector is providing support to some of these affiliates. This is one reason that we hope the titles of the Elementary and Secondary Education Act which authorize support for the handicapped be extended.

COST FACTORS RELATED TO HANDICAPPED CHILDREN IN GENERAL

Dr. Edwin W. Martin, Associate Commissioner of BEH, has declared that "Educating the handicapped works; we are not wasting our time or our money." UCPA agrees that it is by far more cost effective to educate and train a handicapped person, enabling him to live at some degree of independence and contribute to society, rather than receive no such training and live a life of dependence in an institution. The important concept here is *the reduction of dependency.*

(1) Cost factors relating to the handicapped population in general

According to BEH statistics, the minimum cost of maintaining a handicapped child within an institution (custodial care) is $4,000 per year. During a 60 year lifespan the total would be $240,000.

The State of Illinois has estimated that the average per resident cost of maintaining a handicapped child within a rehabilitation institution, whereby he receives some therapeutic services, is $10,000 per year or $600,000 during a 60 year lifespan.

A BEH study of children served under model projects receiving Early Education Assistance Act funding, reveals some interesting evidence. Seventy percent of the children who were judged unable to participate effectively in pre-school or first grade programs were returned to public schools. The median cost for each child served came to $2,500 per year. The costs ranged from $500 to $10,000 per child per year. Even if 10 years of special education were required, it would cost $25,000, considerablly less then a lifetime of institutional living. Such costs for educational services need not be that expensive. It is estimated that one-half of the physically handicapped children presently in special education classes remain in those classes for non-educational reasons, such as therapy, socialization, etc.

ALTERNATIVES TO EDUCATION

It does cost a considerable amount of money to provide educational services to severely and multiply handicapped children. In a time of cutbacks in federal funding of many types of services, the question will be asked—Is it worth the cost of educating severely involved people?

The answer to this question lies in an examination of the alternatives. One alternative is to support a handicapped person by the new Title XVI of the Social Security Act for the rest of his life at a minimum of $130 per month. During a lifespan of 60 years, this support would total $171,600. This is a minimum cost to the public sector provided the individual can live at home with his parents or relatives.

Another alternative is institutionalization. As revealed previously this is quite costly. Income maintenance by itself without providing developmental program or institutionalization providing only custodial care increases *dependency*. Neither promote increased independence. Neither will assist the handicapped individual to ever make a contribution to society.

A third alternative is, of course, something people shutter at—euthanasia. If you deny a person the services he requires to develop his potential and if you allow him to remain a dependent on society, this alternative *is* euthanasia of a type—by attrition. Bedfast care in a back ward of some institution, to UCPA, is no alternative at all.

UCPA CONCERN WITH REVENUE SHARING

UCPA has some reservations concerning the Administration's proposal to establish special educational revenue sharing in place of existing grants to states for education of the handicapped. Our experience in the past has clearly demonstrated that the handicapped, especially the severely and multiply handicapped, are forgotten and neglected in broad programs. Without earmarking and visibility, programs for handicapped persons just are not developed. We are afraid the handicapped will get out if special educational revenue sharing is enacted.

CONCLUSION

To obtain adequate educational services for all handicapped children is a goal of UCPA. It should also be the goal and responsibility of the U.S. Congress.

As former Governor Robert W. Scott of North Carolina has declared:

> "The time is overdue to re-examine the state role (and federal role) regarding education for the handicapped. * * * There will never be a stronger movement to improve programs for the handicapped unless disinterested policy-makers take it upon themselves to support the cause. It is certainly right. And the time is now."

APPENDIX.—*Returns of sample indicating funding support of selected UCPA affiliate educational programs*

(1)	UCPA affiliates surveyed	26
(2)	UCPA affiliates responding	11
(3)	Private funding supporting UCPA affiliate educational services surveyed. (One affiliated did not supply this information.)	$1,073,660
(4)	Tax supported funding supporting UCPA affiliate educational surveyed	$718,579
(5)	Total funding supporting UCPA affiliate educational services surveyed	$1,792,239
(6)	Number of school-age children provided educational services in the UCPA affiliate programs surveyed	1,410
(7)	Number of preschool children provided educational services in the UCPA affiliate programs surveyed	203
(8)	Total number of children provided educational services in UCPA affiliate programs surveyed	1,613
(9)	Average per child cost of educational services in UCPA affiliate programs surveyed	$1,111
(10)	Average tax supported dollar per child cost of educational services in UCPA affiliate programs surveyed	$509

Mr. Ross. Thank you, Mr. Chairman.

I am Clarke Ross, Federal programs consultant and assistant to the Washington representative for United Cerebral Palsy Association.

I am pleased to introduce to you today our primary witness, Una Haynes, the associate director of our professional services department and she is here today to tell you of her experiences as project director of a truly innovating and imaginative infant program.

I think Mr. Hansen will be very interested in this program. It has achieved a lot of great things over a few years that it has been in existence.

We endorse, Mr. Chairman, your bill H.R. 4199.

I also would like to make a special comment on section 8 of H.R. 70 which deals with the study of educational services and institutions.

We are very interested in this section and we are pleased that you introduced it. We will support such a study all the way.

Rather than go into the needs and concerns that we have expressed in the written statement I will sum them up in saying basically we have three major concerns with this piece of legislation.

One is that the severely handicapped child has been the most neglected of the handicapped. It should be given some concern and attention and service.

Related to this we are very concerned with the large numbers of nonattenders in public schools and where are they? Are they in the home? Are they in the institution? Are they in private facilities? Should they be in the public schools?

The third concern we have is if this challenge of providing educational services to the handicapped is ever going to be met, a good public private cooperative effort must be made and it is in this way that Mrs. Haynes is here to tell you of the project that is initially funded by BEV and WUCP and other support and Mrs. Haynes will now tell you about this program.

Mrs. HAYNES. Gentlemen, thank you for this privilege.

The project to which I will refer is called nationally organized collaborative project to improve services for infants. It is one of the first networks that is a part of this part C that you were talking about.

You are aware as I am sure we are that there is often a long gap between the time research gives us some new ideas and new findings and the time when we implement them.

United Cerebral Palsy for some years has been trying to reach down to the younger ages of babies who are handicapped or seem to be at high risk of handicap at birth. We were primarily a medically oriented agency.

New research has shown us things such as that if a baby can turn a head to sounds, he is doing so at 3 days of age. That if the baby is given, for instance, a pacifier which is electronically wired to lights at 3 days of age he will and he can change the pattern of those lights by the rate at which he sucks.

We have been impressed that babies look at their hands and their arms very carefully for long minutes before they begin to use them effectively at about 3 months to reach out and touch.

We were extremely interested to find that babies know a great deal about up, down, in, out, back, forth, colors, shapes and sizes, how the eye effects the environment. how the eye relates to the people around me and how people around me relates to me but we have not put the thing together.

So that is to the privilege of this grant as one of the first chance network we found five centers. They are all different. They are in different parts of the States.

One of them is a university based center that is serving a suburban type of population.

One was a center that was originally a mental health retardation center.

A third one is a university center in a State that is operating a tax supported type of program for very rural babies that are scattered all over the State.

One of them is Ester Center on the east coast and another one is down South.

Here for the first time we got doctors, therapists, social workers, nurses on this side of the table saying with educators, psychologists and other related people on that side of the table saying all right, if he cannot raise his arm he will not learn this type of thing.

For the first time we have physicians and therapists, instead of each one learning separated, sitting down together to hammer out the educational aspects of these babies' developmental patterns.

If they cannot hold up their heads at 3 months to help them to do so. If they cannot see the hand to help them to see the hand.

Ordinarily a baby with multiple disabilities would have speech therapist and so forth. working with him.

Little babies can't stand excessive or inconsistent handling so for the first time we have been pioneering with something we call the cross disciplinary cross vocality approach where one team member will take over implementation of the program with strong emphasis on helping the family in the normal interactions to further this.

This is quite new. We have never seen physicians writing behavioral objectives before. We believe 95 percent of the babies that have come to our attention have multiple disabilities.

Ninety percent of them are coming to our 5 centers before they are 2 years old: 34 percent of them are under 1 year of age.

In the first year of operations, 29 percent of the babies did come along enough to permit them to be transferred to less specialized agencies.

My colleague will speak more to the finances but only 20 percent of this entire program has been funded by the Federal dollars and others have all been the contributions of the local agencies cooperating and the United Cerebral Palsy matching funds.

Within our first 18 months of operation we have had requests from 60 other centers previously providing just the educational or medical to come to us and say, can you help us to merge these 2. We believe that we have learned something that we can't separate pieces of children and this very close reapproachment may mean that these children will be able to learn in all parameters of the learning and do so more effectively.

We are hopeful that these 60 centers that have come to us that are out there in the fringes with a thousand babies known, 600 of them already in service, may indeed join with us in this distillation of the essence of what really might help these babies get a full head start.

I appreciate the privilege of sharing this experience with you.

The 67-project network as a whole of which we are only 1 has been able to demonstrate in 1 year that there are 3,790 children screened, 492 were able to graduate programs that would not accept them before, 425 achieved placement in special classes, 521 went along far enough to go into regular day care and nursery programs, children from other programs were able to get enriched diagnostic services from this network, 1,953 of them.

Staff training has been extended to 2,796 within the centers themselves and for centers outside, 3,953. But this is such a small number when we think of the entire rubric of education in the United States.

It would be hoped that there will be great need for this before the States can themselves ignore your rate or see the need for or support this type of programing which we think has so much hope for the future.

Thank you for this privilege of sharing this experience.

Mr. BRADEMAS. Thank you very much Mrs. Haynes and Mr. Ross.

Mr. ROSS. Mr. Chairman, if I could point one thing out, the statistics Mrs. Haynes read you, I think the important thing is that 30 percent in the first year of the children that we served moved on and were transferred to less specialized facilities. That is—and this is just the first year and it does not reflect a true accuracy because it is only 1 year.

But 30 percent of the kids were transferred to either public school or less specialized private facility.

I think that is a key point. If you will check on page 8 and the appendix in our statement, you will see that the private sector needs the Federal money to initiate and start the programs rolling but the private sector is willing and it has demonstrated that it will put up a major proportion of the funding for these programs.

That is all I have.

Mr. BRADEMAS. Thank you very much.

I must say, Mrs. Haynes, I was struck by the statement in your prepared testimony, beginning on page 10, where you remarked that although it does cost a good deal of money to provide educational services to severely and multiply handicapped children, that the alternatives are rather more costly.

One alternative is title VI of the Social Security Act and involves, you suggest, during a life span of 60 years, a total expenditure of $171,600 in minimum cost to the public, provided that the individual could live at home. Or a second alternative is institutionalization which is extremely expensive. And, of course, a third alternative would be euthanasia.

I was just recalling, in respect to that third alternative, which is a shocking one indeed, that, in ancient Sparta, handicapped children were simply left on the mountainsides to die.

It happens that my father was born about 20 miles from Sparta. And I could not help reflecting that had I been born in another age, and inflicted with some handicap at birth, that that might have been my fate.

But what struck me about your recitation of alternatives is your observation that, in effect, if we fail to supply the resources to educate handicapped children, we may be condemning them to euthanasia by nutrition.

I would ask you one question—the same question which I put to Dr. Dinger—with respect to your feeling about possible alternatives to finding funds for supporting education of handicapped children.

One alternative is the bill under consideration, the Education of the Handicapped Children Act extending the present statute.

Another one is the proposal that I suggested, I hope accurately, of our very able colleague, Mr. Quie, that would include handicapped children services under title I of the Elementary and Secondary Education Act.

Yet another alternative is revenue sharing for education.

I believe you endorse the first alternative but I would like your judgment on the other two.

Mr. Ross. We haven't studied Mr. Quie's proposal enough to form an opinion. We do have strong reservations on the revenue-sharing approach. It has been our experience as an agency and one of the reasons we came into existence was the fact that in broad service programs the handicapped are neglected for a number of years but it has been our experience that in broad programs the handicapped are neglected.

We would have strong reservations on a block grant approach to the States where handicapped are not earmarked for servicing and funding.

Mr. Brademas. Why is that?

Mr. Ross. As I said, in the past, United Cerebral Palsy Association came into existence because there were broad social programs and they weren't very big in those days, but the handicapped were the last ones down the road to be considered.

If there was money left over after other people were served, then handicapped were brought in.

Mrs. Haynes. In dealing with children who have as one component some element of cerebral disfunction which can affect a variety of handicaps I believe simple data that 90 percent of the babies originally served did indeed show multiple handicaps and yet so many could transfer out does not mean they are thereby damned from future progress but indeed it does make them have a difficult time getting into the mainstream of programing which is set up for single categories.

If you have learning problems but you also can't walk, you can't get in and vice versa.

I believe it is this falling between the cracks that needs a great deal more attention before the States will indeed be ready to provide the multiple services.

Mr. Brademas. Mr. Hansen?

Mr. Hansen. Thank you, Mr. Chairman.

I appreciate both of you for your very thoughtful and helpful testimony.

Let me ask Mrs. Haynes first of all how these children come to your attention? By what means are the children identified to receive services in these centers you described?

Mrs. HAYNES. This is, I think, one of the values of having had this privilege to take such five centers but we are studying how they do come. In some places we are finding that increased sophistication on the part of the public health nurses that are dealing with high risk population is enabling them to detect the babies that seemed to have developed aberations and foster that referral to appropriate resources.

In other places such as university based center in Iowa dealing with rural babies, here it is right next door to where many high risk mothers are being delivered and so the communications are being fostered.

I believe that the collaboration is our marine center, in California, these little ones can go to school when they are three which does not obtain in other parts of the State.

And the close relationship of the staff when the babies do get into the public school special classes.

I believe, I can't prove, I believe they have alerted the public school staff to what can be done. So when there are round ups of the preschool children known in the community, I think there is a greater awareness.

I cannot document this now but I shall attempt to do so in the course of this study.

So there are many physicians now that they are beginning to see their role in this dovetailed education. It used to be so segregated before. The medical was happening here and education there.

Now, they see that there are adjunctive collaborative parameters of programing that can be applied to the children, they are more ready to refer babies that come to their attention.

Mr. HANSEN. But in order to come to their attention the child must have demonstrated some symptom of a handicap.

Mrs. HAYNES. Perhaps the physician may be alerted because of the risk factors during pregnancy or at birth.

Others might be tolerant of observation of developmental delays or some aberration in the way the baby develops.

A broad program of education to alert the medical and scientific community to the possible implications of this I believe is going on simultaneously which fosters them this abilitative prospective approach, not the treatment of a single disease entity as such.

Mr. HANSEN. I might note that one of the distinguished witnesses before this subcommittee 2 or 3 years ago, a pediatrician, made the observation that with respect to most children in the Nation from the time they leave the hospital a few days following birth until they enter school, there are no medical records.

This is the time when they are most vulnerable but it seems rather shocking that under our system we have not developed the means to identify potential problems that the youngsters have to maintain some kind of medical records that could be useful for the future.

Mr. BRADEMAS. If my colleague will yield, he may recall when we were in Israel a couple of years ago we visited a hospital and children's ward in Tel Aviv. At the hospital, medical records from birth were on computers, and, therefore, the medical history of that child could be followed throughout his life with improvement in his health care, as I recall.

Mr. HANSEN. Yes. We have a long way to go obviously. But it sounds from your testimony that we are making some progress in at least alerting the physicians to the necessity of trying to reach and identify youngsters who may have problems for which we can provide some help.

I would make a final comment and commend you for the approach that seems most constructive to me in trying to develop within the family and the home the ability to help the child.

This seems to me to be one of the areas of misunderstanding of our efforts in trying to reach and respond to needs of young children. Somehow it is interpreted as being inimical to the interests of a strong unified family.

I think in some respects the criticism has been justified that we have not taken advantage of the families and the homes as much as we should to develop there the kind of a climate and the kind of understanding that the children need.

No matter what you do in a clinic or a laboratory, the child will interact with the family and in the home for much longer period and in a much more profound way than anything else that you can add.

So therefore, our efforts to help families to understand how children grow and develop and what their needs are can only produce enormously positive results.

So I am encouraged to head the progress you are making in that area.

Thank you, Mr. Chairman.

Mr. BRADEMAS. Mr. Sarasin?

Mr. SARASIN. Thank you, Mr. Chairman.

Mrs. Haynes, do you find in your early warning system, for lack of a better description, that you actually see and can document, but the ability of the child, for example, to get along much better and perhaps work out of the programs and get into the regular school system because you can catch them early?

Mrs. HAYNES. I am sorry, I didn't quite understand the question.

Mr. SARASIN. I didn't understand it either.

What I am trying to ask, I think, is your emphases on trying to get the child very early and not until after the parents have gone through a long period of time not knowing or bringing to anyone's attention the fact that the child may have a motor disability among other disability, do you find by catching them early you are able through therapy to work with them quickly and work them out of that situation or isn't that likely to happen?

Mrs. HAYNES. To give you very hard data, we would have to have two control groups. What we are offering is an advisory council made up of experts that include three past presidents of the American Academy of Cerebral Palsy and distinguished educators, one of whom you will hear later today, that have combined their clinical judgments underlying each one of these interventions based on their knowledge of what has been happening to these children as they grow older.

Part of the document is to try to document the scientific basis on every intervention. It is going to be a long, hard road. It is certainly our impression, having worked with older children about whom we have been consistently told, if I had only had him sooner to prevent him developing these abnormal patterns, and if I had only had him sooner to reinforce the language, we are hoping to foster the potential from the earliest possible. We hope we can prove it to you as one of these other first chance network projects.

Mr. SARASIN. Thank you.

I wish I had been able to ask the question as well as you have been able to answer it.

Mr. BRADEMAS. Thank you both very much indeed. Your testimony has been most instructive. We are grateful to you for having come.

Mr. ROSS. Thank you, Mr. Chairman.

Mr. BRADEMAS. Our next witness is Marcia Burgdorf. We are pleased to see Miss Burgdorf, both because of the institution she represents and because she is my constituent.

Won't you go right ahead please. You are representing the National Center for Law and the Handicapped, South Bend, Ind.

STATEMENT OF MARCIA BURGDORF, PROJECT ATTORNEY, NATIONAL CENTER FOR LAW AND THE HANDICAPPED, SOUTH BEND, IND.

Miss BURGDORF. Good morning. I am glad to be here. I am the project attorney for the National Center for Law and the Handicapped.

First I extend my apologies on behalf of our director, Dr. Joseph Cunes, who was not able to be with us this morning.

The National Center for Law and the Handicapped is a federally funded project through HEW. We get our funds through Bureau of the Handicapped and Disability Services Administration.

We are located in South Bend, Ind.

The basic purpose of the center is to fight for the rights of all handicapped persons in the country. The whole idea of the legal rights of the handicapped is a very new idea. Ten years ago if you said to the parents of a handicapped child that their child had legal rights, many of them would have laughed.

When they took their children to school to register the principal would often say, I am sorry, Mrs. Jones, we don't have a program for your child, and the parents would take their child home quietly probably never to attempt to register the child again.

Nowadays, although the first situation does still happen, what we are beginning to see is that parents are asking the question, why aren't you providing programs for our children? And the Federal courts have said in the landmark *Mills* case last summer that all children have a right to a publicly supported education despite the degree of handicap and that this education must be appropriate to the child's needs.

That case is presently in different forms being filed in 20 other States and the courts seem very favorable to the concept that all children do in fact have the constitutional right to an equal educational opportunity.

Some of the things that the center is doing is trying to implement on a State-by-State basis the decisions of the Federal court.

No. 1, we are doing this through educational program. We are speaking at conferences and we put out a newsletter so that we can provide information from the grassroots level on up through professional groups to let people know that handicapped have legal rights and we send our newsletters to attorneys general, State legislatures, law schools, anyone who would be interested in the information of what is happening in the area of legal rights.

Second, we could teach legislation on a State level. We could teach rules and regulation, any legislation that is going to affect the handicapped and try and eliminate the sections of the bills that are going to discriminate against the handicapped and going to exclude children from educational programs.

Finally, when we find situations where there is a problem, for example, children are being excluded from the educational system, and this problem cannot be solved through the administrative process, then we are authorized to litigate or provide legal assistance and we do this through several ways but basically we provide assistance to local counsel and provide briefs and we critique their complaints and perhaps even enter cases to provide assistance to the court.

I think it is important for us to note that one of our experiences has been as we traveled around the country that there are many, many children who are being totally excluded from school programs.

I visited many institutions myself and found thousands of children that are warehoused in institutions without any educational programs. Many of the institutions are praised out in the countryside where people are not sensitive to their needs and they can go along through life without any kind of program at all.

One particular institution where I was visiting this week, it was an institution simply for the retarded child. Fifty percent of the children in that institution, which was approximately 1,200 people, were mildly retarded. Probably had no business being in the institution.

But they are the kind of child that could easily be taken into the normal educational program. For a long period of time we have been providing education for these children—the mildly retarded—so we are talking about a whole gamut of handicapped children.

There are also many handicapped children in the community with no educational programs or totally inadequate programs. What is destined to happen to these children is that they are going to remain second-class citizens. They are never going to be able to develop to the fullest of their capabilities, and they are going to continue to be a burden on their families and society unless we provide them with their needed education.

I think maybe I could give you a highlight by giving you individual examples of cases we have run across in recent weeks.

Not too long ago we were approached by the parents of Jimmy. Jimmy is a 5-year-old boy who has severe speech and hearing problems. In his school district they do provide kindergarten for all children. The school was aware of Jimmy's problems before he registered in the kindergarten, and they said they would be happy to take him.

Jimmy was placed in a small 18-child classroom and in the regular public school program.

After about 3 weeks, Jimmy's mother got a call saying, I am sorry, we can't deal with Jimmy. Take Jimmy home and bring him back when he is 8 or 10, and maybe we will have something for him then.

That is a rather arbitrary figure, to bring him back at 8 or 10 when they are providing programs for all children at the age of 6.

Jimmy's parents started asking questions: Why don't we have any program for Jimmy? You told us at the beginning you would be able to help him—what is the problem? Through several referrals, they came to the National Center.

We sat down and spoke to the principal and director of special education, and we worked out for Jimmy a solution that there was a private school program in town that was for kindergarten-age and preschool-age children, that was specifically for children who had speech and hearing problems, and Jimmy would probably be best placed there, with the public school providing the financial assistance or tuition payments so Jimmy could get the help he needed.

Jimmy is one person who has gotten the help, but I am afraid there are too many children who have not had the assistance that they have needed, and therefore are excluded from the programs that would help them.

Another case that we had last week was a girl named Janice who is about 13 years old, who was placed in a public school program for the trainable mentally retarded.

Unfortunately, this was an inappropriate placement. Janice was a brighter child than that. She was multiple handicapped and evidently had not achieved well on the test.

But in the classroom situation, she did very well. She far outshone the other students in her class which was approximately the size of 18.

The teacher felt that she should be promoted to the class for educable mentally retarded. The problem there was that Janice was behind that class. She became hyperactive. She was a behavioral problem. The teacher in the higher level class wanted to get rid of Janice, and she approached the school officials, and Janice was placed back in the class for trainable mentally retarded children.

But the switching around had caused emotional problems. She didn't fit into either class. The long and short of it was that the school decided since they had no program for her and they could not adapt to her needs, they would simply exclude her, so Janice was also out of the public school program.

This kind of thing happens all of the time. We consistently get calls every day from parents of handicapped children from all over the country, saying we want an education for our children. They cannot get it right now in the public schools. What can you do to help us?

One of the things that we are doing is criticizing legislation. Some of the States that we have done it for are Indiana, Arizona, and many others.

But unique to even the mandatory Special Education Acts that are passed by the States that are supposed to be providing education for all children, it is a very typical practice to exclude all institutional children, and many times any child that is below the IQ level of 35 or perhaps 50.

So they are in fact excluding in the Mandatory Special Education Act many children who could benefit from an educational program.

Finally, one of the other things that this center is trying to do in the Federal court case that has been brought in the State of Wisconsin, the State realizes that they have the responsibility to educate all children. They also realize, according to the Department of Division of Handicapped from the Department of Education, that there are approximately 10,000 handicapped children that they are not now serving.

But as the attorney general said to me, "What kind of programs shall we provide for these children? What can we do to meet our responsibility?"

The National Center is trying to help them in that case to stipulate what their responsibilities are. But the next question that the attorney general of Wisconsin and many other attorneys general and heads of the departments of education across the country have said to me is, "OK, we realize both our moral and legal responsibility to provide education for all handicapped children, but where are we going to get the money?"

This is a very serious problem; and although in many instances the Federal courts are saying that all handicapped children have a right to an equal educational opportunity, the States are not going to be able to fully implement these programs with the kinds of moneys that they now have available to them.

I think the real seriousness of the problem can be summed up simply in saying that all handicapped persons have legal rights as every other citizen, but these are people who cannot speak for themselves and will not get their full rights as citizens unless others act on their behalf.

Thank you.

Mr. **BRADEMAS**. Thank you very much Miss Burgdorf for a very illuminating and instructive statement.

Let me ask you a couple of questions about the center.

Let me ask you to describe very briefly the purpose of the National Center for Law and the Handicapped. What kind of a program are you embarked upon? What do you do?

Miss **BURGDORF**. Briefly we try and fight for the rights of the handicapped. We try and educate people, No. 1, to the fact that all handicapped persons have legal rights.

Mr. **BRADEMAS**. I am not getting my questions across clearly. You say you try to educate people, but what I am interested in getting is a rather more specific delineation of the nature of your program. How many people are there? Do you have a battery of lawyers? Do you run an educational institution? Do you see what I am getting at? Do people call you and say I want to have a lawyer to go to court? What kind of a program do you have?

Miss **BURGDORF**. As far as staff goes, we have an executive director and I am the only attorney on the staff.

But we do have approximately 10 law students who also work with us. We are definitely in the process of trying to expand and get more staff. But at the present time there are just two full time people. We get calls all of the time. We do not run an educational institution. We get many calls every day from people all over the country saying, not necessarily I want a lawyer, but they ask us the question of what are the legal rights, can you tell us what kind of information can you provide for us, what shall we do if public schools say take your child home and we are not going to provide for them.

Can you tell us who in our State is working on these problems? Can you put us in touch? So in a sense we do a lot of clearinghouse kind of work but we also do provide direct help and assistance to local counsel who are involved in some of the right to education suits in Federal court and on request of several judges we have entered cases to provide the overall national prospective of the concept of the right to an equal educational opportunity and also the facts as to the types of problems that handicapped children face, the programs of education that are available in other States and that have worked and any kind of information that would be of assistance.

Mr. BRADEMAS. Are there analogous institutions elsewhere or is the National Center for Law and the Handicapped in South Bend the only institution of its kind?

Miss BURGDORF. I would say realistically, it is the only institution of its kind. There are other attorneys who have done some of the test case litigation, the original cases, the *Pennsylvania Association for Retarded Children* case, but they are really not concerned with implementing those decisions so they affect all children in each State so we are a unique agency.

Mr. BRADEMAS. To what extent do law schools presently offer courses in the kind of law you are engaged in?

Miss BURGDORF. One of our sponsoring agencies, University of Notre Dame was the first to offer courses in law on handicapped. I think there are eight law schools now involved and we are trying to interest more.

Mr. BRADEMAS. Do you have a generalization about reaction of State legislators and Governors to fiscal implications of the kind of law you are practicing?

Miss BURGDORF. I think that probably that is one of the most serious reactions we encounter when we are talking to Governors and legislators. They either agree in principle that they would like to educate all handicapped children or they don't know where they are going to get the money or it forces them in a position that the State might want to provide the education, but they fight us because they don't have the funds.

So I see that the handicapped children are the ones that are suffering because they won't be provided with the service.

Mr. BRADEMAS. In light of the testimony of the witnesses, who preceded you and expressed their opposition to special revenue sharing because, they contended, such a program would mean that handicapped children would be shoved to one side and not given the attention they require—if there is validity in those observations—the result is going to be an enormous mushrooming of business for lawyers like you. Because, if there are difficulties right now in the United States—given the existence of a rather modest degree of Federal support for the education of handicapped children—if we have special education revenue sharing, and handicapped children are left out in the cold, given the proliferation of these State court rulings, we can expect an enormous number of legal cases.

Am I wrong in that analysis?

Miss BURGDORF. No, I think you are probably very correct that it is going to spread tremendously and increase the number of cases and the unfortunate thing I think is that lawyers are not the people who solve the problems.

They only get into the act when it can't be resolved any other way. I think the real problem with trying to achieve the equal rights for handicapped children through law suits or through litigation is that it takes a long time and it does not even solve the question of money even after you have gotten a favorable decision.

Mr. BRADEMAS. Thank you very much.

I hope you will pay my best wishes to your associates at the center in South Bend.

Miss BURGDORF. I certainly will.

Mr. BRADEMAS. Mr. Hansen?

Mr. HANSEN. Thank you, Mr Chairman.

Let me also welcome you and commend you for a very helpful statement.

Let me ask, to what extent the center has people like yourself in other parts of the country?

Miss BURGDORF. So far they don't. We only have the one establishment in South Bend. We do, however, consider ourselves to be a national center and we do a great deal of traveling.

But as far as having people placed in other parts of the country, we don't.

Mr. HANSEN. Your service to the rest of the country would be through what travel you can undertake as well as response to telephone and mail inquiries?

Miss BURGDORF. Right.

Mr. HANSEN. Obviously there must be a need for many more centers in other parts of the country.

Miss BURGDORF. Absolutely. I have been astounded by the amount of work that there is to be done in this area. It is not unusual at all that we would get perhaps 13 long distance calls in the period of an afternoon from people from States who would like our help.

Mr. HANSEN. Do you find the law students attracted very much to this kind of service?

Miss BURGDORF. Yes; I think so. Not only do I find them attracted to the service but I think that they have done a superb job. We hired students who had a personal interest in this area. Either they had a retarded brother or a blind sister or something like that. But many of them had other career ideas. They thought they would work with us on a temporary basis. They have gotten involved in working with the people and talking with handicapped children and parents and I think many of them are going to be working in this area for the rest of their lives. They are quite taken with it.

Mr. HANSEN. What kind of support and cooperation do you receive from the organized bar?

Miss BURGDORF. I think I failed to state that we have four sponsoring agencies, the Council for the Retarded of South Bend, which is a local ARC, a national association for retarded children, the University of Notre Dame, and the American Bar Association, so the American Bar is very much a part of our organization and they have begun to establish a list of attorneys in each State throughout the country that would be willing to work on the problems of the handicapped and we are trying to establish a network so that in each local there will be someone that we can recommend.

Mr. HANSEN. Thank you.

I am very much impressed with what you are doing. I am sure it deserves much more visibility. I want to give you every encouragement that I can.

Thank you, Mr. Chairman.

Mr. BRADEMAS. Mr. Sarasin?

Mr. SARASIN. Thank you, Mr. Chairman.

Miss Burgdorf, how many States do not now mandate education for the handicapped?

Miss BURGDORF. I think I am correct in saying this. I think that there are only 13 that actually have mandatory special education laws in effect.

Mr. SARASIN. Of those 13, do you find that the law in those States is effective?

Miss BURGDORF. Unfortunately we do not find that it is effective. As I mentioned a little bit earlier, it is very typical in that legislation to completely exclude institutionalized children. They are never even considered and in many instances the funding that is appropriated to carry out the legislation is totally inadequate.

So that we are right now involved in litigation in several States where they have mandatory special education but where they are excluding perhaps 10,000 to 50,000 children.

Mr. SARASIN. I am thinking specifically of Connecticut. When I was in the State legislature we did mandate to the communities that they would have to provide the education for the handicapped children.

Unfortunately we did not bother to fund it which became a disaster for the communities. Of course, in many communities they are not equipped to handle it at all because of the size of the community itself and they try to do it on a regionalized basis or in existing programs where the local board of education would provide the funds as kind of a tuition to students.

I wonder if you have any familiarity with that and what your feeling is on that kind of a program?

Miss BURGDORF. I am sorry. I really don't have any direct experience with Connecticut. Are you saying my feeling on community programs?

Mr. SARASIN. Yes.

Miss BURGDORF. I think that is one of the best ways to try and carry out educational programs for the handicapped and that is definitely the direction we would like to see the programs go.

The courts have spelled out that when they are talking about the concept of due process, that a handicapped child should have an educational program that is as close to normal as possible.

Therefore, in any instance where they can remain in the community, live with their family and have the program provided there, that is the best thing, as close to normal as possible, and we like to try and discourage regional programs or one residential institution in the State for particular handicapped or out-of-State placement.

So I very much agree with the concept of the community programs for educating the handicapped.

Mr. SARASIN. Thank you very much.

Mr. BRADEMAS. Again, Miss Burgdorf, let me thank you.

I am very heartened and encouraged by the work you are doing and proud of the fact that it is going on in South Bend.

Thank you.

Miss BURGDORF. Thank you.

Mr. BRADEMAS. Our next witnesses are Elizabeth Johns and Monsignor John Hourihan.

It is nice to have you both with us.

Again if you would be kind enough to summarize your statements because we have other witnesses to hear from.

STATEMENT OF ELIZABETH JOHNS, REPRESENTATIVE, AMERICAN SPEECH AND HEARING ASSOCIATION, AND MSGR. JOHN HOURIHAN, REPRESENTATIVE, COUNCIL ON EDUCATION OF THE DEAF, NEWARK, N.J.

Miss JOHNS. Mr. Chairman, I am Elizabeth Johns with the Arlington public schools and chairman of the Committee of Speech and Hearing for the American Speech and Hearing Association.

I am here with John Hourihan, Council on the Education of the Deaf and we are submitting joint testimony because we feel this is a very important act and these two organizations are certainly favorably impressed with it.

Twenty-one million Americans, one-tenth of our national population, are in some way and to some degree speech language and/or hearing handicapped.

The American Speech and Hearing Association supports without reservation the 3-year extension of the Education of the Handicapped Act in the House of Representatives, bill 4199.

In this age of accountability, this act has been responsible for providing more direct services to children and adults, better and newer education delivery systems, and a greater awareness of the potential for the handicapped individuals than any other single influence in the Nation.

Positive change has been reflected in every State and the individual consumer has received the greatest benefits. For example, in Los Angeles County, there is now a program for aphasia children.

In St. Louis County there are summer programs for hearing impaired children.

In Knoxville, Tenn., and the surrounding area there are satellite speech, hearing, and language programs provided by the University of Tennessee.

In Seattle, Wash., there is a program for the severely physically handicapped child.

From University of Utah research and onsight demonstration and discussion have been held, over the entire country, concerning mainstreaming hearing impaired children into regular instruction programs.

Workshops with special education leaders and speech, hearing, and language pathologists in 39 cities have been held and work sessions have been held in State departments of education in almost every State in the Union.

Of course closer to home and a part of my daily experience, is what has happened in Arlington, Va.

Because of Federal support, there are now consortium programs for the severely handicapped, with Alexandria, Falls Church, Arlington, and Fairfax, and probably for the first time these cities and counties are working cooperatively and busing children very cooperatively across county and city lines.

Yearround educational programs for the hard of hearing, the deaf, blind, and the language impaired students now exist. There is major field research in the area of language disorders.

Of course very close to my heart is this language project because 3 years ago 10 severely handicapped language impaired children came to our attention. They did not talk. They had been legally excluded from the public school setting because of their multihandicaps and they had been labeled everything in the book, autistic, aphasiac, retarded, and crazy.

These parents were very distressed. These children were only 5, 6, and 7 years of age. They had been turned away from all of the established programs.

In Arlington, we were concerned not so much with the question of what is he but what does he do and what can he do. The speech and hearing staff is committed to identifying and describing the child's proclivities for learning and for demonstrating the effects of channeling these proclivities toward acquisition of linguistic schools and acceptable behavior.

With the Federal aid, and moral support given, there is now a model program for these children. We are not a model just for the State of Virginia but for most of the Middle Atlantic and Southeastern States of the country.

The question is, who were these children? They were children of military men. Children of a judge, a county official. A welfare recipient. An educator. And a family who had immigrated to America looking for a better way of life.

We are proud of the project. We have demonstrated the need and now we have local support. Yet, with all of the positive changes 1.1 million school age children with speech and language impairment receive no service at all.

Hearing impaired, numbering 356,000, receive no service. Across the board reductions in Federal support of education has had a drastic effect on the educational opportunity for training in special education.

The language impaired child in this Nation represents a grossly neglected population. The current law definition of a handicapped child includes children with speech impairment. Obviously children with impaired language development was intended by the Congress to be covered by the speech impairment label.

But unfortunately thousands of children with language disorders are either receiving inappropriate special education assistance or no assistance at all.

In order for these children to be better served, the act definition of handicapped children should be amended to read "speech and language impaired" in lieu of the present "speech impaired."

Mr. Chairman, our formal statement to the committee includes endorsement of your bill to include certain supplementary education services in the Education for the Handicapped Act.

I just want to say here that we think it is a great idea. We congratulate you for it and we urge you to join the two vital proposals in the bill you finanally send to the House floor.

For the 15,000 speech pathologists and audiologists in this country, I would like to leave this one thought with you.

The extension of the act for the handicapped is not a luxury, it is not a frill, nor is it an aid to help those who want help themselves. It is a necessity toward providing services to handicapped persons of this Nation.

Mr. BRADEMAS. Thank you very much.

Monsignor, it is nice to have you back with us again.

Msgr. HOURIHAN. It is like coming back home here. This is my second home. Typical of coming back home, I am stimulated and excited every time I come here from what I hear and from what I see.

I come here representing the council on education of the deaf but also I come here as an individual. I work in the Mt. Carmel Guild in the archdiocese of Newark, N.J.

As I sit here before you, I want you to know that I am here as a priest, as a professional, and as an administrator. So I thought I might address myself to the role that I had before you.

First of all as a priest I pray for you gentlemen because we realize the problems that you have and will have to do what has to be done.

We come here and we give testimony and then we go home. But you have the headaches and so you are remembered in my prayers every day.

I also note from previous testimony that one of my Irish cousins was so right, he said, "Preaching and testifying before congressional committees is like drilling for oil. If you don't strike it in 5 minutes, you are just boring."

Well, I will try to strike in 5 minutes.

As a professional, I can tell you with the deepest conviction of my heart and my 23 years of experience in this field, we need this legislation. We really need it badly because regardless of what some individuals may think, this is a national problem. It has to be treated as a national problem.

I am not going to go into statistics because I am sure you have had all of the statistics. I want to talk from our own personal experience in terms of what you have done and how we pick up the ball after you do the job for us.

I was down here testifying for the Education for Handicapped Act in 1968. I was very much impressed with that act.

There was a commitment to have parents involved and also a commitment that replication, that the present Government was not to take over all responsibility for special education and wanted people who were responsible for setting up the model, to realize they had the responsibility to set up the model.

We went out with the expertise the Bureau had to offer us in terms of site visits that this was money lent to us by the Federal Government and we were to invest it and get a return on it.

We took that money. We worked for 3 years because it was 3 year legislation. We set up a tremendous program which has become a national body.

We screened 8,000 children. Of the 8,000 we screened, we picked up 40 noncommunicating deaf children. We worked with them. We worked with the parents. We worked with the communities. We worked with local school districts and we worked with the State.

Because as a Catholic organization, we have the same problem the Federal Government has and that is money. We are not getting the money in the collections, these days, gentlemen.

So we cannot underwrite all of these programs forever. So we went down to Trenton and in fact Mrs. Roberts, who is back there, the beautiful lady in the back, because I should have her stand up. Is it permitted to have her stand up?

Mr. BRADEMAS. Of course.

Monsignor HOURIHAN. She and I went down to Trenton and we told them that we had a model and we had an obligation to have this model replicated. They said to us, well, you are going to have problems because we don't have the money in the State.

We said we are not anxious to have the State at this particular point mandate compulsory education of all of the handicapped all at once but what we would like the State to do would be to phase into a program such as that by replicating our model, not just for the deaf but for all handicapped and setting up 10 to 20 models so instead of a program costing $30 million or $40 million, it would cost maybe $1 million.

The committee was very much interested because of our coming down there first of all with a commitment and also our sense of political reality of where it is at today and the problems that they have to face as a committee.

So we were delighted with the response that we had.

I would also like to at this point emphasize that I come to you as an administrator. I see the need in this legislation that you are proposing to point out the importance of having the Associate Commissioner of the Bureau of Education for Handicapped reporting to the Commissioner of Education because it is very important that the education of the handicapped be considered as important as all education.

It is part of all education. It is just that these are children with particular problems and in need of particular teachers.

I would like to see very definitely because of my own role as an administrator in our own organization, to have someone in that critical role in direct line with the Commissioner.

I feel that you gentlemen when we present this to you will take it and think about it. I have the greatest confidence in you as men who have done a job before. I want to say I am sure you are also businessmen in your own right. Please don't let the investment that has been made up to now in the last 6 years go down the drain.

It would be a frightening thing if like someone who bought a beautiful house did not pay the mortgage and lost the house.

I would like to see the investment we have made in special education not be lost for want of money to pay the mortgage.

Thank you very much.

Mr. BRADEMAS. Thank you very much Monsignor.

As I read your statement, Miss Johns, I note that you endorse the legislation under consideration as has Monsignor just now.

I notice also that on page 2 of your statement you support the bill at the authorization levels that it specifies, if I am not incorrect. Is that correct?

Miss Johns. Yes. However we do realize that the authorization levels as they now stand are a little unrealistic so we will have to work for the realization of that situation.

Mr. Brademas. I would be grateful if you would give the subcommittee your judgment as to what you feel would be the appropriate authorization levels by title of the bill.

Could you do that, not now but at some point in time?

Miss Johns. Yes, I can have it to you within 5 days.

Mr. Brademas. I note also that you suggest on page 7 of your statement that you would like us to include in this legislation another measure which I have also introduced, H.R. 331, the supplementary education services for the Handicapped Act which would make possible the use of education and technology in the teaching of handicapped children.

Miss Johns. Yes we feel very strongly in support of this.

Mr. Brademas. I note also that on pages 5 and 6 of your statement you come down pretty strongly in opposition to revenue sharing.

I wonder, Monsignor, if we could have your comment on that issue?

Monsignor Hourihan. Revenue sharing, now this is personal and I am not talking for the Council on Education for the Deaf, revenue sharing is an interesting experiment in terms of the philosophical basis for it. I am not a political philosopher, but let me say this, that I know we have certain problems. Let me point out what you men do here and what happens sometimes at the State level.

This is from experience so I can talk on firm ground. We come down here and we testify before men such as yourselves and you are concerned about education of all children in all programs, which is beautiful.

When the laws are written, it talks about that these moneys are to go to public, nonpublic, nonsectarian programs in order to conform with the Constitution, of course.

The interesting thing was at one point we as a private nonsectarian, although church-supported operation, went looking for some help at the State level and they were saying to me, there is no money.

I said, what do you mean, there is no money, we have been down to Washington testifying to get money in the States for these programs.

They said, it has been allocated to all of these other programs. I said, what percentage of your money goes to private nonsectarian programs, because I said the whole field of special education was given its impetus through private programs.

I said, the parents won their own organizations. It was not through the public schools. In fact the public schools at one time did not want to say trainable children. They said trainable children is not the responsibility of educators.

So if it had not been for these private groups, we would not have the measure of success we have today. Well I said to them, that is discrimination. I said I want to know what percentage of the money that is coming from the Federal Government goes to private schools.

They said it is hard to break down and difficult to pin down.

Then I went to the national office and I said, I have had an experience recently and we come down here and we are not against public schools. I am very much in favor of public schools. The only reason I did not build a Catholic school for the deaf or a Catholic high school or grammar school is because we had good public schools for the deaf and I did not want to go into competition with them and drain them off.

So I am in favor of public schools. But I said to them, I have had this experience and I am finding out from one example that we come to Washington, we testify to get money into the public school system and into the private programs as well and now I am beginning to wonder how much of the Federal money ends up into some of these private programs.

I asked can you give me statistics. They said no, that is hard to come by.

On the basis of that, I have an ingrained supposition that when you have revenue sharing and the money is poured into the State, unless there is some stipulation some place, it is going to be used by those in the State departments the way they want to use it and I can tell you, gentlemen, I don't think the handicapped have a top priority in all of the State departments of education in this country.

I would be concerned about all of the work that I have done in 23 years in my priesthood going down the drain. I am talking about the work I have done for Protestants, Catholics, Jews, and everyone. I am concerned about the child as a human being. I am not only concerned about the rights of the child but mostly I am concerned about the parents and the anxiety that is generated when they have the child and they can't get the child in a program.

It is a problem. We have children not in programs because there are no programs. We also have children in inappropriate programs and that is why I was pleased you asked the lawyer before the question of what is happening because in New York, they are now instituting a suit because they found one child in an inappropriate program and another child could not get in the program and the only way they could force the issue was to go into the courts.

I get upset. It tears the heart out of me as a priest. When I have to deal with parents, they say, "Father, what can we do?" and these are not just the Catholic parents, these are parents. I say. "We are trying. Thank God there is hope in Washington."

So I come here with hope in my heart.

Thank you very much.

Miss JOHNS. Mr. Chairman, under the revenue sharing that we do have a strong statement on, in special education we might be wiped out, we would get so little money. We get little money as it is now.

Under this proposal, we are just really on thin ice. We are dealing with special children and special problems and we need special attention.

Mr. BRADEMAS. I appreciate the statements of both of you. You have been most eloquent on that subject.

I think you know my own views. I have already expressed them. My own opinion is that if we go to special revenue sharing, that we will be locking the school door on handicapped children in the United States.

We are already seeing the impact—well I will drop it at that.

I think I have made my position clear and I think you have made your positions very clear.

Mr. Hansen?

Mr. HANSEN. Thank you, Mr. Chairman.

Let me also express my personal appreciation for some very fine statements.

I would acknowledge to Miss Johns my indebtedness to the Arlington public schools. I might point out that 2 years from now I will have seven children in the Arlington public schools. So I am indeed indebted to those schools.

I guess you can say this is a Federal impact also. One of my daughters, interestingly enough from the point of view of your special interest, is totally deaf in one ear. But I expect largely because of the help in the schools, she is able to maintain very close to a straight A average in school.

So I think that says something for the school system.

Mr. BRADEMAS. Heritage will also tell.

Mr. HANSEN. Let me ask one question because it bears very much on this problem of speech and hearing. In the past years, all too often we have classified as handicapped children who have a reading disability because we use these kinds of tests to determine intelligence and performance and in all too many cases these children have been separated from the regular school curriculum and treated as handicapped or retarded when in fact they are quite normal in their intelligence.

Are we out of that age now? Have we moved beyond that period so that we are now able to use much more effective and sophisticated means to measure intelligence and ability for purposes of placing the children in a place where they should be.

Miss JOHNS. There is a movement now for mainstreaming as many children in regular programs as possible and just incidently we have now a title VI proposal from the Arlington public school to the State department of public education under title VI, a program that would examine the curriculum that is used for learning disability, trainable mentally retarded, and educatable retarded in which we will set up a research grant to educate children in the classroom every day.

Now we are dealing with only 86 children. It is still a hard concept to accept in many districts but we are working on it. This is an area that we do need a lot of research movement and support.

Monsignor HOURIHAN. Mr. Congressman, we have had some experience in our diagnostic center relative to what you mentioned now which I interpret as sometimes a misdiagnosis of a child because they don't use an interdisciplinary approach.

One individual assumes responsibility of determining this child's problem and then the child is probably labeled and then put into a program.

What has come out of the whole field today is the need for an interdisciplinary approach to this.

In our own diagnostic center we had in the early days a child that we discovered who was brought to us from a class for the severely retarded and this child was brought in because somebody suspected deafness.

The child was tested and was found to be profoundly deaf with an IQ of 140.

It was a gifted child, but it had spent 2 years in a program for the retarded. The beautiful thing about the Bureau is that the Bureau is concerned about researching national problems because this is a national problem in terms of how you diagnose children.

I was listening this morning when you talked about the young children and how you work with the parents.

The Bureau has done a magnificent job in the early education program because of this interdisciplinary approach, that it is not one person any more who is determining the whole educational future of the child.

When you talk about keeping in touch with the child, if you can get the child, as the Education Act of 1968 for the Handicapped Child proposed, and begin at zero and begin at the time a child is being identified as having a problem, then you will find people working all along the way with the child and the parents.

I hate to see it thought of just as education of the child because it ends as education of the parents and the child and the parents continue to work at home and their own feelings begin to come out in terms of their confidence and their ability to begin to cope with this problem.

In answer to your question, I say that research has to be at a national level, not at a State level. There is research like in the training programs.

The money that you men have allocated for training programs at the universities. I hate to admit this. I am still studying to be a doctor. I am going to have my degree in June. It is the only time Columbia University has had a retarded priest in its program.

I will be getting my degree in June. I am intensely involved in research now. There is a great deal of research now that is being done in doctoral programs and we must not think of research only in terms of special projects funded by the Bureau.

We must also think of research being done by fellowships that Bureau gives out for doctoral students. It is in this type of research that you will find answers to the questions you raised with Miss Johns.

Miss JOHNS. Also we must go back to the fact of not so much who is the child. Everybody wants to know is he mentally retarded? We need to move away from that and we need to move toward what is he doing. This is what we in speech and hearing are doing.

Mr. HANSEN. Thank you.

I am glad to know I have a fellow student here. I am hoping to complete work on my master's degree also this June. So I wish you luck.

Monsignor HOURIHAN. Thank you.

Mr. BRADEMAS. Mr. Sarasin?

Mr. SARASIN. I will note that Mr. Hansen would be working on his doctorate if it was not for the seven children. I really have no questions but I would like to compliment both of the witnesses for their presentation and answering the questions before we had to ask them really.

Thank you very much.

Mr. BRADEMAS. Thank you both very much.

We are pleased to have had you with us and your testimony has been extremely helpful.

Msgr. HOURIHAN. Thank you.

Mr. BRADEMAS. Next we shall hear from Frances Connor, chairlady of the Department of Special Education, Teachers College Columbia University.

Again, if you would be kind enough to summarize your statement we will put it all in the record.

[The statement referred to follows:]

STATEMENT OF FRANCES P. CONNOR, CHAIRMAN, DEPARTMENT OF SPECIAL EDUCATION, TEACHERS COLLEGE, COLUMBIA UNIVERSITY

I am Frances P. Connor and speak as an experienced teacher of handicapped children, now a Professor at Teachers College, Columbia University and Chairman of the Department of Special Education at that institution. Also, I serve as a member of the U.S.O.E. National Advisory Committee on the Education of the Handicapped and am a past president of the national Council for Exceptional Children.

First. I commend the action taken by Congressman Brademas and his colleagues in calling attention to H.R. 4199, a bill to extend and amend the Education of the Handicapped Act. Without such specific identifiable and earmarked program elements, the child with handicaps will not receive an adequate education.

As our supportive legislation is part of the E.S.E.A., and our Bureau for the Education of Handicapped Children is part of U.S.O.E., so our local, state and university programs are an integral part of their general educational institutions and agencies: this relationship has been and still serves as the principle upon which Special and Regular education exists. Efforts are being made throughout the country to prevent the isolation of disabled children from the mainstream of life.

However, I am appaled at the situation wherein handicapped children have had to win their battles over and over again. It is patently clear that the amount and degree of financial and other support for the education of the handicapped is directly related to the extent that funds are earmarked for that purpose.

I was there. Until the late 1950's the U.S.O.E.'s tiny Section on the Education of Exceptional Children was staffed by two over-extended dedicated staff members. They collected statistical data on developing programs and "put out local and state fires" as needs of handicapped children became rampant. The gaps in the education of the handicapped were noted by Congress and by President Eisenhower.

I remember well the effect of a misplaced trust in self-monitoring of the expenditure of funds for the education of handicapped children. This occurred in the 1957–60 period when the cooperative research program was initiated largely through the efforts of the National Association for Retarded Children, a parents' group. In '57 and '58, over 50% of the appropriation was directed to research on teaching and learning related to the mentally retarded. Three years later, with the removal of the earmarking, only five per cent of the funds were made available for special education.

Then, in 1963, Public Law 88-164, signed by President Kennedy, was passed and federally coordinated research, training and other special programs were initiated and/or expanded. A Division of Handicapped Children and Youth was established to manage the implementation of the Congressional mandate.

Again, however, during the 1965 reorganization of the U.S. Office of Education, an apparent "divide and conquer tactic" was employed by the Administration in the disbanding of the Division. This action was taken despite the Division's receipt of both the presidential citation for outstanding contributions to greater economy and improvement in governmental operations and the H.E.W. Secretary's award for superior service. Naturally, with the resultant lack of line and staff relationships, the legislatively supported program for the handicapped was dissipated and became ineffective.

After major efforts by national organizations and many individuals, the present elements of the Education of the Handicapped Act were passed by Congress, supported by President Johnson, and became law. Included was the viable administrative unit, the Bureau for the Education of the Handicapped. With all the problems of a growing, dynamic operation, the Bureau has made yeomen efforts to increase the accountability of those accepting responsibility for management of governmentally sponsored projects and the infusing of new life into programs at the local and state levels.

Concurrently, efforts are being made to revise some of the traditional discrete disability categories which have limited service. (1) More direct focus is on the educational needs of severely and multiply handicapped children. (2) Strongly supported have been the specific programs to return children, unnecessarily labeled, and academically underestimated, to the mainstream of education. (3) More rigorous and earlier educational assessment of children with developmental problems and aberrations has been made possible. (4) Educational intervention to promote effective learning in vulnerable infants and very young children without reference to a specific disability has become more widespread nationally.

Professional personnel are being prepared to meet the increasing demand for teachers, supervisors, school administrators, college teachers and researchers to improve the education of handicapped children and youth. Because of congressional action, we are coming closer to filling the manpower need in this field.

Supported research activities are beginning to yield an increased number of qualified and experienced researchers, a genuine effort to test the effectiveness of on-going programs and a beginning accumulation of systematically developed program innovations for implementation in schools throughout the country.

We still have a long way to go:

Court decisions and state legislation are mandating the right to education for *all* children. The huge new responsibility for children long discarded in inhumane environments cannot be met by the states alone. The problem requires federal action and support.

Children are still being excluded from publicly supported schools. Doors are still being slammed in their faces. Among the excuses being given are: "We have no funds for the extra staff and equipment required"; "they will upset the other children in the class"; "this school is not the most appropriate setting for your child because he has a reading (or a learning) problem." But, where can he go?

The mother of Diane, a 17-year-old severely physically handicapped girl, recently decried her situation. Without warning and after one year of school attendance, with her grades moving from "Unsatisfatcory" upon entrance to "Excellent" in January, Diane's mother was told last week that the school was not the right one for her. Last Monday afternoon she was informed that the school bus would no longer stop for Diane. There was no school for her on Tuesday. No alternative placements were suggested. Through tears, her mother asked, "Can she help it if she lived when on one expected her to? She also told me how much Diane improved this year . . . how much she loved *her* school and *her* classmates . . . how good she felt about herself—for the first time in her life." Where can Diane go now? There are almost no school facilities in this country where a 17-year-old who functions on a 3rd grade level can receive the academic education she missed because of extensive surgery and major health problems. And, exclusion to home instruction is not the answer for a teenager craving the stimulation of peer relationships.

A penetrating and effective system of advocacy for handicapped children and their parents is essential if Diane and those like her are to be educated.

Children are showing us that they actually learn in their first few days of life. We are just beginning to explore the effects of working with handicapped infants and the possibilities of avoiding the kinds of problems faced by the Dianes of this country.

Better ways of teaching, of measuring school success, of determining the most appropriate school setting for each individual child still need to be developed.

Planning and preparation for adult living for severely and multiple handicapped children are as yet not well-defined, especially for the rapidly approaching new world of technology.

Progress in these general areas of need in the education of the handicapped will require continued and expanded mutual planning and programing by local communities, state agencies, non-public organizations and colleges and universities. A coordinated federal effort is necessary to facilitate an equitable, economical and efficient national movement. I am convinced on the basis of our experience at Teachers College, Columbia University that the concept of the university's working in concert with the community is not only feasible but essential and mutually beneficial. We can relate our training, research and service to all aspects of community education for the handicapped.

If we permit a child to live, he has a right to grow—and to learn. For your past efforts, I know I speak for millions of parents and children in saying "Thank you." As leaders of this country, I am confident of your willingness to enable us to continue our early movements toward normalization of these millions of handicapped children and adults who can benefit from the highly individualized and specialized education they require.

Thank you for permitting me to share my experiences and convictions with you.

STATEMENT OF FRANCES CONNOR, CHAIRMAN, DEPARTMENT OF SPECIAL EDUCATION, TEACHERS COLLEGE, COLUMBIA UNIVERSITY, NEW YORK, N.Y.

Miss CONNOR. Thank you very much.

I suspect I don't have to indicate all of my affiliations but I am a teacher and then I am chairman of the Department of Special Education at Columbia University and I cannot compete with the doctoral students we have.

I am also a member of the Advisory Council, USOE program of the President, and past president of National Council for Exceptional Children which testified this morning.

Maybe I should also mention I am very much involved in the infant program to which Mrs. Haynes was directing her attention this morning.

I am truly pleased that it was made possible by you folks and particularly Congressman Brademas, that we were going to have hearings on this particular education of the handicapped bill because I was very apprehensive a few weeks ago when I recognized that we would have the present bill expire and I am not at all sure that the emergency extension would really work for us.

I am delighted that we are having this as a separate entity apart from the hearings on the regular ESEA Act. However, I would like to indicate also that we are not isolationists, that I see us very much a part of the general education movement, whether it be at the university or in legislation in the Office of Education or wherever it might be.

We are not interested in being too bureaucratic and I know a lot of young people at colleges are concerned about our being bureaucratic but we certainly have to have an organization that is earmarked for education for handicapped or I think we are going to be right back where we were before.

I am appalled at the situation where handicapped children have to win their battles over and over again.

And I was also here in 1968. I am absolutely fearful that we are going to go through that hassle as I have described in the paper where we had money allocated, earmarked for research for 2 years and then the research money was to have automatically included the handicapped.

We went from 50 percent when it was earmarked to 5 percent a few years later when there was no earmarking.

That 5 percent was essentially for continuing projects. When the Division for Handicapped Youth was established, 88164, signed by President Kennedy, and President Kennedy did not have responsibility for the establishment of the Bureau.

That was later and it was President Johnson. So I would like to make that correction. Every time we seem to relinquish the earmarking, the money disappears for our benefit.

With reference to revenue sharing, money can be considered for the handicapped if you have three or four youngsters in the school, then you can use that money in the schools and that is utilizing the money for the handicapped.

As you and I know there are a lot of interpretations of how to use the money and how to meet the letter of the law.

I would like to suggest that we have to maintain a viable administrative unit, the Bureau for Education of the Handicapped at a policy level so that we will have an opportunity to reach into the office because the lawyers can move and cover the program up.

I would like to also mention the fact that efforts are being made to respond to the recognition that the categories of disability that we have labeled neatly in the legislation are viable inasmuch as we need specialists to consider these particular difficulties, but as I indicated on page 3, I see the Bureau for Education of the Handicapped and States revising them to the extent they are looking at more multiple handicapped children.

They are also returning academically underachieving students back to the mainstream of education, that there is a more rigorous assessment to determine where children really belong, and that the educational intervenings for these vulnerable infants, to which Mrs. Haynes made reference, will, I am sure, pay off in the long run.

We have a long way to go and among the long ways to go was first what on earth are we going to do as we have the mandate from the court decisions in State legislation for education of all children.

That means we have a huge new responsibility for children long discarded in inhuman environments and the States can't meet this need by themselves.

They literally can't meet the need by themselves. Therefore the problem does require Federal action and leadership and support.

The reason I appeared more angry in this testimony probably than in some others was that last week a woman begged me to see her and I did not get home from the office until 9 o'clock. She came to our apartment at 9 o'clock and told me her daughter, Dianne, had been told that very night, the mother had been told at 4 o'clock that afternoon that Dianne was not to attend school the next day.

The bus would not be there. Yet she had been in school for 1 year. She was 17 years of age and had 24 surgical procedures and the mother said the only thing that she has done wrong is that she lived when she was not supposed to live.

Therefore she had had 5 years intermittently in contact with education.

This was her first solid year in school, all of a sudden with less handicapped children, and she was in a walker, and it was difficult to transport her, and patently she was dismissed from the school.

And that mother just moved me so much, I said, why on earth at this time, in the New York metropolitan areas, should this still occur?

And therefore the whole notion of advocacy and the law comes into play. I should say also that I came down on the 9 o'clock shuttle and at 8:25 last night she called me and said because we had indicated she should call the assemblymen and congressman who represented her in the State, she was able to have the child reinstated.

Where does someone 17 years of age who has learned in the year get the education that she needs?

Then I would like to say we have adults who are sitting rotting and I should not be talking about rehabilitation but I have to say that a gentleman who takes care of the door at Lexington School for Deaf happens to be 70 years of age. He has cancer. He has a 37-year-old son whom he has kept at home and the son is not able to talk and he is not able to walk very well, and all of a sudden he has recognized he better do something for him.

I sent him to vocational rehabilitation and they are saying there is a long waiting list and we can't give you a couple months.

I said I don't know whether there is going to be any help for you in a couple of months.

All I can say in conclusion is that we have to work together, State, local, universities, and the Federal Government, and that the Federal Government is that which can infuse, I believe, new ideas, can coordinate programs and I think enable us to be more accountable than have other agencies.

I think this is the result of Federal legislation that you folks have helped us to implement.

If we permit a child to live, he has a right to grow and to learn. For your past efforts I think I am close enough to the millions of parents and children to say thank you on their behalf.

I am confident that the action you have taken so far is going to be increasingly fruitful.

Thank you for letting me share my convictions and some of the feelings I have at the present moment.

Mr. BRADEMAS. Thank you very much Professor Connor for a most eloquent statement. I was particularly struck by two sentences in your statement.

You noted that you are appalled at the situation wherein handicapped children have had to win their battles over and over again. And then go on to add that it is patently clear that the amount and degree of financial and other support for education of the handicapped is directly related to the extent that funds are earmarked for that purpose.

I take it from a reading of that, and what I thought I heard you say in your extemporaneous remarks, that you would not be sympathetic to special revenue sharing so far as it pertains to education of handicapped children.

Miss CONNOR. I have been disappointed. I put my faith in general educators and general populace too many times. In legislation in New

York State we have had the same experience. They have let me down. They have let me down by not following through when we said, give us 2 years with earmarking and then let us follow through.

But the competition is too keen and we are not a priority group. We are a minority. We are in the minority.

Mr. **Brademas.** Of course the thrust of all of these court decisions, with respect to handicapped children and their education, is that there is a constitutional right, that they should enjoy, to education. Quite clearly they are a minority.

I used to remember in my civics classes that the Bill of Rights had something to do with the protection of minority rights as well as assurance of majority rights.

My own feeling is that the constitutional protection of minorities is very much involved in the present controversy over revenue sharing. That is one reason I am very apprehensive, indeed, about the impact of special revenue sharing on these vulnerable minorities.

The big fish eat the little fish.

In this case handicapped children are the little fish.

Miss **Connor.** Survival of the fittest is just about where we stand.

Mr. **Brademas.** Mr. Hansen?

Mr. **Hansen.** Thank you, Mr. Chairman.

Let me also welcome you. It is a pleasure and quite appropriate to have someone from Teachers College participate in these hearings. I might note that it was my pleasure to appear at Teachers College some months ago to speak on the occasion of the launching with high hopes of some legislation that I introduced on the same day, legislation that has been reintroduced in this Congress and is presently under consideration and I expect will be favorably acted upon by this subcommittee in the months to come.

And this deals with one of the other areas where there is a severe shortage of trained teachers, that is, teachers for early childhood programs. That and the special skills that are required for teachers in the handicapped programs represent two of the largest areas of deficit in what is generally apparently a surplus teacher situation at the moment. That is the part that I am most concerned with as we move to reach this goal that even Commissioner Marschand had outlined 1980 as being the goal by which all States come into substantial compliance with what was the thrust of the Pennsylvania decision.

The teachers with these kinds of skills are going to take, at least in my layman's judgment, take longer, take more specialized training, take more attention to develop than teachers for the regular classrooms.

What can you tell us about the problem of getting from here to there, that is in terms of numbers and range of skills that are going to have to be developed to deal with this whole range of handicaps, and the money that will obviously be needed to advance these kind of programs?

How do you view the next few years?

Miss **Connor.** I am not sure I can give you very accurate statistics on numbers and costs. I will obtain that for you. But I will say, I am sorry I missed your presentation, I knew you were there and I am on a committee at college on early childhood education, so I worked very closely with Professors Lee and Abner and the others.

We are working on a program between early childhood education and special education which is being initiated this year and we believe that it absolutely will be critical.

I would like to make reference to something I read in one of the journals yesterday that Marianne Bankhead reported as the result of a major study and what she was saying was that disadvantaged children and children with problems are not going to benefit as much from the global kind of field trips that we take children on and general enrichment as they will from very highly structured program with the opportunity for cogitative development and concept formation and also the ability to relate to adults because those are the adults that they are going to be contacting in the regular grades at a later date and at the present time those are the children whose absenteeism is so great that they can almost double the enrollment of children in the classes in the inner cities because they know the youngsters won't be present.

I would also like to suggest that I see through the early childhood study with which we are associated that Dr. Denhoff, from Rhode Island, made a statement not too long ago that in the beginning he thought he could identify a child with cerebral palsy at infancy.

Now 4 years later, he seems to have erred in some way. This is after the intervention. He does not know whether we are seeing more children or whether it is the intervention that is actually preventing some of the deformities and this would be cogitative disabilities as well as physical.

If we are going to let a child sit in an inappropriate position, he is not going to be able to walk very well.

If we are going to position him so he will not develop those deformities, it will make a lot of sense.

I am convinced it will take a long time to provide an adequate training program. I believe we have an inverse ratio between the age of the child and the qualifications required by the teacher.

I am not sure that I have answered your question but I think I am saying that I agree with you so wholeheartedly that that is one of the very, very important pushes that we have got to implement and I think that it is money well worth spending.

I think we are going to find better production in children at an earlier age and I am really quite convinced we are going to prevent handicaps. I also see at the Lexington School for the Deaf when children arrive before 3 months of age and have work with specialists conducted by their parents association with hearing children under instruction that by 7 and 8 years of age the majority of those children are going into the regular stream and able to manage whereas previously they had to be in special programs for their entire lives.

That does not mean that they are not going to need special help along the line but they are going to have better speech because they are talking to more people and better social skills because they are relating to more people.

I think in many areas I could give examples of what I think is outstanding progress as a result of early childhod education.

Mr. HANSEN. Thank you.

I am sure we will be calling on you again from time to time as we consider further some of the comprehensive legislation that will be needed to implement these goals.

Thank you, Mr. Chairman.

Mr. BRADEMAS. Mr. Sarasin?

Mr. SARASIN. I have no questions.

Mr. BRADEMAS. Thank you again Professor Connor, we appreciate your coming to share your views with us.

Mr. BRADEMAS. Our next witness is Miss Ann Bellington, student, Gallaudet College, accompanied by Dr. Rockinhauf, the dean of women, who will be interpreting for us.

STATEMENT OF ANN BILLINGTON, STUDENT, GALLAUDET COLLEGE, WASHINGTON, D.C.

Miss BILLINGTON. My name is Ann Billington. I was born in Tulsa, Okla., in 1951. I was born deaf, and the cause of my deafness is unknown.

When I was 4 years old, I went to a private school for the deaf in St. Louis (oral program) for 5 years.

Then I enrolled in the third grade at a private school for the hearing in Tulsa. I graduated from this school in 1970.

Then I enrolled at Gallaudet College as a freshman. I am majoring in English and minoring in fashion.

I am now a member of the Modern Dance Club. We travel all over the country, and next week we are going to perform at an international conference on deafness in Israel.

One of our purposes is to show everyone what the deaf can do. We are trying to sell the deaf to the world.

After I graduate from Gallaudet in May 1974, I plan to attend a fashion school in order to study how to buy and sell clothes reasonably. I also would like to model part time and try to show people what the deaf can do.

I also would like to volunteer to help the deaf and encourage them to participate in many things and show what they can do. If I can get out there and work with hearing people, they can, too.

I strongly believe that all deaf people should have education by going to a college of their choice where they can concentrate on their major field.

Gallaudet College offers different areas of fields. Here in Gallaudet, we strongly believe in total communication where we use lipreading, speech, and sign language. That was the reason why I came to Gallaudet because in my high school, I usually depended on my friends and teachers for extra help, but here in Gallaudet, I am more independent. I understand everything in class.

When I attended school for hearing people, I naturally missed a lot of abstract things, but I have gradually been picking them up as I go along.

I have a few things to leave here with you. I think you will be especially interested in this information about Gallaudet College.

Mr. BRADEMAS. Thank you very much, Miss Billington, for a most effective statement. I know that I speak the views of my colleagues when I say how very impressed we are by what you have had to say to us. I wonder if you could tell us if in your school in Oklahoma you had an opportunity for special education, or did you find yourself in classes with hearing children? Perhaps you could comment on your experience in school in light of the support that this legislation would give for special education.

Miss BILLINGTON. When I was 4 years old, I went to private school for the deaf 4 or 5 years, where I was helped to learn to speak, and then I had a private school in my hometown with small classes.

I was treated like one of them. I did not have any problem because of my being in a private school for the deaf.

Mr. BRADEMAS. Can you tell us who paid for the private school that you attended?

Miss BILLINGTON My parents, with the help of——

Mr. BRADEMAS. When you went to school with hearing children, was there, to your knowledge, any special money provided for that school system; that is, money outside the regular funds provided for the public schools?

Miss BILLINGTON. I had a scholarship for about 2 or 3 years. After that, my parents helped me.

Mr. BRADEMAS. Thank you very much indeed. I will yield to Mr. Hansen from Idaho.

Mr. HANSEN. Let me also thank you very much. You have been one of the finest, most attractive witnesses we have had in any of these hearings, and we are delighted to have you here.

I think your testimony speaks also for what one can achieve by one's own efforts with at least a minimum amount of help and encouragement.

I have no further questions. Thank you, Mr. Chairman.

Mr. BRADEMAS. Mr. Sarasin?

Mr. SARASIN. Thank you, Mr. Chairman. I really have no questions. I am equally impressed by the statement of the witness; and as Mr. Hansen has been impressed, I am impressed by her beauty. She will, I am sure, do very well as a model, if this is one of her goals. Thank you, Mr. Chairman.

Miss BILLINGTON. Thank you.

Mr. BRADEMAS. Miss Billington, in addition to being strong supporters of special education on this committee, we are also strong supporters of Gallaudet College. So we are very pleased to have heard from you this morning in both of those respects and we thank you very much for having come.

Miss BILLINGTON Thank you.

Mr. BRADEMAS. Our final witness this morning is Mrs. Rita Charron, National Association for Retarded Children.

Mrs. Charron, we are grateful to you for having come. You can see the hour is late.

If you can summarize your statement, it will be included in its entirety in the record.

[The prepared statement of Mrs. Charron follows:]

Testimony of Mrs. Rita Charron, Governmental Affairs Committee, National Association for Retarded Children

Mr. Chairman: I am pleased to have the opportunity to represent the National Association for Retarded Children before your Committee on this important issue today. Our organization, representing over 1,500 member units with over 150,000 members, is appreciative of the opportunity to offer its continued support of the extension of the Education of the Handicapped Act. This committee has been instrumental in establishing the Act and others which greatly affect the lives of our mentally retarded citizens. You are to be commended for your efforts in their behalf.

Since 1965, when the Elementary and Secondary Education Act was established, educational services for the mentally retarded have increased and improved steadily. Under Title VI of the Elementary and Secondary Education Act and later the Education for Handicapped Act, many states were able to expand special education services to handicapped youngsters, through the state grant program. Special target populations, such as pre-school youngsters, the deaf-blind, children with learning disabilities, the multiply handicapped and others were offered services for the first time.

The National Association for Retarded Children has taken a leadership role in advocating educational services for mentally retarded children. In 1953, NARC adopted an Educational Bill of Rights for Retarded Children. In 1964, we established guidelines to assist local communities in obtaining adequate educational services. Since large segments of the retarded population continued to be denied appropriate educational services, our organization adopted Policy Statements on the Education of Mentally Retarded Children in the spring of 1971. This document calls for the provision of mandatory education services for all of our nation's children, regardless of handicapping conditions. It states that public schools must provide this education as a basic right of the individual. Services should be provided for children according to their educational needs, regardless of age or disability.

In announcing a new commitment to handicapped children as a priority of his office, the former United States Commissioner of Education, Sidney P. Marland said, "the right of a handicapped child to the special education he needs is as basic to him as is the right of any other young citizen to an appropriate education in the public schools. It is unjust for our society to provide handicapped children with anything less than the full and equal educational opportunity they need to reach their maximum potential and obtain rewarding, satisfying lives."

Recent court decisions in the District of Columbia and the state of Pennsylvania has mandated a free public education for all children. Many other states are now in the process of filing class action suits in order to provide full educational services for all children. The impact of these decisions are and will continue to be staggering to states and local school departments.

Some states, such as Rhode Island, North Carolina, and Michigan, have recently passed mandatory special education laws for the retarded and other handicaps. For the first time, in most instances, severely and profoundly retarded youngsters will be given educational opportunities to improve their self-sufficiency, thus allowing the parents of these children to keep them at home.

It is a well known fact that children who receive educational services and training at the earliest possible age and remain at home, develop much more rapidly and realize greater independence than those children who have not received services or are institutionalized. The long range economic effect of appropriate training and education has been well documented. The cost of long term institutional care or welfare dependency can be avoided with the development of a full range of educational and training services.

In 1972, the Governmental Affairs Committee of the National Association for Retarded Children adopted the goal early passage by the Congress of the extension of the Education for the Handicapped Act which is due to expire June 30. 1973. It is our belief that this Act has had and will continue to have a significant impact on the education of exceptional children.

The Education for the Handicapped Act has been instrumental in providing increased services. It has helped to destroy the myth that the handicapped are second class citizens, and therefore, not eligible for education programs. For too long, those retarded children who did receive educational services were housed in school basements, segregated from normal children and were taught by unqualified, inexperienced teachers.

When one recalls the services available five or ten years ago and compares them with current figures, we can truly say that we have come a long way. However, a close look at today's situation reveals a desperate need for additional services. Recent statistics indicate that 49% of our mentally retarded population between the ages of birth and 19 still are not being educated. The Bureau of the Education for the Handicapped has documented that, while nearly 3 million handicapped children are currently receiving services, there is an additional 25 million children still unserved. Those are incredible statistics.

There is a need for continued Congressional leadership to stimulate action in areas where progress is slow due to inadequate resources of personnel and funds. Although some states are developing comprehensive educational services, many have not yet reached a sophistication level sufficient to develop these services without Federal stimulation. In order that services can be provided to these children whose right to an education is being denied, the Education for the Handicapped Act must be extended. Each and every section of the Act deals with a vital service. The Grants to States (Part B) provides assistance in the initiation, expansion and improvement of education of handicapped children at the pre-school, elementary, and secondary levels.

These funds allow the states to increase programming on a comprehensive basis involving various federal and local programs and resources. States have developed strategies and designed new programs to increase the quality and scope of educational services to handicapped children.

Part C, Centers and Services to meet special needs of the handicapped, provide funds for programs that necessitate highly specialized services and staffs. This is particularly true of the Deaf-Blind Centers. Without these intensive, highly specialized programs, these children would become functionally retarded in a short time. Children afflicted with these double handicaps must be provided with a full gamut of educational, social, recreational and medical programs, as well as long or short term residential care. Service agencies need to coordinate their various services in order to provide as normal a life-style as possible for these children. This section of the Act provides, to a great degree, a mechanism to accomplish this goal.

Another section of Part C of vital interest to us is the Early Childhood Projects. The National Association for Retarded Children's Education Policy states in part, "The public schools should provide services for children according to their educational needs, regardless of age. Research indicates that the best time to ameliorate a child's developmental disabilities is within the period from birth through the early childhood years. Retarded children can profit from formal public school experiences as early as age two, and a commitment should be made by the public schools to initiate home care training programs of infants with special needs in the first year of life.

It has been documented that a substantial number of handicapped children who received early childhood educational programming have been successfully placed into regular education programs after intensive training. Many of our local ARC units have been providing child development, early childhood programs for a number of years. This has been accomplished mainly through donated private funds and the use of volunteers. It is time that the public schools realized the value of early childhood training for the retarded and that they take responsibility for providing this service. Through technical assistance and model programs established under this Act, communities are developing early childhood programs in special education. This particular program has far to go and must be continued and expanded.

Other programs under Part C, which includes Regional Resource Centers are also vital and warrant continued funding.

Part D, Training Personnel for the Education of the Handicapped, has been effective in that the number of qualified, certified teachers of special education has more than doubled in the last ten years. Almost 400 colleges and universities are engaged in training the necessary personnel; 300 of these receive Federal support under this part of the Act.

The fact remains, however, that over 65,000 teachers are still uncertified and that one quarter of a million teachers are still needed in order to meet current and future needs. The areas of early education, especially as it relates to severely and profoundly retarded, has practically no trained personnel. Colleges and universities must be apprised of this need, and made to develop appropriate programs. This applies to trained para-professionals, as well as undergraduate, graduate and post-graduate levels.

As many mildly retarded children are placed into the mainstream of the educational system, specially trained resource teachers must be available for specialized work in specific fields. As more and more mildly retarded and even trainable retarded students are incorporated in the regular programs the cost of special education will decrease and allow for the more highly specialized services necessary for those with more severe, complicated educational needs.

Innovation and Development programs. Part E of the Act, provides the information and resources through research and demonstration projects to support the development of full educational opportunities. The area of special education is still quite new and unexplored. Mental retardation and other handicapping conditions necessitate more than traditional educational concepts. Many supportive services must be incorporated in daily programming. Entire curricula must be conceived, experimented, improved and implemented.

Maximum benefit can be derived from educational programming only if a stated, reachable goal is provided for the student. In many cases, the educational experience must be capped with specific vocational training geared to provide the handicapped individual with the tools necessary to live as independent a life as possible. This section of the Act assists school systems to accomplish these tasks.

In the past ten years, educational specialists have discovered that many handicapped children responded well to audio-visual stimulus. Part F of the Act provides the authority to develop and make available films, slides, filmstrips, and other special equipment to assist in educational programming. This has proven to be particularly effective with deaf children. The value of this program is easily understood and we encourage its extension.

Part G, Special Programs for Children with Specific Learning Disabilities, has also had a marked effect on special education. For many years, parents and teachers alike have been frustrated by children with discrete handicapping conditions who have experienced great difficulty learning. In recent years, these subtle handicaps have been more readily identified and treatment programs have been initiated. This is another new area that requires much additional study and assistance.

Throughout this testimony, we have highlighted program improvements of the past and the increased needs of the future. Our organization is deeply concerned with the low levels of funding received by each of the Parts of the Act compared to the sums authorized by Congress. It is obvious to us that many of the shortcomings in special education services could be reduced markedly if the Authorizations were met. The Bureau of the Education of the Handicapped has done exceptionally well considering how handicapped it is by its limited resources.

We are aware that the Administration will propose a large Special Education Revenue Sharing package shortly. Included in this proposal would be the Grants to States (Part B) section of this Act. Although we will address ourselves to this subject in detail at a later date, our organization is concerned that these funds are not lost in the Administrative entanglement of Revenue Sharing. Monies to assist the handicapped are too few and precious to allow them to be spent in other areas.

In closing, I call to your attention Article II of the Declaration of General and Special Rights of the Mentally Retarded as adopted by the United Nations:

"The mentally retarded person has a right to proper medical care and physical restoration and to such education, training, habilitation and guidance as will enable him to develop his ability and potential to the fullest possible extent, no matter how severe his degree of disability. No mentally handicapped person should be deprived of such services by reason of the costs involved."

We thank you for your deep interest in our retarded and handicapped citizens and urge you to give your favorable consideration to this bill.

STATEMENT OF MRS. RITA CHARRON, NATIONAL ASSOCIATION FOR RETARDED CHILDREN, GOVERNMENTAL AFFAIRS COMMITTEE

Mrs. CHARRON. Thank you.

I am Rita Charron.

I would like to introduce Paul Charron, on my right, who is at your service for additional information and he is stationed here in Washington.

I think I might mention that I am a parent of a retarded child and I represent 150,000 parents and friends of retarded children.

We wish to commend you for the work you have done with the education for the handicapped bill. We feel that it has been instrumental in getting many services to retarded people that once was unavailable and was being denied.

I might mention at that time too that I have a child that was denied an educational opportunity. He is 21 years old and it is perhaps too late for him to benefit from early childhood care that we know he should have had.

Since the act has been in effect, we know that many of the severely handicapped, multiple-handicapped children who for so long were denied services have been for the first time included in programs.

These programs have helped to demonstrate for us the total impact of what special education can do for the severely multiple handicapped child. We commend you for your leadership in this area and hope it will continue.

Much of what we would like to say has already been said and we can only second it. We can repeat that the national association goal is to have equal educational opportunities for all children according to his needs and his ability to handle it.

We would like to emphasize the need for coordination of education services with other services in the community.

I think too often the child who is retarded is denied services not only from education but from other fields that are so important.

We feel that the Education for Handicapped Act provides an opportunity for preschool programing and that it is in the early intervention stages that you heard so much about today that the national association wishes to emphasize and to ask for your support and continued help.

We would like to talk or address ourselves to the revenue sharing problem that you mentioned earlier and as you know many States have recently passed mandatory education laws.

These laws are going to be difficult to implement. I would like to cite North Carolina, Rhode Island, and Michigan as States that have recently included severely retarded in their mandatory education laws.

The implementation in these States have not happened. We don't know how successful they are going to be in getting programs established for these children.

Whatever we do for children at the early childhood age as well as early school age will keep them from institutions.

I would like to cite examples because I also serve as coordinator trying to coordinate services at community level in our community.

I would find many children who were denied any kind of services in their early years, eventually end up in institutions.

When in institutions, they become more severely handicapped. It is interesting to note that in a project, a grassroots project that I was deeply involved in in the last few months, we returned a number of young children from an institution to a community setting.

These were all children severely and profoundly physically handicapped and retarded.

We started an intensive care program for these people. The project is only 6 months in its operation and already a number of these children are ambulating sometimes in a very crude fashion. We have had a tremendous improvement of socialization. We have for our own sakes proven to ourselves that this kind of early intervention and intensive care can do the kind of things we have been talking about for so long. We would like to again commend you for the tremendous leadership you have shown and without keeping you here any longer during your noon hour say our emphasis is on the committee continuing its national leadership providing assistance to the States who cannot do it because of lack of sophistication, perhaps because of political involvement at State level are so complicated that they cannot see the advantages of giving to retarded people the necessary care and necessary training that is so vital.

I am sure that if revenue sharing were to go into effect and we had to depend on distribution of money at the State level, that the progress we have made in the last 10 years will be deeply impaired.

We hope you will do your best to see that this does not happen. We would also like to offer our support in any way we can to prevent this.

Mr. BRADEMAS. Thank you very much indeed, Mrs. Charron. Let me say that we shall be calling on your Washington representative from time to time as we work on this legislation and hope to have the benefit of his counsel and advice.

I am also interested, you will not be surprised to learn, about your organization's position on revenue sharing. Let me simply say that I hope that your organization and other organizations that are concerned about the interest of handicapped children and handicapped people generally will be communicating their views from the grass roots to their representatives and Senators in Washington. Because some of the people on this Hill may not understand the implications of revenue sharing for handicapped people.

It is really rather difficult for some of us to be riding Paul Revere like across the land. So at least I am unburdening myself of my own viewpoint on this.

You should, I think, get busy on this, because if the President's bill goes through, there are going to be a lot of screaming people joining the mayors and Governors who came to town recently and said, "Wait a minute, that is not what we had in mind." I am one of those who voted against the revenue sharing measure last time because what has happened is exactly what I anticipated.

Under the guise of greater decentralization, we get savage slashes in programs that affect the lives of human beings all over the country. So with that, not very neutral expression, of judgment on this matter, let me thank you for having come.

Mr. Sarasin?

Mr. SARASIN. I have no questions.

Mr. BRADEMAS. Thank you all again.

We are adjourned.

[Whereupon, at 1:40 p.m. the committee adjourned subject to the call of the Chair.]

A CONTINUING SUMMARY OF PENDING AND COMPLETED LITIGATION REGARDING THE EDUCATION OF HANDICAPPED CHILDREN

edited by

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With increasing frequency U.S. courts are being confronted with civil actions dealing with the denial of the civil rights of handicapped children and adults. The majority of these actions have focused on the public responsibility to provide education and treatment for the nation's handicapped citizens. The decisions reported here dealing with children have substantiated the right of handicapped children to equal protection under the law - including being provided with an education and full rights of notice and due process in relation to their selection, placement, and retention in educational programs.

Recognizing that the litigation represents an important avenue of change. The Council for Exceptional Children's State-Federal Information Clearinghouse for Exceptional Children (SFICEC), a project supported by the Bureau of Education for the Handicapped, U.S. Office of Education, has collected and organized this summary of relevant litigation. A variety of sources including attorneys, organizations, and the plaintiffs involved in the cases were contacted. The focus of the cases included in the summary is directed to education.

This summary does not include all cases filed to date. Information is continuously being received about new cases, and, thus, there is always something too recent to be included. SFICEC will continue to acquire, summarize, and distribute this information. Those interested in more in-depth information should contact SFICEC. Each new edition of the summary contains all the information presented in earlier editions; thus, there is no necessity for readers to obtain previous editions.

In addition to this material, SFICEC has access to extensive information regarding law, administrative literature (rules and regulations, standards, policies), and attorney generals' opinions of the state and federal governments, regarding the education of the handicapped. For further information about the project's activities and services contact:

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RIGHT TO AN EDUCATION

MILLS v. BOARD OF EDUCATION
Civil Action No. 1939-71 (District of Columbia).

In August of 1972, a landmark decision was achieved in a right to education case in the District of Columbia. In Mills v. D.C. Board of Education, the parents and guardians of seven District of Columbia children brought a class action suit against the Board of Education of the District, the Department of Human Resources, and the Mayor for failure to provide all children with e publicly supported education.

The plaintiff children ranged in age from seven to sixteen and were alleged by the public schools to present the following types of problems that led to the denial of their opportunity for an education: slightly brain damaged, hyperactive behavior, epileptic and mentally retarded, and mentally retarded with an orthopedic handicap. Three children resided in public, residential institutions with no education program. The others lived with their families and when denied entrance to programs were placed on a waiting list for tuition grants to obtain a private educational program. However, in none of these cases were tuition grants provided.

Also at issue was the manner in which the children were denied entrance to or were excluded from public education programs. Specifically, the complaint said that "plaintiffs were so excluded without a formal determination of the basis for their exclusion and without provision for periodic review of their status. Plaintiff children merely have been labeled as behavior problems, emotionally disturbed, hyperactive." Further, it is pointed out that "the procedures by which plaintiffs are excluded or suspended from public school are arbitrary and do not conform to the due process requirements of the fifth amendment. Plaintiffs are excluded and suspended without: (a) notification as to a hearing, the nature of offense or status, any alternative or interim publicly supported education; (b) opportunity for representation, a hearing by an impartial arbiter, the presentation of witnesses, and (c) opportunity for periodic review of the necessity for continued exclusion or suspension."

A history of events that transpired between the city and the attorneys for the plaintiffs immediately prior to the filing of the suit publicly acknowledged the Board of Education's legal and moral responsibility to educate all excluded children, and although they were provided with numerous opportunities to provide services to plaintiff children, the Board failed to do so.

On December 20, 1971, the court issued a stipulated agreement and order that provided for the following:

1. The named plaintiffs must be provided with a publicly supported education by January 3, 1972.

2. The defendants by January 3, 1972, had to provide a list showing (for every child of school age not receiving a publicly supported education because of suspension, expulsion or any other denial of placement): the name of the child's parents or guardian; the child's name, age, address, and

telephone number; the date that services were officially denied; a breakdown of the list on the basis of the "alleged causal characteristics for such non-attendance;" and finally, the total number of such children.

3. By January 3, the defendants were also to initiate efforts to identify all other members of the class not previously known. The defendants were to provide the plaintiff's attorneys with the names, addresses, and telephone numbers of the additionally identified children by February 1, 1972.

4. The plaintiffs and defendants were to consider the selection of a master to deal with special questions arising out of this order.

A further opinion is presently being prepared by United States District of Columbia Court Judge Joseph Waddy which will deal with other matters sought by the plaintiffs including:

1. A declaration of the constitutional right of all children regardless of any exceptional condition or handicap to a publicly supported education.

2. A declaration that the defendants' rules, policies, and practices which exclude children without a provision for adequate and immediate alternative educational services and the absence of prior hearing and review of placement procedures denied the plaintiffs and the class rights of due process and equal protection of the law.

On August 1, 1972, Judge Waddy issued a Memorandum, Opinion, Judgment and Decree on this case which in essence supported all arguments brought by the plaintiffs. This decision is particularly significant since it applies not to a single category of handicapped children, but to all handicapped children.

In this opinion, Judge Waddy addressed a number of key points reacting to issues that are not unique to the District of Columbia but are common throughout the nation. Initially he commented on the fact that parents who do not comply with the District of Columbia compulsory school attendance law are committing a criminal offense. He said, "the court need not belabor the fact that requiring parents to see that their children attend school under pain of criminal penalties presupposes that an educational opportunity will be made available to the children. ... Thus the board of education has an obligation to provide whatever specialized instruction that will benefit the child. By failing to provide plaintiffs and their class the publicly-supported specialized education to which they are entitled, the board of education violates the statutes and its own regulations."

The defendants claimed in response to the complaint that it would be impossible for them to afford plaintiffs the relief sought unless the Congress appropriated needed funds, or funds were diverted from other educational services for which they had been appropriated. The court responded: "The defendants are required by the Constitution of the United States, the District of Columbia Code, and their own regulations to provide a publicly-supported education for these 'exceptional' children. Their failure to fulfill this clear duty to include and retain these children in the public school system, or otherwise provide them with publicly-supported education, and their failure to afford them due process hearing and periodical review, cannot be excused by the claim that there are insufficient funds. In Goldberg v. Kelly, 397 U.S. 254 (1969) the Supreme Court, in a case that involved the right of a welfare recipient to a hearing before termination of his benefits, held that Constitutional rights must be afforded citizens despite the greater expense involved.... Similarly the District of Columbia's interest in educating the excluded children clearly must outweigh its interest in preserving its financial resources. If sufficient funds are not available to finance all of the services and programs that are needed and desirable in the system then the available funds must be expended equitably in such a manner that no child is entirely excluded from a publicly-supported education consistent with his needs and ability to benefit therefrom. The inadequacies of the District of Columbia Public School System, whether occasioned by insufficient funding or administrative inefficiency, certainly cannot be permitted to bear more heavily on the 'exceptional' or handicapped child than on the normal child."

Regarding the appointment of a master the court commented, "Despite the defendants' failure to abide by the provisions of the Court's previous orders in this case and despite the defendants' continuing failure to provide an education for these children, the Court is reluctant to arrogate to itself the responsibility of administering this or any other aspect of the public school system of the District of Columbia through the vehicle of a special master. Nevertheless, inaction or delay on the part of the defendants, or failure by the defendants to implement the judgment and decree herein within the time specified therein will result in the immediate appointment of a special master to oversee and direct such implementation under the direction of this Court."

Specifically, the judgment contained the following:

1. "That no child eligible for a publicly-supported education in the District of Columbia public schools shall be excluded from a regular public school assignment by a Rule, Policy or Practice of the Board of Education of the District of Columbia or its agents unless such child is provided (a) adequate alternative educational services suited to the child's needs, which may include special education or tuition grants, and (b) a constitutionally adequate prior hearing and periodic review of the child's status, progress, and the adequacy of any educational alternative."

2. An enjoiner to prevent the maintenance, enforcement or continuing effect of any rules, policies and practices which violate t conditions set in one (above).

3. Every school age child residing in the District of Columbia shall be provided "... a free and suitable publicly-supported education regardless of the degree of the child's mental, physical or emotional disability or impairment..." within thirty days of the order.

4. Children may not be suspended from school for disciplinary reasons for more than two days without a hearing and provision for his education during the suspension.

5. Within 25 days of the order, the defendants shall present to the court a list of every additionally identified child with data about his family, residence, educational status, and a list of the reasons for non-attendance.

6. Within 20 days of the order individual placement programs including suitable educational placements and compensatory education programs for each child are to be submitted to the court.

7. Within 45 days of the order, a comprehensive plan providing for the identification, notification, assessment, and placement of the children will be submitted to the court. The plan will also contain information about the curriculum, educational objectives, and personnel qualifications.

8. Within 45 days of the order, a progress report must be submitted to the court.

9. Precise directions as to the provision of notice and due process including the conduct of hearings.

Finally, Judge Waddy retained jurisdiction in the action "to allow for implementation, modification and enforcement of this Judgment and Decree as may be required."

PENNSYLVANIA ASSOCIATION FOR RETARDED CHILDREN v. COMMONWEALTH OF PENNSYLVANIA, Civil Action No. 71-42 (3 Judge Court, E. D. Pennsylvania).

In January, 1971, the Pennsylvania Association for Retarded Children (P.A.R.C.) brought suit against Pennsylvania for the state's failure to provide all retarded children access to a free public education. In addition to P.A.R.C., the plaintiffs included fourteen mentally retarded children of school age who were representing themselves and "all others similarly situated," i.e. all other retarded children in the state. The defendants included the state secretaries of education and public welfare, the state board of education, and thirteen named school districts, representing the class of all of Pennsylvania's school districts.

The suit, heard by a three-judge panel in the Eastern District Court of Pennsylvania, specifically questioned public policy as expressed in law, policies, and practices which excluded, postponed, or denied free access to public education opportunities to school age mentally retarded children who could benefit from such education.

Expert witnesses presented testimony focusing on the following major points:

1. The provision of systematic education programs to mentally retarded children will produce learning.

2. Education cannot be defined solely as the provision of academic experiences to children. Rather, education must be seen as a continuous process by which individuals learn to cope and function within their environment. Thus, for children to learn to clothe and feed themselves is a legitimate outcome achievable through an educational program.

3. The earlier these children are provided with educational experiences, the greater the amount of learning that can be predicted.

A June, 1971 stipulation and order and an October, 1971 injunction, consent agreement, and order resolved the suit. The June stipulation focused on the provision of due process rights to children who are or are thought to be mentally retarded. The decree stated specifically that no such child could be denied admission to a public school program or have his educational status changed without first being accorded notice and the opportunity of a due process hearing. "Change in educational status' has been defined as "assignment or re-assignment, based on the fact that the child is mentally retarded or thought to be mentally retarded, to one of the following educational assignments: regular education, special education, or to no assignment, or from one type of special education to another." The full due process procedure from notifying parents that their child is being considered for a change in educational status to the completion of a formal hearing was detailed in the June decree. All of the due process procedures went into effect on June 18, 1971.

The October decrees provided that the state could not apply any law which would postpone, terminate, or deny mentally retarded children access to a publicly-supported education, including a public school program, tuition or tuition maintenance, and homebound instruction. By October, 1971, the plaintiff children were to have been reevaluated and placed in programs, and by September, 1972, all retarded children between the ages of six and twenty-one must be provided a publicly-supported education.

Local districts providing preschool education to any children are required to provide the same for mentally retarded children. The decree also stated that it was most desirable to educate these children in a program most like that provided to non-handicapped children. Further requirements include the assignment of supervision of educational programs in institutions to the State Department of Education, the automatic re-evaluation of all children placed on homebound instruction every three months, and a schedule the state must follow that will result in the placement of all retarded children in programs by September 1, 1972. Finally, two masters or experts were appointed by the court to oversee the development of plans to meet the requirements of the order and agreement.

The June and October decrees were formally finalized by the court on May 3, 1972.

CATHOLIC SOCIAL SERVICES, INC. v. BOARD OF EDUCATION
(Delaware)

Catholic Social Services of Delaware as part of its responsibilities places and supervises dependent children in foster homes. In the process of trying to obtain educational services for handicapped children, the agency found "... the special education facilities in Delaware totally inadequate."

The three children named in the suit included:

Jimmy, age 10, a child of average intelligence who has had emotional and behavioral problems which from the beginning of his school career, indicated a need for special education. Although special education program placement was recommended on two separate occasions, the lack of programs available prevented enrollment.

Debbie, age 13, has been diagnosed as a seriously visually handicapped child of normal intelligence who, because of her handicap, could not learn normally. She has had a limited opportunity to participate in a special education program, but as of September, 1971, none was available.

Johnnie, age 13, had for years demonstrated disruptive behavior in school which led, because of his teachers' inability to "cope" with him, to a recommendation for placement in an educational program with a small student-teacher ratio, possibly in a class of "emotionally complex children." Until the time of the suit, he had not been able to receive such training.

Adrian, age 16, had a long history of psychiatric disability which prevented him from receiving public education. Following the abortive attempts of his mother to enroll him in school, he was ultimately placed in a state residential facility for emotionally disturbed children. This placement was made without psychological testing and with no opportunity for a hearing to determine whether there were adequate school facilities available for him. Approximately one year later he was brought to the Delaware Family Court on the charge of being "uncontrolled," and after no judgment as to his guilt or innocence, he was returned to the residential school on probationary status. If his behavior did not improve, as judged by the staff, he could later be committed to the State School for Delinquent Children. In July, 1970, the latter transfer was made without Adrian being represented by counsel or being advised of this right. Since that time, Adrian has received "some educational service ... but little or no specific training."

The complaint quotes the Constitution and laws of Delaware that guarantees all children the right to an education. Delaware Code specifies that "The State Board of Education and the local school board shall provide and maintain, under appropriate regulations, special classes and facilities wherever possible to meet the need of all handicapped, gifted and talented children recommended for special education or training who come from any geographic area." Further, the code defines handicapped children as those children "between the chronological ages of four and twenty-one who are physically handicapped or maladjusted or mentally handicapped."

Because the respondents (Board of Education and others named in the complaint) have failed to provide the legally guaranteed education to the named children, the complaint urges that the respondents:

1. Declare that the petitioners have been deprived of rightful educational facilities and opportunities.

2. Provide special educational facilities for the named petitioners.

3. Immediately conduct a full and complete investigation into the public school system of Delaware to determine the number of youths being deprived of special educational facilities and develop recommendations for the implementation of a program of special education for those children.

4. Conduct a full hearing allowing petitioners to subpoena and cross-examine witnesses and allow pre-hearing discovery including interrogatories.

5. Provide compensatory special education for petitioners for the years they were denied an education.

The three named plaintiffs were placed in education programs prior to the taking of formal legal action.

REID v. NEW YORK BOARD OF EDUCATION, Civil Action No. 71-1380 (U.S. District Court, S.D. New York)
REID v. BOARD OF EDUCATION, Administrative Procedure Before the State Commissioner of Education

This class action was originally brought in federal court to prevent the New York Board of Education from denying brain-injured children adequate and equal educational opportunities. Plaintiffs alleged that undue delays in screening and placing these children prevented them from receiving free education in appropriate special classes, thus infringing upon their state statutory and constitutional rights, guarantees of equal protection and due process under the fourteenth amendment.

In this 1971 case it was alleged that over 400 children in New York City were, on the basis of a preliminary diagnosis, identified as brain damaged, but could not receive an appropriate educational placement until they participated in final screening. It would take two years to determine the eligibility of all these children. An additional group of 200 children were found eligible but were awaiting special class placement.

The plaintiffs further alleged that the deprivation of the constitutional right to a free public education and due process operated to severely injure the plaintiffs and other members of their class by placing them generally in regular classes which constituted no more than custodial care for these children who were in need of special attention and instruction. In addition, providing the plaintiffs with one or two hours per week of home instruction is equally inadequate. It was further argued that if immediate relief was not forthcoming all members of the class would be irreparably injured because every day spent either in a regular school class or at home delayed the start of special instruction.

On June 22, 1971, Judge Metzner, of the U.S. District Court for the Southern District of New York, denied the motion for a preliminary injunction and grant ... the defendants' motion to dismiss. The Court applied the abstention doctrine, reasoning that since there was no charge of deliberate discrimination, this was a case where the State Court could provide an adequate remedy and where resort to the federal courts was unnecessary.

On appeal, the Second Circuit Court of Appeals, ruling on the District Court order, on December 14, 1971 decided that federal jurisdiction should have been retained pending a determination of the state's claims in the New York State Courts.

In January 1972, a class action administrative hearing was held before the New York State Commissioner of Education in accordance with the opinions of the United States Court of Appeals for the second circuit of Decemb 14, 1971 and January 13, 1972. "The order directed the United States District Court for the Southern District of New York to abstain from deciding those claims of plaintiffs which were based on the United States Constitution pending a determination by New York State's authorities of relevant but as yet unanswered questions of state law."

The substance of the new complaint submitted to the commissioner concerns the alleged failure of the respondents (the New York City Board of Education) to "fulfill their obligation to provide petitioners who represent all handicapped children, with suitable education services, facilities and/or programs in either a private or public school setting as mandated by .. " the New York Constitution and education laws.

Petitioners in this action are nine school age children with learning disabilities attributed to brain injury and/or emotional disturbance although two children also possess orthopedic handicaps. The class they represent is estimated to be 20,000 children. An additional petitioner is the New York Association for Brain Injured Children, a state-wide organization invovled in promoting educational, medical, recreational programs and facilities, social research, and public education regarding the needs of brain injured children.

The named children range in age from seven to 12 and have school histories including misplacement, medical or other suspension from school with no provision for continuing instruction, multiple screening and evaluatic sessions, miscommunication between the parents and school personnel, home in uction ranging from one to three hours a week, and long-term assignment t vaiting lists for placement in public special education programs.

In addition to the board of education of the city of New York, the respondents also include Harvey Scribner, Chancellor of the New York School District.

Specifically, it is alleged that respondents' violation of the law include "... failure to do so within a reasonable time in order to meet the child's educational needs; failure to place a handicappe child or failure to find a suitable placement; the unavailability of placements in violation of the mandate that education services, facilities and/or programs must be provided for handicapped children; sus..nsion of handicapped children from classes without adequate notice or alternatives; unreasonable lapses of time between placements or between placements and evaluation; failure to endeavor to secure public or private school for a handicapped child placing the burden on parents to search for private school placements, provision of entirely unsuitable home instruction." Finally, it is alleged that petitioners and their class have been caused serious and irreparable harm.

The petition also contains the following arguments:

1. The failure of the respondents to provide for the suitable education of the petitioners and their class and the manner in which this occurs including coercion of parents to withdraw their children from school, suspension of children without procedural safeguards and the time delay between screening, diagnosis, and placement places the burden of finding an education for their children on parents rather than the schools.

2. It is maintained by respondents that for the 20,000 handicapped children included in the class, placements are not made because "... they have not developed special classes which are suitable to the need of those children" or they "... have classes suitable for that particular handicap but do not have room in them." It is also pointed out that 65,000 children are presently enrolled in city special education programs.

3. The home instruction program offered is not a suitable educational service because it was initially designed for children who needed physical isolation and not for children who require specialized learning situations including special personnel, equipment, and material. As stated in the petition "the lack of intensity of home instruction, the fact it is only offered a few hours a week to a child who needs a full day in the classroom so that he can learn and relearn apply his learning daily and hourly, makes it dramatically unsuitable."

The petition seeks the following:

1. "... immediate relief in the nature of suitable education services, facilities and/or programs beginning fall 1972" for all named children.

2. Similarly, all children in the class must be provided "... with suitable education services, facilities, and/or programs in a school and classroom environment beginning with the fall 1972 semester."

3. The relief requested in 1 and 2 may be provided ... within a public school setting or by contracting with a private institution within the vicinity of the child's home for such services, facilities and/or programs pursuant ..." to state law.

4. The diagnosis and evaluation of "... all children suspected of being handicapped in a prompt and timely manner."

5. All children henceforth found to be handicapped be provided with suitable education services, facilities, and/or programs in a school and classroom environment.

6. "... provide all children now receiving home instruction with suitable education services, facilities, and/or programs in a classroom and school environment."

7. An order requiring "... the repondents to submit a plan to the Commissioner, subject to this modification, approval, and continual supervision, to

ensure compliance with the above orders ... to include a complete listing of available services, facilities and/or programs, the number of children enrolled and attending public school special classes and classes in private institutions with which the respondents have contracted, the number of children on waiting lists for special classes and private school classes, an approximation of the number of children annually who may need special classes, the number of children in the screening units, the number of children on waiting lists or probably in need of screening, a projection in detail of the number of new classes and class spaces that must be made available for respondents to provide the relief herein granted; and further order that the plan specify the detailed timetable for screening, diagnosis, classification, and placement by respondents of petitioners and the class herein represented; and further order the inclusion in the plan of any other items not herein listed."

This proceeding is scheduled to be heard before the New York Commissioner of Education on January 16, 1973.

DOE v. MILWAUKEE BOARD OF SCHOOL DIRECTORS, (State of Wisconsin, Circuit Court, Civil Division, Milwaukee County)

The plaintiffs in this class action are represented by John Doe, a 14 year old trainable mentally retarded student. The suit against the Milwaukee Board of School Directors focused on the fact that although John Doe was tested by a school board psychologist who determined that he was mentally retarded and in need of placement in a class for the trainable mentally retarded, he was put on a waiting list for the program. It is alleged that this is a violation of the equal protection clause of the 14th amendment of the United States Constitution.

Plaintiffs argued that this violation occurred on two counts. First, John Doe, as a school age resident of the city of Milwaukee, is guaranteed an education by the Wisconsin constitution. It is pointed out that public education is provided to "the great bulk of Milwaukee children... without requiring them to spend varying and indefinite amounts of time on waiting lists waiting for an education."

The second alleged violation occurred because, under the law, the school directors are required "to establish schools sufficient to accommodate children of school age with various listed handicaps, including children with mental disabilities." It is further argued that at the same time of the complaint 400 trainable mentally retarded children were attending such classes. Thus, by denying the plaintiff participation in the program, the defendants are denying them equal protection of the law.

The plaintiffs sought:

1. A temporary order requiring immediate enrollment of plaintiffs in an appropriate class for trainable mentally retarded children.

2. An order enjoining the defendants from maintaining a waiting list that denies public education to those requiring special education.

A temporary injunction was ordered and the public schools were required to admit the plaintiffs into the program for trainable mentally retarded children with all reasonable speed which was defined as 15 days. This order delivered in 1969 is still in effect.

MARLEGA v. MILWAUKEE BOARD OF SCHOOL DIRECTORS, Civil Action No. 70-C-8 (U.S. District Court, Wisconsin)

This case, completed in 1970, was a class action suit with Douglas Marlega as the named plaintiff. He brought suit against the board of school directors of the public schools of Milwaukee on the basis of denial of constitutionally guaranteed rights of notice and due process.

At issue was the exclusion of Marlega from public school attendance because of alleged medical reasons involving hyperactivity "...without affording the parents or guardians an opportunity to contest the validity of the exclusion determination." Marlega, of average intelligence, was completely excluded from February 16, 1968, to October 7, 1968. His parents were not given justification for the exclusion, nor were they given any opportunity for a due process hearing. Throughout the period of exclusion, "... no alternative public schooling is furnished on a predictable basis" and "no periodic review of the condition of excluded students is apparently made nor is home instruction apparently provided on a regular basis."

The following was sought by the plaintiff:

1. a temporary restraining order to reinstate Marlega and his class in school;

2. an order to defendants to provide the plaintiffs a due process hearing; and

3. an order to prevent the board of school directors of Milwaukee from excluding any children from school for medical reasons without first providing for a due process hearing except in emergency situations.

A temporary restraining order was awarded on January 14, 1970. On March 16, 1970, the Court ordered that no child could be excluded from a free public education on a full-time basis without a due process hearing. The school directors submitted to the court a proposed plan for the handling of all medically excluded children which was approved on September 17, 1970.

WOLF v. STATE LEGISLATURE, Civil Action No. 182646 (Third Judicial Court, Utah)

A 1969 ruling in the Third Judicial Court of Utah guaranteed the right to an education at public expense to all children in the state. This action was brought on behalf of two trainable mentally retarded children who were the responsibility of the State Department of Welfare. The children were not being provided with suitable education. The judge, in his opinion, stated that the framers of the Utah constitution believed "in a free and equal education for all children administered under the Department of Education." He further wrote that "the plaintiff children must be provided a free and equal education within the school districts of which they are residents, and the state agency which is solely responsible for providing the plaintiff children with a free and public education is the State Board of Education."

MARYLAND ASSOCIATION FOR RETARDED CHILDREN v. STATE OF MARYLAND, Civil Actio
No. 72-733-K (U.S. District Court, Maryland)

A class action suit is being brought by the Maryland Association for Retarded Children and 14 mentally retarded children against the state of Maryland and its state board of education, state superintendent of education, secretary of health and mental hygiene, director of the mental retardation administration, and local boards of education for their failure to provide retarded or otherwise handicapped children with an equal and free public education.

The 14 plaintiff children range from those classified as severely retarded to the educable. The majority of the children, whether living at home or in an institution, are not receiving an appropriate education with some children being denied any education to those inappropriately placed in regular education programs. For example, two educable children, residing in Baltimore city, have been placed and retained in regular kindergarten programs because they are not yet eight years old though their need for a special class placement has been recognized.

The complaint emphasizes the importance of providing all persons with an education that will enable them to become good citizens, achieve to the full extent of their abilities, prepare for later training, and adjust normally to their environment. It is further argued that "the opportunity of an education, where the state has undertaken to provide it, is a right that must be made available to all on equal terms."

The contention of the plaintiffs is indicated in the following:

"There are many thousands of retarded and otherwise handicapped school-age children (children under age 21) in the state of Maryland. Defendants deny many of these children (including each of the individual plaintiff children herein) free publicly-supported educational programs suited to their needs, and for transportation in connection therewith.

"More specifically, defendants deny such educational programs to many children who are retarded, particularly to those who are profoundly or severely retarded, or who are multiply disabled; or who are not ambulatory, toilet trained, verbal, or sufficiently well behaved; or who do not meet requirements as to age not imposed on either normal or handicapped children comparably situated. As a result of their exclusion from public education, the plaintiff children's class (including plaintiffs) must either (a) remain at home without any educational programs; or (b) attend nonpublic educational facilities partly or wholly paid for by their parents; or (c) attend 'day care' programs that are not required to provide structured, organized, professionally run programs of education; or (d) seek placement in public or nonpublic residential facilities, partly or wholly paid for by their parents, which do not provide suitable educational programs for many of these children.

"Like children for whom defendants provide suitable publicly-supported educational programs, including other retarded and otherwise handicapped children, the plaintiff children's class can benefit from suitable educational programs. The defendants' failure to provide these children with publicly-supported educational programs suited to their needs is arbitrary, capricious, and invidiously discriminatory and serves no valid state interest. The denial of such programs violated the plaintiffs' rights under the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the Constitution of the United States."

The plaintiffs allege that the state's tuition assistance program provides insufficient funds to educate these children and thus parents are forced to use their own resources. "Thus, defendants have conditioned the education of these children on their parents' ability to pay. That action is arbitrary, capricious, and invidiously discriminatory, serves no valid state interest, and violates the said plaintiffs rights under the due process and equal protection clauses of the Fourteenth Amendment...."

Another allegation is that the state when making placement decisions does not provide for notice and procedural due process.

The plaintiffs are seeking:

1. Declaration that the "unequal imposition of charges for programs for school-age children at state institutions are (is) unconstitutional."

2. Declaration that the provision of unequal amounts of tuition money depending on the category of handicap is unconstitutional.

3. Enjoiner to prevent the defendants from violating the due process and equal protection clauses of the Fourteenth Amendment including providing free publicly supported education to plaintiff children and their class within 60 days of the order and a number of other action steps involving the identification of children, advertising the availability of programs, creating hearing and other due process procedures, planning, and reporting back to the court. The plaintiffs also asked the court to require that any public institutional or day care program in which a child is placed be structured to meet individual children's needs under "standards and criteria reasonably calculated to insure that the program provided is in fact a suitable program of education." They are also seeking compensatory education for the plaintiff children and the class they represent who were excluded or excused from school because of a physical, mental, emotional, or behavioral handicap. Finally, they seek appointment of a master.

This action was introduced on July 19, 1972, and is expected to be heard shortly.

NORTH CAROLINA ASSOCIATION FOR RETARDED CHILDREN, INC. v. THE STATE OF NORTH CAROLINA, Civil Action No. 72-72 (U.S. District Court, North Carolina, Raleigh Division)

On May 18 1972, a suit was introduced in the Raleigh Division of the Eastern District Court of North Carolina by the North Carolina Association for Retarded Children, Inc. and thirteen mentally retarded children against the state of North Carolina, various state agencies and their department heads, a city school district, and a county school district for failure to provide free public education for all of the state's estimated 75,000 mentally retarded children.

The class action suit names thirteen severely and moderately mentally retarded children as plaintiffs. The children's histories include never having been in public school, having been excluded from public school, delayed entrance into public school programs, or in some cases receiving an education through private [illegible]ms at their parents' expense. Plaintiff children who had been receiving a public education were excluded because of alleged lack of facilities or failure of the children to meet certain behavioral criteria such as toilet train In summary, the suit is being brought on behalf of "residents of Nort lina, six years of age and over, who are eligible for free public education but who have by the defendants (1) been excluded, or (2) been excused from attendance at public schools, or (3) had their admission postponed, or (4) otherwise have been refused free access to public education or training commensurate with their capabilities because they are retarded."

The defendants include the state, the state superintendent of public education, the department of public education, the state board of education, the department and the secretary of the department of human resources, the commissioner and the state board and the state department of mental health, the treasurer and the department of the state treasurer, the state disbursing officer and the controller of the state board of education, the Wake County board of county commissioners. The two school districts are named as typical of all the state's local city or county education agencies. The board of county commissioners is also named as representative of all of the state's county boards that "have the authority and duty to levy taxes for the support of the schools."

Plaintiffs' attorneys quote the North Carolina constitution which provides that "equal opportunities shall be provided for all students for free public school education." Further support for the legal obligations of the state to provide for the education of the mentally retarded comes from the following section of a 1967 North Carolina attorney general's opinion:

> It is unconstitutional and invalid, therefore, to operate the public school system in a discriminatory manner as against the mentally retarded child and to allocate funds to the disadvantage of the mentally retarded child. Often a mentally retarded child develops fair skills and abilities and becomes a useful citizen of the state but in order to do this, the mentally retarded child must have his or her chance.

The complaint specifically alleges that the school exclusion laws (C.S. Sec. 115-165) deprive the plaintiffs of the equal protection of the law in violation of the 14th amendment of the U.S. Constitution in the following manner:

1. Discriminates between handicapped and non-handicapped children by allowing a county or city superintendent of schools to decide that a "Child cannot substantially profit from the instructions given in the public school as now constituted and as such discriminates against the severely afflicted by mental, emotional or physical incapacity children in favor of those children who are not so afflicted in that these unfortunate children are deprived of any and all educational training whereas the children who do not fall in this classification or category obtain complete free public education."

2. "Arbitrarily and capriciously and for no adequate reason" denies mentally retarded children educational opportunities to become self-sufficient and contributing citizens as guaranteed by the North Carolina constitution and laws and further "subjects them to jeopardy of liberty and even of life."

3. Denial of the plaintiff children from attendance in public schools imposes the unfair criterion of family wealth as the determining factor of their receiving an education. In effect, children from poor families are unable to obtain private education as can children from financially able families.

4. Plaintiffs' parents, although paying taxes for the support of public schools, are unable to have their children admitted and thus in order to obtain an education for them must pay additional funds.

Other counts included in the complaint are as follows:

1. In the implementation of the school attendance law plaintiffs are denied procedural due process of law as guaranteed in the 14th amendment of the U.S. Constitution including provisions for notice, hearing, and cross examination.

2. The North Carolina statute requiring parents to send their children to school contains an exception which relieves parents of children "afflicted by mental, emotional, or physical incapacities so as to make it unlikely that such child could substantially profit by instruction given in the public schools" from this responsibility. Plaintiffs argue however that this statute which is "to forgive what otherwise would be violations of compulsory attendance requirements and to preserve to the parents the decision of whether the child shall attend school" is in fact used to "mandate non-attendance contrary to parents' wishes and thus justify the exclusion of retarded children from the public schools "in violation of their constitutional rights."

3. The defendants have ignored the law that all children are eligible for public school enrollment at age six and have excluded retarded children until they are older.

4. In addition to preventing the enrollment of plaintiff children in public schools, the defendants also are alleged to exclude, excuse, and postpone admission to public schools and to provide education for children at state schools, hospitals, institutions, and other facilities for the mentally retarded.

The suit seeks the following remedies:

1. Declaration that all relevant statutes, policies, procedures, and practices are unconstitutional.

2. Permanently enjoin the defendants from the practices described as well as "giving differential treatment concerning attendance at school to any retarded child."

3. A permanent injunction requiring that the defendants operate educational programs for the retarded in schools, institutions, and hospitals, and, if necessary, at home with all costs being charged to the responsible public agency.

4. A permanent mandatory injunction directing the defendants to provide compensatory years of education to each retarded person who has been excluded, excused, or otherwise denied the right to attend school while of school age and further enjoin the defendants to give notice of the judgment herein to the parents or guardians of each such child.

5. Provision to the plaintiffs the cost of the suit including "reasonable counsel fees."

On July 31, 1972, an expanded complaint was filed naming in addition to the North Carolina Association for Retarded Children, 22 plaintiff children. The new complaint joins the original North Carolina Association for Retarded Children suit with Crystal Rene Hamilton v. Dr. J. Iverson Riddle, Superintendent of Western Carolina Center, et. al. (Civil Action No. 72-86). The additional plaintiffs include children whose histories permitted the addition of the following allegations regarding the state's failure to provide for their education: "... who have by the defendants ... (5) been denied the right of free homebound instruction or (6) been denied the right of tuition or costs reimbursement in private schools or institutions or (7) been denied the right of free education, training or habilitation in institutions for mentally retarded operated by the State of North Carolina."

A further distinction is the allegation that there are state statutes which operate to grant "aid to the mentally retarded children below the age of six years in non-profit private facilities for retarded children and excluding such aid to mentally retarded children above six years attending the same type of institutions."

It is further alleged that the defendants further "failed to provide for appropriate free education, training and habilitation of the plaintiffs in their homes after excluding the plaintiffs from free education and training in the public schools and thus condition the plaintiffs education in the homes upon the impermissible criteria of wealth, denying training, education, and habilitation to those children whose parents are puor."

In the expanded suit an additional count has been introduced that focuses on the state institutions for the mentally retarded. Specifically, it is alleged that the centers for the retarded are "warehouse institutions which, because of their atmosphere of psychological and physical deprivation, the institutions are wholly incapable of furnishing habilitation to the mentally retarded and are conducive only to the deterioration and the debilitation of the residents." It is also charged that the institutions are understaffed, overcrowded, unsafe and do not provide residents with "education, training, habilitation, and guidance as will enable them to develop their ability and maximum potential."

The plaintiffs are seeking in addition to the remedies originally sought the granting of a permanent injunction:

1. to prevent the defendants from denying the right of any retarded child of six years and older to free homebound instruction;

2. to prevent the defendants from denying the reimbursement of tuition and costs to the parents of retarded children in private schools or facilities;

3. to direct the defendants to establish publicly-supported training programs and centers for all mentally retarded children without discrimination;

4. to direct the defendants "to provide such education, training and habilitation outside the public schools of the district or in special institutions or by providing for teaching of the child in the home if it is not feasible to form a special class in any district or provide any retarded child with education in the public schools of the district ..."

HAMILTON v. RIDDLE, Civil Action No. 72-86 (U.S. District Court, W.D. of North Carolina, Charlotte Division)

This case was filed on May 5, 1972, in the Charlotte Division of the Western District Court of North Carolina as a class action on behalf of all school age mentally retarded children in North Carolina. Defendants include the superintendent of the Western Carolina Center, a state institution for the mentally retarded; the secretary of the North Carolina department of human resources; the state superintedent of public instruction; and the chairman of the Gaston County board of education.

Crystal Rene Hamilton is an eight year old mentally retarded child who on November 1, 1971, when admitted to the Western Carolina Center had until that time received only nine hours of publicly-supported training. She was admitted to the Center "under the provision that she would be able to remain in said Center for a period of only six months, after which time it would be necessary for her to return to her home and be cared for by her parents; that she has been diagnosed as a mentally retarded child and needs a one-to-one ratio of care and treatment." The complaint alleges that the parents are unable to provide "this care and treatment," that the state does not have other facilities to provide the care and the Center administrator has notified Crystal's parents to take her home.

The cause of action cited in the complaint is that the state, through its board and agencies, "has failed to provide equal educational facilities for the plaintiff and has denied to her access to education and training ..." Thus it is alleged that the plaintiff has been denied equal protection of the law and equal education facilities as "guaranteed" by the United States constitution and the constitution and statutes of North Carolina. The statutes "guarantees equal free educational opportunities for all children of the state between the ages of six and twenty-one years of age."

Also at issue is the classification scheme used by the state which "selects some students as eligible for education and some as not ..." Further, the complaint argues that the state's practice of making financial demands upon the parents of mentally retarded children for the care and treatment of their children" ... is repugnant to the provision of the law and is denying equal protection to said children..."

Arguing that Crystal Rene Hamilton and the members of her class have suffered and are now suffering irreparable injury, the plaintiffs are seeking the following relief:

1. A three-judge court be appointed to hear the case;

2. Enforcement of state statutes providing equal educational opportunities and declare null and void statutes that do otherwise;

3. An injunction be issued to prevent the Western Carolina Center from evicting Crystal Rene Hamilton;

4. That this action be joined with civil action No. 72-72 (North Carolina Association for Retarded Children, Inc., James Auten Moore, et. al. v. The State of North Carolina, et. al.); and

5. Plaintiff costs and counsel fees.

This case has been joined as requested in number 4 above. The number of plaintiffs has been expanded and the case is expected to be heard by a three-judge court.

HARRISON v. STATE OF MICHIGAN, Civil Action No. 38357 (U.S. District Court, E. D. Michigan Southern Division)

On May 25, 1972, the Coalition for the Civil Rights of Handicapped Persons, a non-profit corporation formed to advance the rights of handicapped children, and twelve handicapped children filed suit in the Southern Division of the United States District Court for the Eastern District of Michigan against the state of Michigan, the department of education, the department of mental health, the Detroit school board and officers, and the Wayne County intermediate school district and its officers for their failure to provide a publicly-supported education for all handicapped children of Michigan.

The suit seeks class action status and divides the plaintiff children, all of whom are alleged to have mental, behavioral, physical or emotional handicaps, into the three distinct groups:

1. Children denied entrance or excluded from a publicly-supported education;

2. Children who are state wards residing in institutions receiving no education;

3. Children placed in special programs but that are alleged not to meet their learning needs.

The plaintiff children present a full range of handicapping conditions including brain damage, mild, moderate, or severe mental retardation, autism, emotional disturbance, cerebral palsy, and hearing disorders. The complaint suggests that the children named represent a class of 30,000 to 40,000 who are handicapped three times over. They are first handicapped by their inherited or acquired mental, physical, behavioral, or emotional handicap. Secondly "by arbitrary and capricious processes by which the defendants identify, label, and place them, and finally by their exclusion from access to all publicly-supported education."

The complaint argues that the right of these children to an education is based on Michigan law stating that "the legislature shall maintain and support a system of free public elementary and secondary schools as defined by law." Further, Article VIII, Section 8 of the Michigan Constitution indicates that the state shall foster and support "institutions, programs, and services for the care, treatment, education, or rehabilitation of those inhabitants who are physically, mentally, or otherwise seriously handicapped."

Further, as in all of the right to education litigation, the role of education in preparing children to be productive adults and responsible citizens is emphasized and can be summarized by this quote: "No child can reasonably be expected to succeed in life if he is denied the opportunity of an education."

Of importance in this suit is that recognition is given in the complaint to a mandatory special education law effective July 1, 1972. However, since that law will not be fully implemented until the 1973-74 school year, the plaintiffs are presently being denied rights. In addition, it is pointed out that the mandatory act does not provide for compensatory education or the right to hearing and review as the educational status and/or classification of the children is altered.

The complaint seeks the following relief:

1. That the acts and practices of the defendants to exclude plaintiff children and the class they represent from an adequate publicly-supported education is a violation of due process of law and equal protection under the 14th amendment of the U.S. Constitution.

2. That the defendants be enjoined in continuing acts and practices which prevent plaintiffs from a regular public school education without providing (a) adequate and immediate alternatives and (b) a constitutionally adequate hearing and review process.

3. That plaintiffs and all members of the class be provided with a publicly-supported education within 30 days of the entry of such an order.

4. That within 14 days of the order defendants present to the court a list which includes the name of each person presently excluded from a publicly supported education and the reason, date, and length of his expulsion, suspension, exclusion, or other type of denial.

5. That parents or legal guardian of each named person be informed within 48 hours of the submission of that report of the child's rights to a publicly-supported education and his proposed placement.

6. That within 20 days of the entry of the order all parents in Michigan be informed that all children, regardless of their handicap or alleged disability, have a right to an education and the procedures available to enroll these children in programs.

7. That constitutionally adequate hearings on behalf of a person appointed by the court be conducted for any member of the plaintiff class who is dissatisfied by the education placement.

8. That plaintiffs be provided with compensatory services to overcome the effects of wrongful past exclusion.

9. That within 30 days from the entry of the order a plan for hearing procedures regarding refusal of public school admission to any child, the reassignment of the child to a regular public school and the review of such decisions be submitted to the court.

10. That within 30 days from the entry of the order a plan for adequate hearing procedures regarding suspension or expulsion of any student from school be submitted to the court.

11. Grant other relief as necessary including payment of attorney fees.

On October 30, 1972, U.S. District Judge Charles W. Joiner issued a memorandum, opinion, and order dismissing the plaintiff's complaint. In his decision Judge Joiner recognized that prior to the passage of Public Act 198 in 1971 [a law requiring education for all children to take effect September, 1973] "... the state of Michigan was making little effort to educate children who are suffering from a variety of mental, behavioral, physical and emotional handicaps, many children were denied education." He further indicated that until Public Act 198, there existed serious questions as to "whether such persons were denied equal protection of the law." He then stated that "if that condition still existed this court would have no difficulty, or exercise the slightest hesitation, relying on the Pennsylvania Association for Retarded Children v. Commonwealth of Pennsylvania, 334 F. Supp. 1257 (E.D. Pa. 1971), in denying the motions to dismiss." Finally the judge pointed out that the passage of the law renders the complaint moot.

In the process of rendering his opinion Judge Joiner made the following key points:

1. To provide education for some children while not providing it for others is a denial of equal protection.

2. The development of a comprehensive plan for the education of handicapped children "... is not the sort of problem which can be resolved by the issuance, no matter how well intended, of a judicial order."

3. "The law suit must be dismissed as to plaintiffs' denial of equal protection claim because the court finds that it could not possibly, no matter how much it might like to, do anything more to solve the equal protection problem before proposals already being implemented under the leadership of the Michigan legislature, Michigan Public Act 198, 1971."

4. Although the complaint argued that Public Act 198 does not require a due process hearing prior to an alteration in a child's educational status "... it would be premature to hold that the statute will be applied in an unconstitutional fashion ... the court must assume that the statute will be applied in a constitutional fashion, whether it be in reference to equal protection, or in reference to due process."

5. "The most that should be done at this stage is to indicate clearly that, although the matter is at this time premature because the process of implementation is proceeding in good fashion, and because there is no way which this court could proceed with implementation faster, if it should turn out either that the act is not fully and speedily implemented and funded or that procedures do not comply with due process, judicial remedies would then be available to the injured persons."

6. In considering whether to retain jurisdiction of the 12 individual plaintiffs, the court indicated that "their case, compelling as it is, is no more compelling than that of the thousands who are to be the beneficiaries of Public Act 198." The judge continued, "... the court must assume that the state will act constitutionally, rather than unconstitutionally ...."

7. The fact that the legislature had acted to affirm the constitutional equal protection principle prior to the "cause" being presented to the court provides a situation where "... the executive department can face up to the problems of due process in implementing the act before the act is fully operative." Further, Judge Joiner says "had the same foresight and leadership on the part of other branches of government been evidenced in the school desegregation problems, it is clear there would have been fewer controversies, less stress and probably quicker and more widespread results."

ASSOCIATION FOR MENTALLY ILL CHILDREN v. GREENBLATT, Civil Action No. 71-3074-J (U.S. District Court, Massachusetts)

This class action suit is being brought by emotionally disturbed children against officers of the Boston school system, all other educational officers in school districts throughout the state, and the Massachusetts state departments of education and mental health for the alleged "arbitrary and irrational manner in which emotionally disturbed children are denied the right to an education by being classified emotionally disturbed and excluded both from the public schools and an alternative education program."

Lori Barnett, an eight year old child classified as emotionally disturbed, has never been provided with a public education by the Commonwealth. The situation has persisted even though she has sought placement in both the Boston special education program and residential placement in a state-approved school.

The suit specifically charges that as of July, 1971, a minimum of 1,371 emotionally disturbed children, determined by the Commonwealth as eligible for participation in appropriate educational programs, were denied such services. Instead they were placed and retained on a waiting list "for a substantial period of time." Although some of the children were receiving home instruction, this is not considered to be an appropriate program.

Secondly, it is alleged that the plaintiff children are denied placement in an arbitrary and irrational manner, and no standards exist on state or local levels to guide placement decision in either day or residential programs. It is argued that, in the absence of state standards, the placement of some students while denying placement to others similarly situated violates the plaintiffs' rights of due process and equal protection.

Another issue in this case concerns the allegation that the plaintiff children are denied access to appropriate educational programs without a hearing thus violating their rights to procedural due process.

Finally, it is charged that the failure to provide the plaintiff children with an education, solely because they are emotionally disturbed "... irrationally denies them a fundamental right, to receive an education and to thereby participate meaningfully in a democratic society, in violation of the due process and equal protection clauses of the Fourteenth Amendment to the U.S. Constitution."

Declaratory judgment is sought to declare unconstitutional excluding or denying an emotionally disturbed child from an appropriate public education program for which he is eligible without a hearing. Also sought is a judgment of unconstitutionality regarding the denial of placement to eligible emotionally disturbed children in the absence of "... clear and definite ascertainable standards established for admission to that program;" the refusal of placement to eligible children in programs while similarly situated children are admitted to such programs; and the denial of education to a child solely because he is emotionally disturbed. Permanent injunction is also sought to prevent the defendants from violating plaintiffs' rights. Finally, an order is requested to require the defendants to prepare a plan detailing how the plaintiffs' rights will be fully protected and to appoint a master to monitor development and implementation of the plan.

The case is pending in the United States District Court for the District of Massachusetts.

PANITCH v. STATE OF WISCONSIN, Civil Action No. 72-L-461 (U.S. District Court, Wisconsin)

This suit is being brought against the state by Mindy Linda Panitch as representative of a class of children "who are multi-handicapped, educable children between the ages of four and twenty years, whom the state of Wisconsin through local school districts and the department of public instruction is presently excluding from, and denying to, a program of education and/or training in the public schools or in equivalent educational facilities."

The issue in this action is a Wisconsin statute and policy enabling handicapped children to attend "a special school, class or center" outside the state. When this occurs and depending upon the population of the child's residence, either the county or school district is required to pay the tuition and transportation. The policy limits the enrollment of children under this act to "public institutions." The rationale is that "constitutional and statutory limitations preclude in-state handicapped pupils attending private educational facilities and receiving the benefits of tuition. This policy maintains a consistency of treatment for out-of-state school attendees as well. Experience with the program to date has indicated that the potential costs accruing to counties in utilizing both public and private facilities would be a prohibitive factor. Similarly, the department lacks sufficient staff, resources, and authority to assess the adequacy of private school facilities."

The complaint alleges that the plaintiff and members of the class are denied equal protection of the laws since the "defendant does not, either through local school districts or the department of public instruction, provide any facility within the state to provide an education and/or training to plaintiff and other members of the class." This violation of the laws, it is alleged, occurs even though special education programs are available outside the state.

The relief sought includes:

1. the declaration that the statute and policy referred to above are unconstitutional and invalid;

2. direction from the court to the defendant to provide to the plaintiff and other members of the class "... a free elementary and high school education;" and

3. all plaintiff costs.

On November 16, 1972, Judge Myron L. Gordon of the Eastern District Court of Wisconsin issued a decision and order providing initially that this suit could proceed as a class action. The plaintiff class includes "... all handicapped educable children between the ages of four and twenty who are residents of Wisconsin and are presently being denied, allegedly, a program of education in public schools or in equivalent educational facilities at public expense." The defendent class also includes all school districts in the state. Finally. the court ordered the parties in the action to meet and devise plans for providing notice.

In December, 1972, the state and the named representative of the school districts filed answers to the complaint. At the same time, the school district, also filed a cross complaint.

In essence the state's answer to the complaint question whether the claims made by the plaintiff are representative of the class and whether the named school district has denied or is continuing to deny public education to the plaintiff and whether the named school district is typical of all the school districts in the state. The state further denies that no facilities are provided within the state at public expense for the "education and/or training" of the plaintiff and other members of the class. It is admitted that appropriate facilities potentially available to the plaintiffs do exist outside the state but denies that all such facilities have been made unavailable to the plaintiff and the class at public expense. The state denies that the plaintiff and the class have or are continued to be denied equal protection of the laws as required by the 14th amendment of the U.S. Constitution.

In presenting affirmative defenses, the state alleges that:

1. No justifiable controversy exists because "the complaint is a mere statement of unsupported legal conclusions."

2. The court should abstain "because a decision under state law might obulate the necessity of a federal constitutional determination."

3. The state has recognized the right of all handicapped children to be appropriately educated at public expense and has offered such opportunities to the plaintiff and members of the class.

4. The plaintiff is trainable, not educable, and will profit more from a training program than the academic program made available to all educably retarded and handicapped children.

5. A training program had been offered to the plaintiff's parents who would rather place the child in an out-of-state school for the visually handicapped at public expense.

6. The state does provide an equal opportunity for education and equal protection of the law to all children "... according to their physical and mental ability."

7. No grounds have been presented for temporary or permanent injunctive relief.

In conclusion, the state seeks a dismissal of the complaint.

The answer from the school district is essentially the same as for the state with the following exceptions.

1. No attempt was made to enroll the child in the district to educate the child.

2. Denies it is representative of all the state's school districts.

In the cross complaint against the defendants it is alleged that if the complaint is successful that inequities will occur among the school districts in the financial responsibility for providing for the education of the plaintiff and the class.

The relief sought by the school district includes a dismissal of the complaint but also that if the complaint is successful, the statute regarding the financial responsibility for children placed in programs outside the state be declared unconstitutional as different burdens are assessed on the basis of the populations of the child's resident school district and/or country.

This case is continuing.

CASE v. STATE OF CALIFORNIA, Civil Action No. 101679 (California Superior Court, Riverside County).

Lori Case is a school age child who has been definitively diagnosed as autistic and deaf and who may also be mentally retarded. After unsuccessfully attending a number of schools, both public and private for children with a variety of handicaps, Lori was enrolled in the multi-handicapped unit at the California School for the Deaf at Riverside, California. Plaintiff attorneys maintain that this unit was created specifically to educate deaf children with one or more additional handicaps requiring special education. Lori began attending the school in May 1970, and is alleged to have made progress - a point which is disputed by the defendants. The plaintiffs argue that to exclude her from Riverside would cause regression and possibly nullify forever any future growth. As a result of a case conference called to discuss Lori's status and progress in school, it was decided to terminate her placement on the grounds that she was severely mentally retarded, incapable of making educational progress, required custodial and medical treatment, and intensive instruction that could not be provided by the school because of staffing and program limitations.

The plaintiffs sought an immediate temporary restraining order and a preliminary and permanent injunction restraining defendants from preventing, prohibiting, or in any manner interfering with Lori's education at Riverside. A temporary restraining order and a preliminary injunction were granted by the Superior Court of the State of California for the County of Riverside.

The arguments presented by the plaintiffs are those seen in other "right to education" cases. The question of the definition of education or educability is raised. The plaintiff attorneys state that "if by 'uneducable' defendants mean totally incapable of benefiting from any teaching or training program, then plaintiffs are in agreement, but defendants' own declaration demonstrate that Lori is not uneducable in this sense. However, if by 'educable' defendants mean 'capable of mastering the normal academic program offered by the public schools,' then defendants are threatening to dismiss Lori on the basis of a patently unconstitutional standard. Application of such a narrow and exclusionary definition, in view of the extensive legislative provisions for programs for the mentally retarded, the physically handicapped, and the multi-handicapped would clearly violate both Lori's rights to due process and equal protection. The right to an education to which Lori is constitutionally entitled is the right to develop those potentials which she has."

Assuming acceptance of Lori's educability, the attorneys argue that "there is absolutely no distinction in law, or in logic, between a handicapped child and a physically normal child. Each is fully entitled to the equal protection and benefits of the laws of this State. Thus, to deprive Lori of her right to an education ... would violate her fundamental rights."

The issue raised by the defendants regarding staffing and program limitations was answered by pointing out that the courts have ruled that the denial of educational opportunity solely on the basis of economic reasons is not justifiable. And finally the manner in which the disposition of Lori's enrollment at the school was determined was "unlawful, arbitrary and capricious and constituted a prejudicial abuse of discretion." It is pointed out that Lori's right to an education "... must be examined in a court of law, offering the entire panaply of due process protections ..."

The case was filed on January 7, 1972, and a temporary restraining order was granted the same day. A preliminary injunction was granted on January 28, 1972. Plaintiffs' first set of interrogatories were filed on March 10, 1972, and a trial date set for May 8, 1972. Trial was held on September 5, 1972. A decision is expected in the near future.

BURNSTEIN v. THE BOARD OF EDUCATION (California Superior Court, Contra Costa County).

The plaintiff children are described as autistic for whom inappropriate or no public education programs have been provided. Thus, there are within this suit two sets of petitioners and two classes. The first class includes autistic children residing in Contra Costa County, California, who have sought enrollment in the public schools but were denied placement because no educational program was available. The second class of petitioners includes five children also residing in Contra Costa County and classified as autistic. These children have been enrolled in public special education classes but not programs specifically designed to meet the needs of autistic children.

The complaint alleges that no services were provided to any of the children named until the plaintiffs in October, 1970, informed the defendants that "they were in the process of instituting legal action to enforce their rights to a public education, pursuant to the laws of the state of California and the Constitution of the United States." The children named in the second class were placed in special education programs, but as indicated, not a program designed specifically to meet their needs.

It is argued in the brief that "education for children between the ages of six and sixteen is not a mere privilege but is a legally enforceable right" under both the state laws of California and the United States. Further, it is pointed out that specialized programs to meet the needs of autistic children are required to enable these children to participate fully in all aspects of adult life. It is also indicated that autistic children are educable and that when they are provided with appropriate programs they can become qualified for regular classroom placement.

Based on the allegation that the petitioners have been denied their rights to an education by the school board who, although knowing of their request for enrollment in programs, "wrongfully failed and refused and continued to fail and refuse..." enrollment, the petitioners request the court to command the school board "to provide special classes and take whatever other and further steps necessary to restore to petitioners the right to an education and an equal educational opportunity..."

The arguments presented by the attorneys for the petitioners justify on a variety of legal bases their rights to publicly-supported educational opportunities. In addition to citing the equal protection provisions of both the United States and California Constitutions, it is also pointed out that "denial of a basic education is to deny one access to the political processes. Full participation in the rights and duties of citizenship assumes and requires effective access to the political system..." Further, the attorneys argue that "one may be denied his economic rights through denial of an education." In addition, the petitioners are not only denied the same educational benefits as non-handicapped children, but also are denied that which is provided to other school-age children suffering from mental or physical disabilities. Finally, the attorneys provide an argument that refutes the frequently used high cost rationale for the denial of special education programs. They say that "granting an education to some while denying it to others is blatant grounds that providing one with rights to which he is entitled but unlawfully denied will result in additional expense. If the respondent in this case is unable to receive funding for the required classes from the state, it is incumbent on it to reallocate its own budget so as to equalize the benefits received by all children entitled to an education."

This case is presently expected to go before the Superior Court of the State of California in and for the County of Contra Costa this winter.

<u>TIDEWATER ASSOCIATION FOR AUTISTIC CHILDREN</u> v. <u>COMMONWEALTH OF VIRGINIA</u>,
Civil Action No. 426-72-N, (U.S. District Court, E. D. Virginia)

In August, 1972, suit was entered in the Norfolk Division of the U.S. District Court for the Eastern District of Virginia on behalf of the class of autistic children who as plaintiffs against the state of Virginia and the state board of education for their alleged legal right to be provided with a free public program of education and training appropriate to each child's capacity.

The complaint is based upon the "basic premise" that "... the class of children which the plaintiff seeks to represent are entitled to an education and that they have a right under the United States Constitution to develop such skills and potentials which they, as a handicapped child, might have or possess. The plaintiff asserts that to deny an autistic child a right to an education is a basic denial of their fundamental rights."

It is also charged in the complaint that discrimination is being practiced against autistic children "since they are educable and no suitable program of training or education is available for them." It is also pointed out that the state has wrongfully failed to provide a program for these children on the basis that "there is not enough money available." The complaint also contains a history of the state's failure to establish pilot programs for approximately 22 children in the Tidewater Virginia area. After the request for funds from the state was reduced from $100,000 to $70,000, the state appropriated $20,000 to serve seven children in the four to seven year age range. Finally, it is alleged that if the requested relief is not granted, there are teen-age members of class "... who will not have an opportunity to receive any training or education whatsoever."

Specifically, the relief sought includes:

1. Granting of declaratory judgment that the practices alleged in the complaint violates the Fourteenth Amendment of the U.S. Constitution.

2. Immediate establishment of free and appropriate programs of education and training geared to each child's capacity.

3. "Determine that each and every child, regardless of his or her mental handicap, is entitled to the equal protection of the law and a right to an education in accordance with the child's capacity."

4. Awarding of court and attorney fees to the plaintiffs.

On the 7th of September, the Commonwealth of Virginia submitted to the Court a motion to dismiss the suit for the following reasons:

1. "Plaintiff fails to state a claim upon which relief may be granted."

2. Suits may not be filed against the Commonwealth of Virginia.

3. The complaint should first be heard by a state rather than a federal court.

In December, 1972, the court issued a memorandum, opinion, and order that dismissed the plaintiff's complaint. In making this judgment, Judge MacKenzie of the Eastern District of Virginia reasoned that although the importance of an equal education is widely recognized, there is nothing in the United States Constitution that "... addresses itself to any explicit or implicit guarantee of a right to a free public education." He further explained that because such a right is guaranteed by the Virginia Constitution and state laws, abridgement of that right should first be pursued through appropriate state remedies. Consequently, the court refused "on the basis of comity and the doctrine of equitable abstention ... the premature attempt to enforce this untested Virginia law."

The argument made by the plaintiffs was that even if the United States Constitution does not provide for the right to free public education, the equal protection clause does provide for equal treatment meaning that if education is provided for some autistic children, it must be provided for all. In responding to this arguement, the court recognized the 1972 Virginia legislation calling for mandatory surveying and planning for the eudcation of the handicapped as well as annually reporting progress and statutes that provide tuition for parents of autistic children to use to obtain private school placement for their children in the absence of public programs as a "... firm commitment by the state to live up to its equal protection obligation under the fourteenth amendment, as well as its own state constitution." In the decision, the court states the assumption that the above statutes would be applied "... in a constitutional fashion and at this time it would be premature to hold otherwise." Support for this position is taken from the decision in Harrison v. Michigan.

Finally, the court ruled that no violation of equal protection occurred when a selected group of autistic children were selected for a pilot program while other similarly situated children did not have access to the program because the state's action was rationally based and "free of invidious discrimination" and that further "... the equal protection clause does not require that a state choose between attacking every aspect of a problem at once or not attacking the problem at all."

UYEDA v. DEPARTMENT OF EDUCATION (California)

In June, 1972, suit was initiated by the mother of Craig Uyeda, a profoundly deaf 10-year old boy against the California School for the Deaf at Riverside, its superintendent, Dr. Richard Brill, and the associate state superintendent of special education for an alleged violation of the child's civil rights.

Craig, a profoundly deaf child described as being "exceptionally bright" had been placed in the Riverside program since September, 1967. In September 1971, Craig was transferred from the regular program at Riverside to the multi-handicapped unit because of behavior problems that were interferring with his academic progress. The defendants informed the parents in May, 1972, that because Craig was a danger to the staff and other children, his enrollment was to be terminated.

The essence of the plaintiff's complaint is that in the absence of a compelling need and overwhelming necessity, "... to deprive Craig of his right to an education, which defendants seek to do, would violate his fundamental rights." It is also argued that "there is absolutely no distinction, in law or in logic, between a handicapped child and physically normal child. Each is fully entitled to the equal protection and benefits of the laws of this state." Finally, it is pointed out that California state law is clear in providing for the education of children with severe handicaps in special programs and that "to then expect such children to perform as well as those children with less severe educational handicaps makes a mockery of the school's duty and constitutes a flagrant violation of the severely handicapped student's right to an education."

Although the relief ultimately being sought is a permanent injunction, the initial request for a temporary restraining order and a preliminary injunction is made on the grounds that expulsion of the child from his present school will result in injury and irreparable harm and possibly the loss of any academic progress made to date. Further, it is alleged that although the defendants indicate there is another appropriate program available in the state, the staff at that program feel that the child is too old. Further, the defendants' original recommendation for the child's placement in the Riverside multi-handicapped unit was based on the availability of the needed behavior modification programs which does not exist at the other school. Finally, plaintiffs allege that Craig's behavioral problems which are the alleged reason for his dismissal are not unique to him and are seen in comparable degrees to other children in the multi-handicapped unit.

While Craig's parents signed a form acknowledging their responsibility to remove the child from school if notified by the superintendent, it is alleged that this consent is suspect for a variety of reasons including the absence of "... notions of due process or a prior hearing ...." Further, it is indicated that the defendants "... failed to specify in advance the basis upon which such determination was to be made, failed to afford an adequate hearing on Craig's termination, and failed to provide a fair record for review or any right of review at all." The plaintiff concludes that "defendants attempt to summarily terminate Craig's constitutional and statutory right to an education at defendant school by such a unilateral, coercive procedure is wrongful and is violative of the procedural guarantees owing to Craig and his parents under the due process provisions of the United States and California Constitutions."

In addition to seeking a temporary restraining order, a preliminary injunction and a permanent injunction preventing the defendants from interferring in Craig's education at Riverside, the plaintiff is also seeking the cost of the suit.

On June 14, 1972, the court ordered the defendants to show cause why a preliminary injunction should not be granted and in the interim restrained and enjoined the defendants from dismissing Craig from the school.

KIVELL v. NEMOITIN, No. 143913, (Superior Court, Fairfield County at Bridgeport, Connecticut).

In a Memorandum of Decision issued by Superior Court Judge Robert J. Testo on July 18, 1972, the mother of 12-year old Seth Kivell, "a perceptually handicapped child with learning disabilities" was awarded $13,400 to pay for the out-of-state private education the child received for two years when it was held that the defendant Stamford, Connecticut Board of Education did not offer an appropriate special education program for him.

The suit was brought by the mother of Seth Kivell when the child was initially classified by a Stamford Public School diagnostic team as a child in need of special education. The same team recommended a program to the parents who, on the basis of an independent evaluation and recommendation by a consulting psychologist transferred Seth to an out-of-state private school. The parents pursued their alleged rights through a local board hearing at which their appeal was denied and a state board hearing. After a state investigation, the state commissioner of education agreed with the plaintiff that the program offered for that year would not have met the child's needs. The commissioner indicated that if the Stamford board reversed its decision and assumed the tuition costs, the state under existing statutes would reimburse the district. This course was rejected by the Stamford board. The commissioner then ordered the district to submit a plan for his approval for the provision of appropriate special education services. Such a plan was approved and the parents were notified approximately two months after the start of the second school year for which the judgment applied.

Judge Testo wrote after reviewing the state's statutory obligation to handicapped children that "it is abundantly clear from the statutes that the regulation and supervision of special education is within the mandatory duty of the state board of education and that the local town board is its agent charged with the responsibility of carrying out the intent of the law which the minor needs and is entitled to."

An order was also issued "directing the Stamford Board of Education and Superintendent of Schools of said City to furnish the minor with the special education required by the statutes of this State. Compliance of this order shall mean the acceptance and approval by the State Board of Education of the program submitted by the local board of education."

It is worthy of note that the judge anticipated that on the basis of his decision a multitude of similar suits might be filed. Consequently he stated that "this court will frown upon any unilateral action by parents in sending their children to other facilities. If a program is timely filed by a local board of education and is accepted and approved by the state board of education, then it is the duty of the parents to accept said program. A refusal by the parents in such a situation will not entitle said child to any benefits from this court."

IN RE HELD, Docket Nos. H-2-71 and H-10-71, N.Y. FAMILY COURT, WESTCHESTER COUNTY, NEW YORK

This case heard in Westchester County, New York Family Court concerned the failure of the Mt. Vernon Public Schools to adequately educate eleven year old Peter Held. These proceedings were initiated after Peter Held had been enrolled in the public schools for five years, three of which in special education classes. During that time the child's reading level never exceeded that of an average first grade student. After the child was removed from the public school and placed in a private school, his reading level, in one year increased about two grades and he "...became a class leader."

In his decision, Judge Dachenhausen "... noted with some concern, the lack of candor shown by the representative of the Mount Vernon city school district in not acknowledging the obvious weaknesses and failure of its own special education program to achieve any tangible results for this child over a five year period." In commenting about the progress made by the child in the private school, the judge said, "It seems that now, for the first time in his young life, he has a future." Further, the judge noted that "This court has the statutory duty to afford him an opportunity to achieve an education."

The court in its ruling issued November 29, 1971, noted that since the child "to develop his intellectual potential and succeed in the academic area" must be placed in a special education setting such as the private school and since, "It is usually preferable for a child to continue at the school where she is making satisfactory progress" (Knauff v. Board of Education, 1968, 57 Misc 2d 459) ordered that the cost of Peter Held's private education be paid under the appropriate state statute provisions for such use of public monies. The costs of transporting the child to the private school was assumed by the local district.

It is important to note that a year earlier, the child's mother applied for funds under the same statute for the payment of this private tuition but the application was not approved. This occurred even though "The superintendent of the Mount Vernon public schools" certified that the special facilities provided at the private school were not available in the child's home school district. Also of interest is that in June of 1971, an initial decision rendered on this matter required the state and the city of Mount Vernon, where the child resides to each pay one half of the private school tuition. That decision was vacated and set aside because the city argues that the court lacked jurisdiction over the city because "no process was ever served upon it and it never appeared in any proceeding."

NORTH DAKOTA ASSOCIATION FOR RETARDED CHILDREN v. PETERSON (U.S. District Court, North Dakota)

In late November 1972, a class action right to education suit was introduced in the southwestern division of the North Dakota District Court on behalf of all retarded and handicapped children of school age residing in North Dakota. The plaintiffs include the North Dakota Association for Retarded Children and 13 children who represent all other children similarly situated. The defendants include the state superintendent of public instruction, the state board of education, the state director of institutions, the superintendent of the state school for the mentally retarded, and six local school districts in the state as representative districts.

The 13 named children, ranging in age from 6 to 19 possess levels of intellectual functioning from profound to moderate. In addition, some of the children possess physical handicaps and specific learning disabilities. It is alleged that in order to obtain an education, many of the children have to attend private programs paid for by parents or have to live in a foster home paid for by parents in a community where special education programming is available. In addition, some children, although being of school age, are presently receiving no education or are attending a private day care program or reside in the state school for mentally retarded where no educational programs are provided.

The importance of an education to all children and in particular to the handicapped is pointed out in the complaint where it is also alleged that only about 27% of the 25,000 children in North Dakota needing special education services are enrolled in such programs. It is indicated that the remaining 73% are:

1. "enrolled in private educational programs because no public school program exists, usually at extra expense to the child's family;

2. "are attending public schools, but receiving no education designed to meet their needs and receiving social promotions while they sit in the classroom and until they discontinue their education or become old enough to be dismissed;

3. "are institutionalized at the Grafton State School where insufficient programs exist to meet their educational needs; or

4. "are at home, receiving no education whatsoever."

The specific alleged violations of the law are as follows:

1. The deprivation of the equal protection clause of the 14th amendment of the United States Constitution in that the state compulsory school attendance laws "... arbitrarily and capriciously discriminate between the child whose physical or mental condition is such as to render his attendance or participation in regular or special education programs inexpedient or impractical, and the child deemed to be of such physical and mental conditions as to render his attendance and participation in regular or special education programs expedient and practical." It is also alleged that children excluded from the public school and assigned to "the state school for the mentally retarded are not all offered an education." Further "the superintendent of any of [state] institutions may excuse the child from such institution without any reason or hearing thereon, and upon such exclusion the child is without any educational opportunities in the state of North Dakota." Because the state school does not have sufficient capacity for all the children on its waiting list, some children are simply excused from admission by denying their request for admission.

2. The deprivation of plaintiffs' rights of "... due process of law in violation of the 14th amendment of the United States Constitution in that it arbitrarily and capriciously and for no adequate reason denies to retarded and handicapped children of school age the education and opportunity to become self-sufficient, contributing members to the State of North Dakota, guaranteed by the Constitution and laws of the State of North Dakota and subjects them to jeopardy of liberty and even of life."

3. The deprivation of plaintiffs' rights "... of equal protection of the law in violation of the 14th Amendment of the Constitution of the United States, in that, excluding plaintiffs from the public schools, it conditions their education to those children whose parents are poor and unable to provide for their children's education otherwise."

4. The deprivation of plaintiffs' rights of "... equal protection of the law in violation of the 14th Amendment to the Constitution of the United States, in that plaintiffs' parents are taxed for the support of a system of public education, nevertheless the children are denied the benefits thereof, and they must pay additional monies to secure an education for their children."

5. The deprivation of plaintiffs' rights "... of procedural due process of law in violation of the 14th Amendment to the United States Constitution, in that there is no provision for notice or for hearing of any kind, let alone any impartial hearing, with right of cross-examination, prior to or after the exclusion."

6. The use by the defendants of the state compulsory attendance law to permit violations that provide to parents, the decision of whether their child will attend school and further "... to mandate non-attendance contrary to the parents' wishes."

7. The confusion by the defendants of the compulsory attendance requirements that exclude "... retarded children from school until the age of 7 years and excluding retarded children after age 16, despite their parents' election to the contrary, and the clear statutory guarantee that every child may attend public schools between the ages of 6 and 21 years."

8. The denial of the plaintiffs' "...right to attend public school and to an education ... by excluding and excusing them from school, by postponing their admission to school, by terminating their attendance at 16 years, and by failing to provide education for ..." the children in residence at the state school for the mentally retarded. This allegation is also based on the equal protection provisions of the 14th amendment.

9. It is also alleged that in many cases where handicapped children are admitted to school they still are deprived of a meaningful education and "that the failure of the defendants to provide a meaningful education suited to the educational needs of such retarded and handicapped children deprives such children of an education just as certainly as said children were physically excluded from public schools.

10. Finally, the allegation that the exclusion clause of the state compulsory attendance law is unconstitutional and "... provides no meaningful or recognizable standard of determining which children should be excused [excluded] from public schools and when used ..." is a violation of the constitutions of North Dakota and the United States.

The relief the plaintiffs are seeking includes the following:

1. The convening of a three-judge court.

2. Declaration that selected statutes, related regulations and practices are unconstitutional and must not be enforced.

3. Enjoin the defendants from "denying admission to the public schools and an education to any retarded or handicapped child of school age."

4. Enjoin the defendants from "denying an educational opportunity to any child at the Grafton State School" [for the mentally retarded].

5. Enjoin the defendants from "otherwise giving differential treatment concerning attendance at school to any retarded or handicapped child."

6. Require the defendants "to provide, maintain, administer, supervise and operate classes and schools for the education of retarded and handicapped children throughout the state of North Dakota and specifically where hearing shows an inadequate number of classes or schools are provided for the education and training of such retarded or handicapped children." This also applies to the state's institutions.

7. Require the defendants to provide compensatory education to plaintiff children and their class who, while of school age, were not provided with a meaningful education suited to their needs.

8. Plaintiffs' costs for prosecuting the action.

COLORADO ASSOCIATION FOR RETARDED CHILDREN v. STATE OF COLORADO (U.S. District Court, Colorado)

In December, 1972, the Colorado Association for Retarded Children and 19 named physically and mentally handicapped children filed a class action suit against the state of Colorado, the governor, the state departments of education and institutions, the state board of education and 11 Colorado school districts. The substance of the action is the state's alleged failure to provide equal educational opportunities to 20,000 handicapped children.

RIGHT TO TREATMENT

WYATT v. ADERHOLT, 334F Supp. 1341 (M. D. Alabama, 1971), 32FF. Supp. 781 (M. D. Alabama, 1971)

This action, originally focused on the claim of state hospitalized mentally ill patients to receive adequate treatment, began in September, 1970, in Alabama Federal District Court. In March, 1971, Judge Johnson ruled that mentally ill patients involuntarily committed to Bryce Hospital were being denied the right "to receive such individual treatment as (would) give each of them a realistic opportunity to be cured or to improve his or her mental condition." The court gave the defendants six months to upgrade treatment, to satisfy constitutional standards, and to file a progress report. Prior to the filing of that report, the court agreed to expand the class to include another state hospital for the emotionally ill and the mentally retarded at the Partlow State School and Hospital.

The defendants' six month progress report was rejected by the court and a hearing was scheduled to set objective and measurable standards. At the hearing in February, 1972 evidence was produced which led the court to find "the evidence ... has vividly and undisputably portrayed Partlow State School and Hospital as a warehousing institution which because of its atmosphere of psychological and physical deprivation, is wholly incapable of furnishing habilitation to the mentally retarded and is conducive only to the deterioration and the debilitation of the residents." The court further issued an emergency order "to protect the lives and well-being of the residents of Partlow." In that order the court required the state to hire within 30 days 300 new aide-level persons regardless of "former procedures," such as civil service. The quota was achieved.

On April 13, 1972, a final order and opinion setting standards and establishing a plan for implementation was released. In the comprehensive standards for the total operation of the institution are provisions for individualized evaluations and plans and programs relating to the habilitation ("the process by which the staff of the institution assists the resident to acquire and maintain those life skills which enable him to cope more effectively with the demands of his own person and of his environment and to raise the level of his physical, mental, and social efficiency.") Habilitation includes, but is not limited to, programs of formal structured education and treatment of every resident. Education is defined within the order as "the process of formal training and instruction to facilitate the intellectual and emotional development of residents." The standards applying to education within the order specify class size, length of school year, and length of school day by degree of retardation.

Finally, the court requires the establishment of a "human rights committee" to review research proposals and rehabilitation programs, and to advise and assist patients who allege that the standards are not being implemented or that their civil rights are being violated. Further, the state must present a six-month progress report to the court and hire a qualified and experienced administrator for the institution.

In December, 1972, the U.S. Court of Appeals for the 5th Circuit heard arguments on the appeals of both Wyatt and Burnham (CA.) which had been joined. The court is presently preparing a decision.

BURNHAM v. DEPARTMENT OF PUBLIC HEALTH, Civil Action No. 16385 (U.S. District Court, N. D. Georgia)

This is a suit seeking class action status on behalf of all patients voluntarily or involuntarily committed to any of the six state-owned and operated facilities named in the complaint and operated for the diagnosis, care and treatment of mentally retarded or mentally ill persons under the auspices of the Department of Public Health of the State of Georgia. Each of the named plaintiffs is or has been a patient at one of these institutions. The case was filed on March 29, 1972, in the United States District Court for the Northern District of Georgia.

Defendants in this case are the Department of Public Health, the Board of Health of the State of Georgia, and Department and Board members and officials; the superintendents of the six named institutions; and the judges of courts of ordinary of the counties of Georgia, which are the courts specifically authorized by Georgia law to commit a person for involuntary hospitalization.

The complaint alleges violations of the 5th, 8th, and 14th Amendments to the U.S. Constitution. It seeks a preliminary and permanent injunction and a declaratory judgment. Specifically, the declaratory relief sought includes a court finding that the patients in the defendant institutions have a constitutional right to adequate and effective treatment; a court finding that each of the institutions named in the complaint is currently unable to provide such treatment; and a holding by the Court that constitutionally adequate treatment must be provided to the patients in the institutions named in the complaint.

The plaintiffs requested the following:

1. That defendants be enjoined from operating any of the named institutions in a manner that does not conform to constitutionally required standards for diagnosis, care and treatment;

2. That defendants be required to prepare a plan for implementing the right to treatment;

3. That further commitments to the defendant institutions be enjoined until these institutions have been brought up to constitutionally required standards; and

4. That the Court award reasonable attorney's fees and costs to counsel.

Defendants filed an answer to plaintiffs complaint on April 21, 1972, in which they raise several legal defenses, such as lack of jurisdiction, and moved to dismiss on several grounds.

On August 3, 1972, Judge Sidney D. Smith, Jr. granted the defendants motion for summary judgment and dismissed this case. The ruling of the court centered on the following major points:

1. The court could find no legal precedent to allow for the declaration that there exists a "federal constitutional right to treatment (to encompass 'care' and 'diagnosis') for the mentally ill." Based on this finding, the judge ruled that the action could not be maintained.

2. Judge Smith, in his decision, disagreed with the Wyatt Alabama decision, primarily on the basis of the absence of a federal statute requiring the right to treatment. He added that "the factual context in those Alabama decisions (budgetary lots by the state legislature causing further deterioration of an existing deficient institutional environment) is also substantially different from the existent situation in the Georgia mental health institutions."

3. The court also held that "... a conclusion as to the lack of jurisdiction over the person of named defendants is also compelled by the eleventh amendment to the U.S. Constitution." This conclusion was based upon the failure to demonstrate the "... denial of a constitutionally protected right nor a federally guaranteed statutory right."

4. Judge Smith also commented about the appropriateness of the courts in defining "adequate" or "constitutionally adequate" treatment.

Specifically he wrote that these questions "... defy judicial identity and therefo · prohibits its breach from being judicially defined." Further, he acknowledged the defendants' argument that "the question of what in detail constitutes "adequate treatment" is simply not capable of being spelled out as a mathematical formula which could be applied to and would be beneficial for all patients. Everyone knows that what might be good treatment for one patient could be bad or even fatal for another."

See the last paragraph of Wyatt v. Aderhold for status of this case.

RICCI v. GREENBLATT, Civil Action No. 72-469F (U.S. District Court, Massachusetts)

This is another class action suit regarding the right to treatment in institutions. The plaintiffs were children in the Belchertown State School in Massachusetts and the Massachusetts Association for Retarded Children, who like in the Wyatt, Parisi, and New York Association for Retarded Children actions, alleged violations of their constitutional rights. The defendants were various state officials and officials of the school. Motions for a temporary restraining order and preliminary injunction were granted by the court in February, 1972, which serves to maintain the status quo until litigation is completed.

Among the provisions of those orders was that "the defendants develop comprehensive treatment plans for the residents which include adequate and proper educational services." On April 20, 1972, the defendants had filed answers to all allegations of the plaintiffs' complaint.

This case has been reassigned to another district court judge. A contempt motion was also filed against the defendants for their failure to carry out issued orders.

NEW YORK STATE ASSOCIATION FOR RETARDED CHILDREN v. ROCKEFELLER, 72 Civil Action No. 356. PARISI v. ROCKEFELLER, et. al. (U.S. District Court, E. D. New York)

These two actions were filed in the U.S. District Court for the Eastern District of New York. Both allege that the conditions at the Willowbrook State School for the Mentally Retarded violated the constitutional rights of the residents. These class action suits are modeled after the Wyatt v. Adherholt (Partlow State School and Hospital, Alabama) case.

Extensive documentation was presented by the plaintiffs alleging the denial of adequate treatment. The evidence touched all elements of institutional life including: overcrowding, questionable medical research, lack of qualified personnel, insufficient personnel, improper placement, brutality, peonage, etc. It is alleged in the Parisi, et. al. v. Rockefeller complaint that "No goals are set for the education and habilitation of each resident according to special needs and specified period of time." It was specifically charged that 82.7 Percent of the residents are not receiving school classes, 98.3 percent are not receiving pre-vocational training, and 97.1 percent are not receiving vocational training.

The plaintiffs in Parisi, et. al. are seeking: declaration of their constitutional rights, establishment of constitutionally minimum standards for applying to all aspects of life; due process requirements to determine a "developmental program" for each resident; development of plans to construct community-based residential facilities and to reduce Willowbrook's resident population; cessation of any construction of non-community based facilities until the court determines that sufficient community based facilities exist; and appointment of a master to oversee and implement the orders of the court.

Both complaints include specific mention of the necessity for including within "developmental plans" and subsequent programs, appropriate education and training.

The preliminary schedule on these cases, which were to be consolidated, was for plaintiffs and defendants to meet in early May to stipulate standards.

WELSCH v. LIKINS, No. 4-72 Civil Action 451 (U.S. District Court, District of Minnesota, 4th Division)

In this action six plaintiffs are named as representative of a 3,500 member class--persons presently in Minnesota's state hospitals for the mentally retarded. Named defendants are the present and former acting commissioners of public welfare and the chief administrator of each of the state's six hospitals.

The plaintiffs include severely and moderately retarded persons who are allegedly denied their right to due process of law since they do not receive "... a constitutionally minimal level of 'habilitation,' a term which incorporates care, treatment, education, and training." It is specifically charged that the plaintiffs and others similarly situated are not provided with a humane psychological and physical environment. The complaint presents supporting evidence that some residents live in "old, poorly designed and hazardous" buildings not meeting state board of health safety and health standards, 'overcrowded dormitories,' bleak accommodations; and improperly equipped bathroom and toilet facilities. Additionally, it is indicated that residents are "subject to threats and physical assaults by other residents," improperly clothed, and denied any personal privacy.

It is further alleged that there is both an insufficient quantity of staff and insufficiently trained staff necessary to provide appropriate programs of habilitation. Due to staff shortages many residents have been forced to work in the institution as employees yet, according to the complaint, are denied payment as required by the fair labor standards act. Another allegation is that the "defendants have failed and refused to plan for and create less restrictive community facilities ..." even though many members of the class could function more effectively in such programs.

It is further argued that "the final condition for constitutionally adequate habilitation is the preparation for each resident of an individualized, comprehensive habilitation plan as well as a periodic review and re-evaluation of such a plan. On information and belief, defendants have failed to provide plaintiffs and the class they represent with a comprehensive habilitation plan or to provide periodic review of these plans."

The plaintiffs are seeking a judgment to include the following:

1. A declaratory judgment that Minnesota's state institutions "... do not now meet constitutionally minimal standards of adequate habilitation including care, treatment and training."

2. A declaratory judgment specifying constitutionally minimum standards of adequate habilitation for mentally retarded persons confined in the state institutions under the supervision and management of the commissioner of public welfare.

3. Injunctions preventing defendants "from failing or refusing to rectify the unconstitutional conditions, policies and practices" described in the complaint and requiring them to "promptly meet such constitutionally minimal standards as this Court may specify."

4. Injunctions requiring the defendants "to pay plaintiffs and the class they represent working in the named institutions the minimum wage established pursuant to the Fair Labor Standards Act as amended, 29 U.S.C. Sec. 201 et seq."

5. Appointment of a master.

6. Awarding of costs to the plaintiffs.

HORACEK v. EXON, (U.S. District Court, Nebraska)

This late 1972 class action complaint agains Governor James J. Exon of Nebraska, the director of the state department of public institutions, the director of medical services, the director of the state office of mental retardation and the superintendent of the Beatrice State Home for the Mentally Retarded focuses on allegations that the residents of the state home "... are not receiving a constitutionally minimal level of 'habilitation,' a term which incorporates care, treatment, education, and training" and the exercise of constitutional rights including personal liberty.

The plaintiffs include five mentally retarded persons ranging in age from 13 to 26 and demonstrating borderline to severe mental retardation. These persons were residents in Beatrice for 1-1/2 to 10 years and all regressed since they were initially admitted. It is alleged that none were provided with appropriate education and/or training programs during their residence at Beatrice. An additional plaintiff is the Nebraska Association for Retarded Children.

The numerous allegations presented in the complaint include the following:

1. The approximately 1,400 residents of the Beatrice facility are all capable of benefiting from habilitation, yet have been denied from receiving same by the defendants.

2. Although a basis for the provision of habilitation services, individual treatment plans have not been developed for any residents.

3. "The environment at Beatrice is inhumane and psychologically destructive." Substantive charges listed include old, hazardous, and inadequately cooled and ventilated housing, lack of privacy, inadequate toilet and hygenic equipment and facilities, overcrowding, restrictive mail and telephone policies, improper clothing, inadequate diet and food preparation procedures, and finally the lack of sufficient therapy, education, or vocational training opportunities for the residents.

4. A shortage of all types of staff and the presence of many untrained staff, particulary direct-care personnel.

5. The absence of evaluation and review procedures to determine resident status and program needs.

6. Each Beatrice resident "... could be more adequately habilitated in alternatives less drastic than the conditions now existing at Beatrice." In this regard it is asserted that the defendants have failed to discharge residents who could live in less restrictive environments and also failed to plan and develop sufficient community facilities to meet this need.

7. Numerous violations of the equal protection clause of the fourteenth amendment including the unreasonable, arbitrary, and capricious classification of some residents as mentally retarded, the denial of equal education opportunities provided to children in the community, the expenditure of greater funds for the hospitalized mentally ill and the maintenance of standards in the instutition that are "markedly inferior" to community programs.

8. Many residents are required to engage in non-therapeutic work for token or no compensation thus violating constitutional provisions that prohibit enforced labor except as punishment for criminal acts.

9. The use of solitary confinement, strait-jackets and other restrictive devices and practices constitutes unlawfully cruel and unusual punishment.

The following relief is sought:

1. The action to be classified as a class action.

2. The violations alleged are constitutional rights and are present rights which must immediately be respected.

3. A judgment indicating Beatrice does not provide constitutionally minimum standards of care and that the court will specify such minimum standards.

4. An injunction requiring the rectification of all unconstitutional conditions, policies, and practices.

5. A restriction preventing the defendants from building any non-community based facilities until the court determines that such programs are sufficiently available.

6. Enjoin defendants from admitting any more residents to Beatrice until minimum standards are met as determined by the court.

7. Require the provision of sufficient additional habilitation services to compensate for the regression and deterioration the Beatrice residents have suffered.

8. A judgment "... declaring that the community service programs are the contitutionally required least restrictive alternative for the habilitation of the mentally retarded in Nebraska."

9. A master be appointed.

10. The court retain continuing jurisdiction.

11. Plaintiff's attorneys' fees and the costs of the action.

A motion to dismiss the complaint has been filed by the defendants which is modeled after the court's decision in Burnham v. Department of Public Health.

PLACEMENT

LARRY P. v. RILES, Civil Action No. C-71-2270 (U.S. District Court, N. D. California)

This class action suit was filed in late November, 1971, on behalf of the six named black, elementary aged children attending classes in the San Francisco Unified School District. It is alleged that they have been inappropriately classified as educable mentally retarded and placed and retained in classes for such children. The complaint argued that the children were not mentally retarded, but rather "the victims of a testing procedure which fails to recognize their unfamiliarity with the white middle class cultural background and which ignores the learning experiences which they may have had in their homes." The defendants included state and local school officials and board members.

It is alleged that misplacement in classes for the mentally retarded carries a stigma and "a life sentence of illiteracy." Statistical information indicated that in the San Francisco Unified School District, as well as the state, a disproportionate number of black children are enrolled in programs for the retarded. It is further pointed out that even though code and regulatory procedures regarding identification, classification, and placement of the mentally retarded were changed to be more effective, inadequacies in the processes still exist.

The plaintiffs asked the court to order the defendants to do the following:

1. Evaluate or assess plaintiffs and other black children by using group or individual ability or intelligence tests which properly account for the cultural background and experience of the children to whom such tests are administered;

2. Restrict the placement of the plaintiffs and other black children now in classes for the mentally retarded on the basis of results of culturally discriminatory tests and testing procedures;

3. Prevent the retention of plaintiffs and other black children now in classes for the mentally retarded unless the children are immediately re-evaluated and then annually retested by means which take into account cultural background;

4. Place plaintiffs into regular classrooms with children of comparable age and provide them with intensive and supplemental individual training thereby enabling plaintiffs and those similarly situated to achieve at the level of their peers as rapidly as possible;

5. Remove from the school records of these children any and all indications that they were/are mentally retarded or in a class for the mentally retarded and ensure that individual children not be identified by the results of individual or group I.Q. tests;

6. Take any action necessary to bring the distribution of black children in classes for the mentally retarded into close proximity with the distribution of blacks in the total population of the school districts;

7. Recruit and employ a sufficient number of black and other minority psychologists and psychometrists in local school districts, on the admissions and planning committees of such districts, and as consultants to such districts so the tests will be interpreted by persons adequately prepared to consider the cultural background of the child. Further, the State Department of Education should be required in selecting and authorizing tests to be administered to school children throughout the state, to consider the extent to which the testing development companies utilized personnel with minority ethnic backgrounds and experiences in the development of culturally relevant tests;

8. "Declare pursuant to the Fourteenth Amendment to the United States Constitution, the Civil Rights Act of 1964, and the Elementary and Secondary Education Act and Regulations, that the current assignment of plaintiffs and other black students to California mentally retarded classes resulting in excessive segregation of such children into these classes is unlawful and unconstitutional and may not be justified by administration of the currently available I.Q. tests which fail to properly account for the cultural background and experience of black children."

On June 20, 1972 U.S. District Court Judge Robert Peckham of the Northern District of California issued an order and memorandum for a preliminary injunction requiring that "... no black student may [in the future] be placed in an EMR class on the basis of criteria which rely primarily on the results of I.Q. tests as they are currently administered if the consequence of use of such criteria is racial imbalance in the composition of EMR classes."

Judge Peckham in issuing this order determined that the incorrect placement of children in classes for the educable mentally retarded causes irreparable injury. Secondly, he pointed out that the I.Q. test as alleged by the plaintiffs is in fact culturally biased. Third, he discussed the statistical evidence gathered in San Francisco and the state of California that demonstrates that if the assumption is made that intelligence is randomly distributed, then children requiring EMR programs should be proportionately representative of all races. Yet the statistical data indicates that many more black than white children are classified educable mentally retarded and subsequently placed in special programs.

Because this pattern suggests the "suspect classification" of black children as an identifiable class, the judge felt that the burden of demonstrating that the use of the IQ test is not discriminatory falls to the school district. The San Francisco school district while not contesting the alleged bias of standardized IQ tests did point out that "... the tests are not the cause of the racial imbalance in EMR classes, or that the tests, although racially biased, are rationally related to the purpose for which they are used because they are the best means of classification currently available." The court concluded that the school district did not effectively demonstrate "... that I.Q. tests are rationally related to the purpose of segregating students according to their ability to learn in regular classes, at least insofar as those tests are applied to black students."

The court also commented that although California law and regulations regarding the classification of children as educable mentally retarded require the collection of extensive information, it is the I.Q. score which is given the most weight in final decision-making. Finally, the judge indicated that this use of the I.Q. score deprived black children of their right of equal protection of the laws.

In granting the preliminary injunction Judge Peckham stated that "the Court is not now inclined to grant any of the specific forms of relief which plaintiffs seek." He required that black children currently enrolled in EMR programs must stay there "... but their yearly re-evaluations must be conducted by means which do not deprive them of equal protection of the laws." Similarly, no action is required to compensate black students who were wrongfully placed at some time in the past.

LEBANKS v. SPEARS, Civil Action No. 71-2897 (U.S. District Court, E. D. Louisiana, New Orleans Division)

Eight black children classified as mentally retarded, have brought suit against the Orleans Parish (New Orleans) School Board and the superintendent of schools on the basis of the following alleged practices:

1. Classification of certain children as mentally retarded is done arbitrarily and without standards or "valid reasons." It is further alleged that the tests and procedures used in the classification process discriminate against black children.

2. The failure to re-evaluate children classified as retarded to determine if a change in their educational status is needed.

3. Failure to provide any "education or instruction" to some of the children on a lengthy waiting list for special education programs, and also denial of educational opportunities to other retarded children excluded from school and not maintained on any list for readmittance.

4. Maintenance of a policy and practice of not placing children beyond the age of 13 in special education programs.

5. Failure "... to advise retarded chilren of a right to a fair and impartial hearing or to accord them such a hearing with respect to the decision classifying them as 'mentally retared,' the decision excluding them from attending regular classes, and the decision excluding them from attending schools geared to their special needs."

6. The unequal opportunity for an education provided to all children who are classified as mentally retarded; unequal opportunity between children classified as mentally retarded and normal; and unequal opportunity between black and white mentally retarded children.

The attorneys for the plaintiffs in summary indicate that many of the alleged practices of the parish* violate the equal protection and due process provisions of the fourteenth amendment. They further state that "continued deprivation (of education) will render each plaintiff and member of the class functionally useless in our society; each day leaves them further behind their more fortunate peers."

The relief sought by the plaintiffs includes the following:

1. A $20,000.00 damage award for each plaintiff;

2. Preliminary and permanent injunction to prevent classification of the plaintiffs and their class as mentally retarded through use of procedures and standards that are arbitrary, capricious, and biased; the exclusion of the plaintiffs and their class from the opportunity to receive education designed to meet their needs; discrimination "in the allocation of opportunities for special education, between plaintiffs, and other black retarded children, and white retarded children," the classification of plaintiffs and their class as retarded and their exclusion from school or special education classes without a provision of a full, fair, and adequate hearing which meets the requirements of due process of law."

*Parish is the Louisiana term for county.

GUADALUPE ORGANIZATION, INC. v. TEMPE ELEMENTARY SCHOOL DISTRICT, Civil Action No. 71-435 (Phoenix District, Arizona, January 24, 1972)

This Arizona case was brought by the Guadalupe Organization, Inc. regarding the disproportionate number of bilingual children enrolled in classes for the mentally handicapped. The action which has now been stipulated provides for the following:

1. Re-evaluation of children assigned to the Tempe special education program for the mentally retarded to determine if any bilingual children had been incorrectly assigned to such placements.

2. Prior to the assignment of a bilingual child to the program for the mentally retarded, the child must be retested in his primary language and have his personal history and environment examined by an appropriate "professional advisor," such as a psychologist or social worker.

3. The records of children found to be incorrectly assigned to the programs must be corrected.

4. All communications from the school to the family of a bilingual child must be in the family's primary language and must include information about the success of the special education program and notice of their right to withdraw their children from it.

STEWART v. PHILIPS, Civil Action No. 70-119 F (U.S. District Court, Massachusetts)

In this 1970 class action seven poor children placed in Boston public special school classes for the mentally retared contest the manner in which they were classified for and placed in those programs. The children range in age from eight to 12 and have spent from one to six years in special class programs for the mentally retarded. The named plaintiffs are subdivided into three groups as follows:

Group I - Poor or black Boston children who are not mentally retarded and "... have been, are, or may be denied the right to a regular public school education in a regular class by being misclassified mentally retarded."

Group II - Poor or black Boston children who are not mentally retarded and "... have been, are, or may be denied the right to be assigned to an educational program created for their special education needs [under applicable state statute] by being misclassified mentally retarded."

Group III - "All parents of students who have been, are, or may be placed in a special class placement, an opportunity to review test scores or the reasons for special class placement, or an opportunity to participate in any meaningful or understanding way in the decision to place the student in a 'special' class."

The defendants include the members of the Boston School Committee (board), the superintendent and his assistants, the director of the department of testing and measurements, the director of special education, two state education officials, and the state commissioner of mental health.

It is alleged in the complaint that the Group I plaintiffs have simply been misclassified and placed in classes for the mentally retarded while the Group II plaintiffs have been misclassified as mentally retarded and incorrectly placed in special classes for the mentally retarded while in fact they were in need of special programs but for the remediation of handicaps other than mental retardation. It is further alleged that the plaintiff children were so placed because they were perceived as behavior problems.

Specific allegations regarding the misclassification are as follows:

1. The process of classification "... is based exclusively upon tests which discriminate against [plaintiffs] in that the tests are standardized on a population which is white and dissimilar to the [plaintiffs]."

2. The administration and interpretation of the tests by Boston school officials fail "... to distinguish among a wide rage of learning disabilities, only one of which may be mental retardation."

3. Classification and placement is made on the basis of a single test score standard and other necessary information is neither gathered nor considered.

4. Boston's "school psychologists" are unqualified to interpret the limited classification devices used in the Boston schools.

Further, the complaint alleges that children in "special classes" which are segregated from the regular class population receive a substantially different education than children retained in regular programs. Such placements, it is alleged results in "... substantial educational, psychological, and social harm ...' which is cumulative. Thus, the longer children are incorrectly retained in special classes, the greater the damage. It is also indicated that even when such children are returned to the regular class they remain irreparably harmed because counterpart children will have continued to make academic progress while the former remained in the special class, educationally static. Reference is also made to the negative stigmatic effect upon the child himself and the educational community by the assigning of the label, mental retardation.

Assigning of the Group I plaintiffs to classes for the mentally retarded when they are not mentally retarded is arbitrary and irrational and "... deprives them of the right to equal protection of the laws in violation of the fourteenth amendment in that students who are similar to the Group I plaintiffs with respect to their educational potential are not placed in classes for the mentally retarded and are permitted to receive a regular education in a regular class." A similar allegation is made of the denial of equal protection of the laws on behalf of the Group II plaintiffs on the basis that similar children are not placed in classed for the mentally retarded and are placed in classes specifically organized to meet their special education needs.

The final series of allegations concerns the Group III plaintiffs and in summary charges that in the process of classifying children mentally retarded and subsequently placing them in special classes the Boston city schools have deprived the plaintiffs of procedural due process as guaranteed by the fourteenth amendment.

The relief sought is as follows:

1. An award of $20,000 to each named plaintiff and members of the class for compensatory and punitive damages.

2. A permanent injunction specifying that children may neither be placed or retained in a special class unless a Commission on Individual Educational Needs with members from state agencies, professional associations, the mayor of Boston, the chairman of the Boston school committee and two Boston parents is established to specify appropriate classification procedures, to monitor that tests are administered by qualified psychologists, to establish procedural safeguards for the classification and placement of children in special programs.

3. All children in special classes or on waiting lists be re-evaluated and reclassified and placed as necessary.

4. All children requiring reassignment shall be provided with transitional programs to serve specific individual needs.

5. No child may be placed in special classes solely on the basis of an I.Q. score.

The state and city responded to the suit by seeking a dismissal on the grounds that no claim was presented. In addition the state also asserted that they were not proper parties to the action and that the plaintiffs did not exhaust available administrative remedies.

Plaintiffs' attorneys responded to the motion to dismiss on the basis of no claim by asserting the following:

1. "The arbitrary, irrational and discriminatory manner in which Boston public school students are classified mentally retarded denies them equal protection and due process of law."

2. "The failure to accord Boston public school students an opportunity to be heard prior to denying them the right to receive a regular education, by classifying them as mentally retarded, violates their right to procedural due process."

3. "The plaintiffs have no obligation to exhaust a state administrative remedy under the civil rights act when that remedy is in fact inadequate."

It is not clear at this time if the case has been abandoned or if action is pending.

RUIZ v. STATE BOARD OF EDUCATION, Civil Action No. 218294 (Superior Court of California, Sacrament County)

The three children named in this December, 1971 class action are Mexican-Americans from Spanish speaking homes. They all have or will be administered group intelligence tests. It is alleged that the I.Q. scores obtained from these tests will be used to their detriment in the process of teaching, placing, and evaluating them in school.

The defendants are the state superintendent of public instruction and the members of the state board of education.

Such tests are required by state law to be administered to all sixth and twelfth grade students, the purpose is to obtain gross measures of public school effectiveness for the public. state agencies and the legislature. However, while individual scores are not reported to the state, they are, it is alleged, recorded in students' permanent records. It is alleged that these records influence teacher expectations of children's ability to learn, are utilized to place children in tracks or at specific academic levels, are used by school counselors as a basis to encourage participation in college preparatory or vocational programs, and are used by counselors to identify children for further evaluation for possible placement in classes for the mentally retarded.

The complaint contains documentation including personal views, professional opinion and scientific evidence that the IQ score by itself is an invalid predictor of educational attainment in non-middle class culture children. Further, the inadequacies of group test scores both from the view of the inadequacies of the testing environment itself and in the absence of background information about the child is discussed. It is further alleged that rather than predicting ability to learn, the tests only report what has been learned.

It is further alleged that when scores such as the group tests are attached to individual children such as the plaintiffs they will "...be irreparably harmed in that they will be denied their right to an education equal to that given all other students" which it is argued is a denial of equal protection of the law as guaranteed by the fourteenth amendments.

The final allegation is that the use of given gross IQ information by the state and legislature for planning and development is meaningless since the depressed scores are not truly indicative of the needs of districts with large minority-group populations. Decisions, for example, about the location of vocational programs based on this data would be faulty.

The relief sought by the plaintiffs includes:

1. An order preventing the placing of group intelligence test scores in children's school records.

2. An injunction preventing the attaching of a score obtained from a group intelligence test with the child who obtained the score.

3. An injunction requiring the defendants to remove from all school records, IQ scores obtained from a group intelligence test.

4. An injunction preventing the use of group intelligence tests for the purpose of determining aggregate or individual ability for the purpose of allocating funds.

This action is presently in process.

WALTON v. CITY SCHOOL DISTRICT OF GLEN COVE, Index No. 18209/71 (Supreme Court of the State of New York, County of Nassau)

Lynn Walton is 15 years old and up until November 5, 1972, was in regular attendance at Glen Cove City High School. On that date Lynn was suspended from school for 5 days, the maximum period of time for a suspension without convening a hearing. The reason for Lynn's suspension was for "verbally abusing a teacher and refusing to follow her directions." It is alleged in the petition that school authorities informed the petitioner (Lynn Waltons mother) that at the conclusion of the suspension period, Lynn would not be readmitted to school "... but would be placed on home tutoring pending transfer to the board of cooperative educational services (BOCES) school for the emotionally disturbed."

The respondents are the town board of education, the superintendent of schools, and the principal of Glen Cove High School.

It is specifically alleged that the respondents deprived Lynn of her right to receive an education equal to that of her peers at the regular high school without due process of law as guaranteed by the fourteenth amendment. It is further alleged that the suspension was continued in excess of five days by labeling Lynn as "handicapped" or "emotionally disturbed" pending her assignment to the BOCES school. It is argued that the assignment of the labels "handicapped" or "emotionally disturbed" "... was improperly, arbitrarily, and capriciously made, not on the basis of the infant's educational needs, but to justify her permanent exclusion from "her regular school without procedural due process. Finally, it is alleged that the assignment of labels result in Lynn Walton being stigmatized as inferior and unfit.

Relief sought includes:

1. Annulling the suspension from regular school attendance.

2. Annulling the misclassification of Lynn and assignment of the labels "handicapped" or "emotionally disturbed."

3. Annulling the transfer of Lynn to the BOCES school.

In the ensuing memorandum of law and answer an issue receiving attention was whether the reassignment of Lynn Walton from her regular high school to home instruction and ultimately to the school for the emotionally disturbed was simply an educational reassignment thus not requiring procedural due process. The petitioner asserts that "it is now well settled that the standards of due process may not be avoided by the simple label which a party chooses to fasten upon its conduct." The respondent answered that the classification and recommendations "... was made according to good and proper and lawful educational practice and policy."

On December 3, 1971, the court issued a show cause order to the respondents. On February 4, 1972, the court granted the relief sought by the petitioner recognizing the school district's violation of procedural due process. On February 28, 1972, a motion by the respondents for vacating the February 4 judgment was denied.

EDUCATION OF THE HANDICAPPED ACT AMENDMENTS

WEDNESDAY, MARCH 21, 1973

HOUSE OF REPRESENTATIVES,
SELECT SUBCOMMITTEE ON EDUCATION
OF THE COMMITTEE ON EDUCATION AND LABOR,
Washington, D.C.

The subcommittee met at 9 a.m., pursuant to recess, in room 2175, Rayburn House Office Building, Hon. John Brademas (chairman of the subcommittee) presiding.

Present: Representatives Brademas, Lehman, Hansen, Peyser, Landgrebe, and Sarasin.

Staff members present: Jack G. Duncan, counsel; Gladys Walker, clerk; Christine M. Orth, assistant to the counsel, and Martin LaVor, minority legislative associate.

Mr. BRADEMAS. The Select Subcommittee on Education will come to order for the purpose of receiving further testimony on H.R. 4199, a bill to extend the Education of the Handicapped Act for 3 years. This act provides grants to States for special educational services for handicapped children at both preschool, elementary, and secondary school levels. It also provides for educational services and centers for the handicapped, media services and captioned films, regional resource centers, teacher training as well as physical education and recreation for the handicapped.

The Chair would initially observe that this subcommittee has already held one hearing on the extension of the Education of the Handicapped Act. During that hearing we heard from, among others, the president-elect of the Council for Exceptional Children and representatives of the United Cerebral Palsy Association, the National Center on Law and the Handicapped and the National Association for Retarded Children.

All of these witnesses, the Chair will observe, were enthusiastic in support of the extension of this legislation. The subcommittee felt it appropriate to supplement that testimony by hearing today from representatives of the administration on their views on extending the Education of the Handicapped Act and we shall also hear today from other interested organizations and their spokesmen who work with both handicapped children and adults.

The Chair would also observe that our hearing today is in part in context of the recent proposal of the President in forwarding to the Speaker the President's Better Schools Act of 1973, otherwise known as the Special Education Revenue Sharing Proposal. This is the measure that would propose to consolidate existing Federal aid programs for elementary and secondary schools including special funds for the handicapped.

Now, the Chair would also observe for the benefit of witnesses that we are in a somewhat awkward position today because there is a Democratic caucus of the House of Representatives and the Chair and his other Democratic colleagues may have to run over to the floor, after having called a short recess to answer any rollcall, but we shall get back as quickly as we can. We beg the indulgence of our witnesses.

Among the witnesses following Mr. Kurzman and Mr. Martin will be Glen Cunningham, Lloyd Nolan, Mrs. Thomas W. Sarnoff, David C. Park, William F. Ohrtman, Herbert D. Nash, Earl B. Anderson, Janet Rhodes, Dorothy Marsh, and a panel consisting of Irvin P. Schloss, and John Nagle.

We are very pleased to have with us today the Assistant Secretary for Legislation of the Department of Health, Education, and Welfare, Mr. Stephen Kurzman, as well as Dr. Edwin Martin, the Commissioner of the Bureau of Education for the Handicapped.

Gentlemen, we look forward to hearing from you.

STATEMENT OF STEPHEN KURZMAN, ASSISTANT SECRETARY FOR LEGISLATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE; DR. EDWIN MARTIN, ASSOCIATE COMMISSIONER OF EDUCATION OF THE HANDICAPPED, BUREAU OF EDUCATION OF THE HANDICAPPED, AND JUDY PITNEY, ACTING DEPUTY ASSISTANT SECRETARY FOR EDUCATION LEGISLATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Mr. KURZMAN. Thank you, Mr. Chairman.

May I introduce as well, on my left, Miss Judy Pitney, Acting Deputy Assistant Secretary for Education Legislation.

Mr. Chairman and members of the subcommittee, we are honored to appear before you today to discuss Federal assistance for the education of handicapped children.

There has been rapid growth in the provision of appropriate educational opportunity for handicapped children. Since 1967, the number of children enrolled in special education programing has grown by more than 1 million, to a level this year of approximately 3.1 million. This represents just over one-half of the total population of 6 million school-age handicapped children.

While the major expense of this additional educational programing has been borne by the States and local governments, we feel that Federal funds have played a significant catalytic role, and that Federal interest and leadership have helped generate considerable public interest and considerable support.

Since its inception, Federal funding for the Education of the Handicapped Act has increased from $37.5 million in 1967 to $110 million in 1972. Total Office of Education expenditures for the handicapped in fiscal year 1972 were $204.3 million which includes funds from other programs such as title I, ESEA, and vocational education which support handicapped children. Fiscal year 1973 figures will show another substantial increase, particularly in the discretionary programs.

Funds made available to the States and to local schools and community agencies have supported model projects demonstrating new approaches to educating handicapped children. These projects have been adopted and continued under local auspices and in many instances have led to changes in State legislation. In Illinois, preschool identification projects have led to new State legislation. In Oregon and Washington projects demonstrating that seriously or "trainable" retarded children could be educated locally, rather than in institutions, have led to a pattern of deinstitutionalizing children. In Texas, a planning analysis funded under the Education of the Handicapped Act has led to new legislation more than doubling State support for handicapped programs. There are many other similar examples of this catalytic effect.

Part C of the act supports preschool programs, centers, and services for deaf-blind children and regional resources centers. Among the activities under part C this year are about 100 model projects located in every State which will demonstrate the effectiveness of early educational intervention. Projects serving handicapped children who have been dropouts from kindergartens, Head Start, and other programs because of learning and behavioral difficulties are enabling these children to return to regular programs after special preschool experiences. Thus, not only are thousands of dollars saved, but thousands of children are being saved from frustrated lives and experiences.

Through centers serving the deaf and blind, approximately 2,600 children will receive educational services this year, a tremendous contrast to the 100 children in programs when Federal efforts began in 1968. In 10 regions, case finding and diagnostic centers have been established and as a result more than 5,000 such children have been identified and provided with special services.

Preparation of teachers and other specialists to work with the handicapped is of vital importance because of the unfilled need for such persons. When the Federal program began in 1960 there were only a handful of colleges and universities which provided training in the special education area. Today more than 300 offer such training. This year more than 20,000 new teachers will be ready for classroom duties and more than 50,000 students will be enrolled in undergraduate and graduate programs.

Through the Education of the Handicapped Act program for the development of educational technology (part F), captioned films for the deaf are made available each year in every classroom for deaf children. There have been more than 1 million viewings of educational and recreational films for the deaf this year alone.

Part G of the act supports model programs for children with specific learning disabilities as well as personnel training activities through a leadership training institute at the University of Arizona. This year 40 States will participate in the program receiving support for model projects. In New Jersey, for example, the model project has provided information on the age and learning characteristics of children, plus the area of education about which information was needed, to a computer resource unit in Buffalo, N.Y., sponsored by EHA research funds. The computer analyzes the data and recommends appropriate instructional materials for teaching a given skill or concept. From the activity supported by the model grant, a program is developing which is expected to serve every child needing such assistance in the State.

Research funds are authorized by part E. These funds are closely tied to the major missions of the Bureau of Education for the Handicapped such as developing full services for handicapped children; developing programs for the 1 million preschool handicapped; providing career or vocational education for teenage and older handicapped youth; and providing sufficient teachers to achieve these goals.

The significance of the Education of the Handicapped Act goes beyond increased expenditures and proven performance in a humanitarian cause. This act has provided direction to the States in terms of the realization of the moral commitment to educate handicapped youngsters.

A primary reason for the passage of title VI of the Elementary and Secondary Education Act was the failure of many States to make a commitment to the education of the handicapped. Federal assistance has been a successful catalyst in making the States aware of the need for a substantial commitment to handicapped children.

There are several indexes available that demonstrate this increased commitment on the part of States and localities. In fiscal year 1966, State and local expenditures for the excess costs of educating handicapped children were $708 million. In fiscal year 1972 State and local spending for this purpose had risen to over $2 billion.

Another index of the extent of program and projects within the States is the number of personnel employed in the planning, direction and implementation of programs for handicapped children. The number of State specialists, consultants (such as consultants for the hearing impaired, visually impaired, emotionally disturbed) and other special education leadership positions (not including State directors) has more than doubled from 180 in 1964–65 to 371 in 1972–73.

Since we now possess evidence of the improved State concern and local capabilities, we believe the formula grant funds for operational programs relating to education of the handicapped can be included in the special revenue sharing concept with confidence that the States will maintain their support for education of handicapped children.

The advantage of such revenue sharing is that citizens in the States and localities will have a greater influence in the determination of how Federal resources should be allocated.

The Better Schools Act of 1973, which you referred to in your opening remarks, recently submitted to the Congress, proposes to include funds now appropriated for the education of handicapped students under the following: The State grant program (part B) of the Education of the Handicapped Act; the program for handicapped children in State institutions authorized by title I of the Elementary and Secondary Education Act; the set-aside for the handicapped in title III of the Elementary and Secondary Education Act; and the set-aside for handicapped provided in the Vocational Education Amendments of 1968.

The funds for the purposes of these four formula grant programs are included in the Better Schools Act in a special earmarked area of assistance for education of the handicapped. A fund transfer authority is provided, allowing 30 percent of the funds to be transferred at the State's discretion to or from the area of assistance for the handicapped. In addition, up to 100 percent of a State's allotment for supportive services and materials may be used for educating the handicapped, at the State's discretion. Funds for education of the handicapped would thus be spent in accordance with plans which the State draws up under an open planning process.

The discretionary programs authorized by the Education of the Handicapped Act, as mentioned earlier, have made possible valuable progress in research, innovation, dissemination, and model replication. The administration supports a 1-year extension of these authorities. We recommend against a longer period of extension because other improvements are currently under study. These alternatives may prove to be more efficient and productive methods of resource allocation.

We also recommend against increasing the present authorization levels which are already larger than any realistic projection of actual funding possibilities. As we have argued on so many other programs, this increase in authorization tends to contribute to unfulfilled expectations. We should promise no more than can be reasonably produced with available resources, and have therefore recommended authorization levels equal to the fiscal year 1974 budget request, which, as I have indicated, reflects very substantial increases in Federal support for this program.

Mr. Chairman, before closing I would like to make very plain my respect for the hard work and sincere concern that you and the members of this committee have always displayed toward the physical and educational needs of handicapped persons. We believe that the combination of the Better Schools Act, and a 1-year extension of the discretionary programs authorized by the Education of the Handicapped Act, will continue the Federal commitment to education of the handicapped and will provide for substantial improvements in the delivery system for Federal resources.

Thank you, Mr. Chairman. My colleagues and I will be happy to answer any questions you may have.

Mr. BRADEMAS. Thank you very much, Mr. Kurzman.

Mr. Kurzman, the findings contained in section 2 of the so-called Better Schools Act states: "The prior programs of Federal financial assistance for elementary and secondary education assistance are too narrow in scope to meet the needs."

I am puzzled by that finding in view of the evidence that has been presented to this committee on the very great need for Federal funds, more Federal funds, for the education of handicapped children. If we are to take that finding seriously, ought you not to be before our committee asking for a significant increase in Federal funding for this purpose?

Mr. KURZMAN. The reference, Mr. Chairman, in the Better Schools Act is to the narrowness of existing formula grant programs in this field in the sense that I refer to it at the bottom of page 4 and top of page 5 of my testimony.

It is a narrowness in the sense that we now have in the Department of Health, Education, and Welfare something like 306 individual grant-in-aid programs or benefit programs. Many of those could and should logically be grouped together. They have grown in response to recognition of need for specific purpose and often by different subcommittees of the Congress at different times.

In this field, for example, I think the four programs that we are now proposing to consolidate into the hanidcapped earmark of the Better Schools Act were enacted at different times, and with slightly different but clearly overlapping purposes.

The State grant program, part B of the Education of the Handicapped Act, obviously had the same general concept in mind, of giving funds to the States to use as they wished for the benefit of handicapped children, as the set-aside for handicapped children in State institutions authorized by title I of the Elementary and Secondary Education Act. The set-aside for the handicapped in title II of ESEA, is an innovative effort as you know, and again generally left within the discretion of the States, as is the set-aside provided for the handicapped in the Vocational Education Amendments of 1968. Our notion is that these four individual programs are narrow in the sense that if you put the four together you would have a broader, less complex set of authorities for the States to make the choices among these four from similar programs.

Mr. BRADEMAS. Let me ask a question at this point.

Mr. Kurzman, you use the adjectives broader and less complex. I think that that strikes at the heart of the matter, at least as I perceive it, because I have been struck by the testimony before our subcommittee so far, on this legislation. Not—if you will allow me some of the prose of President Nixon—from Washington bureaucrats like you, but from the grassroots, from the people who give their entire lives to considering the needs of handicapped people. There has been a consistent pattern throughout their testimony of the most outspoken objection to the administration's sharing proposal, on grounds that it would lead to—and I am sure you are familiar with their arguments—an ignoring of the needs of the handicapped children. Indeed, I note that section 7 of the proposed Revenue Sharing Act provides that 30 percent of each State's allotment for handicapped children can be made available for other purposes, without any restrictions on the ability of the State to transfer that money.

I think we are all familiar with the Pennsylvania decision and the enormous significance of that decision; namely, that because States have done such a very poor job of supporting education of handicapped children, that the prospect that the administration's revenue sharing bill holds out of leaving handicapped children to the tender mercies of the States that have done such an outrageous job that they have compelled parents of handicapped children to go to the courts to try to get their constitutional rights to education protected, seems a great anomaly.

I have the impression that here, as in other matters that the administration is so fond of shooting arrows at those dirty words "categorical," that what you are doing in the real world outside the cotton candy realm of ideology, is to slam the door in the faces of handicapped children all over the United States.

The figures that have been given us by the Council for Exceptional Children show that in the 1971–72 school year, 7 States were providing educational services for less than 20 percent of their handicapped children, some 19 States were serving less than 31 percent of their handicapped children, and only 17 States in the whole Union were serving more than 50 percent of all their handicapped children; and that only about 3.3 percent of the nearly $39 million spent by all public jurisdictions on elementary and secondary education in the United States was spent on the education of the handicapped, despite the fact that these children represent 10 to 12 percent of the total school-age population, and that, as we all know, the education of the handicapped is more expensive.

I noted yesterday—later I will stop and invite your comment—a front-page story—it was probably in Monday's New York Times—with respect to the impact of the administration's proposed cutback in social services, coupled with rising doubts about the distribution and efficacy of revenue-sharing funds. The article makes the point, and this is with respect only, Mr. Kurzman, to the southern part of the United States, but they could have been writing about Indiana from my experience:

> There are already signs that the first wave of general revenue sharing money has been used in a highly political way to consolidate middle-class support for the program. The States, counties, and cities are buying firetrucks and police equipment in public admission that the public needs to see tangible results from the program.
>
> Almost nowhere is the money used to fund continuing programs for health care, social action, or for innovative measures to improve governmental services. For the general public, the change in direction comes at a time when the Southern States began to emerge from an old image that they were too impoverished or too insensitive to care for the poor, sick, and elderly.

What I would like to get your comment on is my contention that the combination of reduced money for the handicapped, which I have not even addressed myself to, but there will be less money for handicapped children under your proposal, with granting further decision-making authority to the States which have up to now done such a terrible job of educating the handicapped children, means that special education revenue sharing is a total disaster for handicapped children in the United States.

Now, that is my charge. Maybe you can respond to it. I am sure you are aware that is the basic concern of those of us, at least of myself, who favor the extension of this legislation.

Mr. KURZMAN. Mr. Chairman, I think it is misguided in just about every detail.

We feel that in the real world, there is a terrific problem in dealing with our 307 programs in HEW, that school districts and State education agencies would like to have consolidation, that they have supported it for many years. We believe that the consolidation of the four programs relating to the education of the handicapped, which are now formula grant programs, which are now virtually identical, which now require separate application forms, separate regulations, separate guidelines, separate staff, at the Federal, State, and local levels, are getting in the way of delivery of those formula grant funds.

The consolidation of those four programs, Mr. Chairman, would not in any way impair education for the handicapped. In fact, the percentage of funds we are proposing be earmarked for the handicapped, is virtually the same—actually, it is a little higher—than the percentage of Office of Education funds now going under these four programs for education of the handicapped.

Mr. **Brademas**. What are the dollar amounts? You used percentages.

Mr. **Kurzman**. I will be happy to give that to you.

The funds that are being proposed to fold in those four programs total $158 million. That consists of $37.5 million under part B of the Education of the Handicapped Act, $60.9 million for the handicapped set-aside from title I of the Elementary and Secondary Education Act, $21.9 million from the handicapped set-aside from title III of the Elementary and Secondary Education Act, and $37.7 million from the 10-percent handicapped set-aside from the Vocational Education Act of 1963, State grants.

Now, the question of whether it is desirable to fold those four programs with the same money into an earmark which has no strings other than service to the handicapped, is entirely separate from the other points you made about the possibility of 30-percent transfer in or out of the categories.

Our notion on this point, Mr. Chairman—and Secretary Weinberger made this quite clear in his testimony on the Better Schools Act—is that we would be happy to talk about some different percentages if the committee felt that was wise. We are trying to give some flexibility to the States in determining how they want to adjust what will always be very difficult competing priorities, State by State, and community by community, as to whether they want more money in for the handicapped, more money in for vocational education, or less money for supportive services.

That is why our bill contains 100-percent transfer authority out of supportive services into vocational education, education for the handicapped, or education for the disadvantaged.

Let me now meet your point, Mr. Chairman, about the States.

Mr. **Brademas**. You have not said a word in response to my question, which I have listened to very carefully, you have not said one word about the needs of the education of handicapped children.

Mr. **Kurzman**. Yes; I have, Mr. Chairman. My whole testimony is about that.

Mr. **Brademas**. We will read it back without change, and I think you will observe that you have not in response to my question said a word about the needs of handicapped children.

Mr. **Kurzman**. Mr. Chairman, I have. The point I am making is that the needs of educating the handicapped is something about which we think the State and local officials ought to make the choice——

Mr. **Brademas**. Why?

Mr. **Kurzman**. Because they are a lot closer to it. Mr. Chairman, you and I are sitting here in Washington. It seems to me the distribution——

Mr. **Brademas**. I don't agree with you at all, Mr. Kurzman—You see, you have not responded to my recitation of the figures in which I noted that the State governments have been doing a very poor job of supporting education of handicapped children, so poor that parents have been driven into the courts of the States to get redress of their grievance.

Now why, then, do you have any confidence that if you take more Federal dollars and turn them back to the States which have been failing in their responsibility to handicapped children they are going to become christians overnight. What is your evidence of that.

Mr. KURZMAN. We are not turning back anything to the States in the Better Schools Act that which do not go to the States right now. They go under four grant programs which are almost identical but under which the States must file separate applications under separate regulations with separate State plans.

We are not proposing to give them more money, just the same money and let them file a single State plan and a single application. It is a very simple point, it seems to me, and it does not have anything to do with the question of whether the States are capable or incapable of handling the problem. We happen to think that the States are growing in their capability.

Let me deal with that capability first of all. As the testimony indicates, the reaction of the States to the seed money which he Federal Government has devoted to education of the handicapped has been remarkable in the years since the Education of the Handicapped Act was first passed. We think the evidence is that the State commitment is growing very rapidly. When this act first passed, something like 20 percent of the children who needed these services, and I am talking about needs, were getting them. Now we are talking about the fact that approximately half the children who need these services are getting these services.

Mr. BRADEMAS. Half of the children? Let's read that back. You said approximately half of the children who need these services are getting these services.

Mr. KURZMAN. And this is a remarkable growth.

Mr. BRADEMAS. What is your evidence for that proposition?

Mr. KURZMAN. I turn to Dr. Martin.

Mr. BRADEMAS. Dr. Martin, let me ask you. That is a very significant point that may come back to haunt Mr. Kurzman. If I understood him right, and I don't want to misrepresent him, I will be glad to disagree with him. He said that approximately half of the children who need these services are getting these services. That cannot possibly be true.

Do you want to comment on that?

Dr. MARTIN. That is right. According to the reports of the States there are about 3.1 million children enrolled in special education programs out of approximately 6 million that are estimated to need those services.

Mr. BRADEMAS. How do you define those services?

Dr. MARTIN. The question that goes to the State is twofold. What is your estimate of the number of handicapped children that are in your State and how many are now receiving appropriate special education services?

Mr. BRADEMAS. What does that mean?

Dr. MARTIN. It varies. It can be enrollment in a special class, it can mean special tutorial help, enrollment in a special institution, part-time tutoring, and so forth. There is a continuum of services that are available.

Mr. BRADEMAS. At what age?

Dr. Martin. That is school age.

Mr. Brademas. Let's linger on that. Let's talk apples and apples, not oranges and apples. The legislation under consideration does not apply solely to children of school age. You are aware of that.

Dr. Martin. Yes.

Mr. Brademas. We are talking about preschool children.

Dr. Martin. Yes.

Mr. Brademas. What about them?

Dr. Martin. The percentage is probably less. It is very difficult for us to know exactly because the preschool programs are supported under many private auspices.

Mr. Brademas. We want to be rather careful about making such sweeping assertions, it seems to me.

Dr. Martin. Of the million handicapped children of preschool age we think there are perhaps 20 percent to 25 percent of those receiving services.

Mr. Brademas. I would be grateful, Dr. Martin, and I want to be as objective and scientific about this as I can, if you would supply for the benefit of the committee the best statistical evidence you can muster that define what scientific professionals in this field would agree are appropriate services to use the language that you and Mr. Kurzman have used, and give us an indication of the extent to which handicapped children, beginning at the preschool years, running through the levels covered under the Education for the Handicapped Act, are receiving appropriate services, and in addition, the amount of funding from State, local, and Federal sources, both in real terms and in percentage terms going into these programs.

What we want to do is get as clear a picture as possible of the extent to which needs are being met as well as the sources of the funding.

What I find myself puzzled by, and would invite Mr. Kurzman again to comment on this, what I find myself puzzled by is the apparent contradiction between the assertion that the States are doing such a wonderful job and the series of court cases that are now beginning to be brought with which you both are quite familiar, I am sure, and the proposed education revenue sharing idea. That, as I understand—and again I want Mr. Kurzman to explain it to me if I don't—would revolve greater authority for determining whether or not handicapped children will receive education on States.

In other words, I am concerned that if the States have been doing such a poor job, what is the logical justification for giving them more authority for determining whether or not handicapped children get education? I think these are not unfair questions, by the way.

Dr. Martin. I think I understand your request for information, Mr. Brademas. We will supply that for the record.

[The information requested follows:]

The phrase "Appropriate educational services" for handicapped children refers to a variety of educational procedures and settings which vary depending on the nature and extent of a given child's handicapping condition. In thinking of this concept it is useful to picture a continuum of services ranging from a slight modification of regular schooling on one extreme to a totally different school environment on the other extreme. For example, a child with a speech problem or a mild hearing loss, may need speech and hearing therapy, offered during a part of the regular school day. The rest of his program may be identical to that offered to non-handicapped children at the other extreme, some children with severe handicaps may require a special school, perhaps even a residential school, so that a long term, comprehensive education program, perhaps including active participation of physicians, psychologists, physical therapists, etc., may be available to him. In essence, many handicapped children require modifications of regular school programs. This may require specially trained teachers, smaller class sizes, specially developed curricula and methods, services from other professionals, etc.

The following chart lists estimates from the State education agencies of children receiving special education, those needing it, not now enrolled, and State and local expenditures for these services. Federal education expenditures for FY 1972, were *$219 Million.*

Children receiving special education	3, 160, 000
Children needing special education not enrolled	3, 740, 000
State and local expenditures for special education services (excess costs)	$2, 162, 000, 000
Federal expenditures for education of the handicapped fiscal year 1972	$219, 000, 000

Mr. BRADEMAS. Mr. Kurzman?

Mr. KURZMAN. We think since this act was passed there are several indexes that demonstrate very substantial State and local commitment. As I stated in my prepared remarks, Mr. Chairman, in fiscal year 1966 the amount of money being spent by State and local governments for educating handicapped children was $708 million. In fiscal year 1972 that spending has risen almost three times, to over $2 billion. We think that is a very substantial devotion of State and local funds in times of fiscal restraint for them, too.

Mr. BRADEMAS. Weren't those State funds expended in response to the Federal catalytic act which you have already suggested this legislation represents?

Mr. KURZMAN. We think that is correct. As I said in my opening statement, we think the States have been induced, as a result of the Federal programs, to devote the resources that they have and to start to take the interest that they should be taking.

In addition, we find that the number of specialists trained to deal with the special education problems of the handicapped has more than doubled.

Mr. BRADEMAS. How many do we need? That is a fair point you have made, they have more than doubled but that does not impress me very much. The question to which I would invite Dr. Martin to give us an answer is, Using the category of specialist to which Mr. Kurzman has made reference in his testimony, how many specialists do you need? Not that they have doubled. Suppose you had 5 last year and you have 20 this year, a fourfold increase. Big deal!

Dr. MARTIN. Are you asking about specialists in the State education agency?

Mr. BRADEMAS. I am using the word "specialist" as Mr. Kurzman has used it in his testimony, so defining the word "specialist" in the education of handicapped children. Mr. Kurzman has just said since the inception of the act there has been a doubling of the number of specialists.

I don't know. I speak from ignorance. My question to you as a professional is, How many of the kind of specialists to which Mr. Kurzman has referred would we need to provide for the education of handicapped children in the United States?

Dr. MARTIN. I think there are two parts to that question. The more narrow question deals just with those employed by the State education agencies as consultants. The larger question is, How many teachers and speech therapists and others are needed? Starting with the first one, I don't have an absolute number how many people in the State education agencies would like to employ. I am willing to predict we are not approaching the maximum. When the program began many States had only one person, or in some cases less than one person who was working at the State level. They have used the administrative funds under part B of the Education of the Handicapped Act to hire State specialists and hire consultants who could work in the stimulation of local projects.

That has been an effective strategy. In other programs, such as our instructional media centers program and the regional resource centers program, we have from time to time given States money to add a specialist.

Mr. BRADEMAS. I hear what you are telling me but you are not answering my question.

My question is, using Mr. Kurzman's statement on page 4 wherein he refers to the number of State specialists, consultants, and other specialized education leadership positions has more than doubled from 1964–65 to 972–73. My question is, in that there are apparently now 371 such persons, How many such persons are required to meet the needs of educating handicapped children? We are now confining ourselves as you suggested, to people in these State positions. What is the answer to that question?

Dr. MARTIN. I don't honestly know. We will have to give an estimate from the State directors.

Mr. BRADEMAS. Is it not therefore rather misleading to be so general about it, to make a big deal about doubling the number of State specialists when you don't even know how many you need to meet the job? You could tell me that they have trebled. That is a nonsensical assertion.

Do you understand what I am saying?

Mr. KURZMAN. Mr. Chairman, let me suggest that you are trying to determine what we try to determine in every one of our programs, which is, what is the universe of need. It is exceedingly difficult, as you know. We try to determine need for every one of our 307 programs at practically every hearing to extend each one of those programs, and for each one there is a need out there, we know, which is not being met by the total Federal, State, local public, and private devotion of effort, trained resources, manpower, and just plain tax dollars.

Mr. BRADEMAS. I would agree with you.

Mr. KURZMAN. They all have to compete. The only thing we can say with any precision is the extent to which Federal, State, and local dollar and manpower efforts have increased over the years and some estimate of what the total universe of need might be.

Mr. BRADEMAS. That is what I want right there. That is exactly what I want. I want an estimate of the total universe of need for the State specialists in the education of handicapped children.

Dr. MARTIN. I can supply that for the record.

Mr. BRADEMAS. In other words, we are trying to engage in some rational decisionmaking. If you who live with these questions can't tell our committee some more or less objective rationale, or give us some objective information on the universe of need, how are we to move? We can disagree about how we ought to solve the problem but at least we ought to come to some rational judgment as to what, as Mr. Kurzman said, is the universe of need.

Dr. MARTIN. We have, Mr. Brademas, estimates of the need for teaching personnel and the universe of that need for specialized education services, but we had not specifically narrowed it down.

Mr. BRADEMAS. Mr. Kurzman, maybe in that same context you could tell us either now or later—now if you can—what you judge at the Department of Health, Education, and Welfare to be the amount of money necessary to provide, again to use your language, appropriate educational services for handicapped children in the United States for the levels of education that are presently included within the Education of the Handicapped Act?

In other words, can you give us your best judgment?

Dr. Martin, maybe you can.

Mr. KURZMAN. We will be happy to supply it, Mr. Chairman.

[The information requested follows:]

QUESTIONS BY MR. BRADEMAS

How many consultants and other specialized education leadership positions are required to meet the needs of educating handicapped children? (As of the present time)

Each State and Territory has need for persons with specialized training to serve as consultants for children of the following handicaps:

(1) Trainable mentally retarded.
(2) Educable mentally retarded.
(3) Learning disabled.
(4) Emotionally disturbed.
(5) Other health impaired.
(6) Crippled.
(7) Visually handicapped.
(8) Deaf, hard of hearing.
(9) Deaf-blind.
(10) Speech impaired.

Because of the differences in the population and geographic make-up of the States, each State would not need the same number of specialists. The State of Wyoming, for example, may be able to operate its programs effectively with five specialists (each one being capable of directing activities in more than one area of specialization). California on the other hand, would need about 40 specialists to give adequate coverage of the same program needs within its borders. An estimated total therefore, of all specialists in special education for the States and Territories would be approximately 570, or 199 more than are presently holding such positions.

Mr. BRADEMAS. You see, that will enable us to judge whether the extension of the present program, the extent to which the extension of the present program might help meet that need or the extent to which the administration's Better Schools Act, if it were carried out as you are telling us it would be, might help meet that need.

Mr. KURZMAN. Mr. Chairman, let me clarify something. Your question suggests to me something that I think perhaps is a misunderstanding here. The present Federal catalytic effort in education for the handicapped includes, as I stated to you, pieces of several acts only one of which is before you today, the Education of the Handicapped Act.

That Federal effort includes pieces of the Elementary and Secondary Act, and pieces of the Vocational Education Amendments as well. Among this array of programs are four which are formula grant programs, and six which are discretionary programs.

The total funding for all of these programs in dollar amounts is what we have talked about in this increase. In 1964, the budget request was $15 million; in 1973 the budget request is $258.5 million. These figures show a very dramatic increase in the Federal effort.

What we are proposing to you and to the Congress is that we continue this effort with this enormous increase in Federal resources through a better delivery mechanism. We have said take the four formula grant programs and consolidate them in an earmark under the Better Schools Act. Then, extend for a year the six discretionary authorities under the Education of the Handicapped Act, and let us come back to you during that year with our proposal as to what might be done to improve those discretionary authorities.

We have already looked at it from the point of view of the formula grants and propose that these four authorities be folded together. With the other six we say let us leave those as they are with increased funding and let us look again at it within a year.

Mr. BRADEMAS. Thank you very much, Mr. Kurzman.

Mr. LANDGREBE. Mr. Kurzman, who do you think has the most concern for handicapped people, President Nixon or Chairman Brademas?

Mr. KURZMAN. Mr. Landgrebe, I think both have great concern for education of the handicapped children. I would hate to be put to the choice of trying to evaluate people's convictions. I think everyone has a conviction here, in both the executive and the legislative branches.

Mr. LANDGREBE. That is a very political answer. I would agree with you that they both, I think you insinuated that you feel they both have a high regard and a great concern for handicapped people, our older American people who might be in need of the services that we are talking about here. But it seems to me that what you are trying to tell the committee here is that HEW's approach to the matter might deliver more services and more help to the handicapped by consolidating the different categorical grants and different programs, making them more manageable, more workable, getting even more cooperation from the States and really doing a better job for the handicapped.

Isn't that what you are trying to tell us, Mr. Kurzman?

Mr. KURZMAN. I would agree, Mr. Landgrebe. We think that the consolidation of the four formula grant programs for the handicapped in the Better Schools Act will improve services for the handicapped by freeing up a lot of local education agencies, State education agencies, and Office of Education personnel who could be specialists in disseminating the kind of information we are getting from these research projects, so that services for the handicapped are improved instead of having the additional paperwork and the additional bureaucratic concerns of dealing with four separate formula grant programs. It is as simple as that. It is not just to provide bureaucratic smoothness but to free more people to do the really important job, which is delivering improved services to handicapped children.

Mr. LANDGREBE. Has no evidence been brought in here that about 50 percent of handicapped children are now receiving help?

Without having any way to know for sure, is that about what we are helping now, about 50 percent through State and Federal?

Dr. MARTIN. About 50 percent of school age and somewhat less of preschool age.

Mr. LANDGREBE. Does this not make it mandatory that HEW do everything they can to consolidate, to streamline delivery, in view of the fact that they are really limitations on the numbers of dollars that are available? Does it not make it mandatory for us to do everything we possibly can to streamline the services, to strip out bureaucracy and to provide the simplest and the most effective delivery of assistance to these kids so that when we consider that we perhaps never will have enough dollars to do all the things that we really want to do, that perhaps with some increase in money as the President has proposed, and with a streamlining of the delivery we can serve more, a great many more, a higher percentage of the kiddies than are presently being served?

Mr. KURZMAN. Yes, sir, that is the point. The more we can reduce the administrative overhead of all our programs, the more will be available from the Federal dollar for the services. That is the point.

Mr. LANDGREBE. I have no further questions.

Mr. BRADEMAS. Mr. Lehman of Florida.

Mr. LEHMAN. Thank you, Mr. Chairman.

We talk here about the bureaucratic world and we talk about the real world, but I just want to mention a third world, and that is the world of the handicapped because that is different, more difference, from either of those worlds, than those two worlds are from each other. We have with us today some of the people from the handicapped world, from the afflicted, people who work with afflicted people. I think those are the people we should listen to. They have suffered. They feel perhaps they are going to be threatened or neglected, and I know they have been neglected by the States at the school level because I have served on school boards which have neglected them, and I have worked with State legislatures that have neglected them.

I know if you are not going to get this kind of aid from the Federal Government they are not going to get the kind of services they need from the State through block grants and through general revenue sharing. Under the school board in Dade County we have not been able to service the handicapped kids and private agencies have had to take on the obligation of taking care of afflicted and handicapped children.

The school board under certain pressures has assigned teaching units to these only because the agencies come down and make the kind of public presentation and put the pressure on the school board. Those agencies that don't put the pressure on they don't get the help. This is the type of pressure at the local level that these kinds of handicapped children should not have to be dependent on. We must go ahead and see at the Federal level that these children are taken care of directly and without strings attached.

Mr. KURZMAN. Mr. Lehman, let me agree with what you say in general outline but I think there is a misunderstanding. We are not proposing that handicapped children should look to or would have to look to general revenue-sharing funds without any strings. What we are proposing is that the four State formula grant programs that now exist, where we do give the States Federal money for general purposes for the education of handicapped but which require that the Federal money be applied for under four separate programs, be merged together into a single State program.

We have earmarked exactly the same, actually a little higher percentage of Federal funding for elementary and secondary education to be used only for handicapped children with the one proviso that we will permit the transfer of up to 30 percent into or out of that category, and a transfer of 100 percent of the supportive services earmarks for vocational education, for handicapped education, and for education of the disadvantaged. Our proposal would allow a State to transfer 100 percent of the supportive services funds into education of the handicapped if they prefer. As things now stand, they cannot do that, Mr. Lehman. In other words, the opportunity for increasing on a State basis the amount for the handicapped beyond what the Congress is appropriating under that line item is not there. We say the States should have that flexibility, too. We think the evidence is that many States will increase funding for the handicapped. The State awareness is growing because of the Federal program. We are not denigrating the Federal program in any respect.

Mr. BRADEMAS. Maybe, Mr. Kurzman at that point will supply for the record either now or subsequently—now if he can, because I think that would illuminate our understanding—how much money would be available for education of the handicapped children in the next 3 fiscal years if indeed 30 percent of the funds were transferred out.

Mr. KURZMAN. I will be happy to do that, and also indicate how much would be available if the 30 percent was transferred in and if the 100 percent of the supportive services were transferred in.

Let me repeat, the transfer provisions and the size of those transfer provisions is a different question from the question of whether these programs should be merged into one. They are all State programs now and are all for the benefit of the handicapped and they would remain State programs for the benefit of the handicapped. In fact, we would have better capability at the Federal level of assuring those funds would reach the handicapped rather than having them earmarked under entirely different programs not under the Bureau of the Education of the Handicapped in OE but under other bureaus. We would have a better opportunity to make sure that those funds are being used for the handicapped than we now do.

[The information requested follows:]

FUNDS AVAILABLE FOR HANDICAPPED UNDER BETTER SCHOOLS ACT OF 1973

[In millions of dollars]

	1974	1975	1976
1. Handicapped earmark	164.9	(1)	(1)
2. Handicapped earmark minus 30 percent transfer to Vocational Education or disadvantaged earmarks	115.4	(1)	(1)
3. Handicapped earmark plus 30 percent transfer from Vocational Education earmark	297.8	(1)	(1)
4. Handicapped earmark plus 100 percent transfer from supporting services earmark	607.4	(1)	(1)

[1] Such sums as are appropriated.

Mr. **Brademas.** I might simply say that it seems to me totally unrealistic to assume that State will be clamoring to transfer money into programs for the education of handicapped children in view of the record that we have here been discussing and of the court cases to which I have been alluding, and I might say this one further thing before calling on Mr. Hansen.

I don't think that we should be satisfied suggesting that you or Mr. Martin assert that we are providing services to 50 percent, educational services to 50 percent of the handicapped children to our country. That ought to be a source of shame, not of pride.

Mr. Hansen.

Mr. **Hansen.** Thank you, Mr. Chairman.

I welcome you to the subcommittee. It is always a pleasure to have you here, although I regret that so frequently it has to be under circumstances where there are so many sharp differences of opinion. But in all of this I simply see many areas of agreement and many possibilities for reconciliation of some of our different views. I would, however, add my own comments and voice my strong apprehension about the fate of the handicapped if there is any discretionary authority in the States to transfer funds out of programs for the handicapped and that apprehension will continue until I see some solid evidence that is in contrast with the whole history of our attempt to help the handicapped. But when that evidence is forthcoming, then I have an open mind.

My question relates to our overall goals, looking down the road a few years. The Pennsylvania decision probably should have come a long time ago. It tells us what we should have faced up to a long time ago. But nevertheless it is there. We are required to comply.

Former Commissioner, now Assistant Secretary Marland, indicated, as I recall, that 1980 was the goal for compliance with the requirements of the Pennsylvania decision. I am prepared to accept that even though it means a lot of handicapped children are going to be uncared for in terms of their education requirements. Many are going to have to wait for a great many years. But as we approach and move hopefully in a systematic and planned way to meet that 1980 goal, if that is still the goal, we are going to have to identify the role that each will play, that is, the Federal Government, the States and others.

You have emphasized in your statement, and I think properly so, the importance of the Federal leadership that we have had in the past. Indeed, had it not beeen for the leadership and the initiative, and I must say the earmarking through categorical program of funds to meet these specific needs, we could not point to the progress that we can point to even now.

I would appreciate your comments on what you see as the Federal role in terms of money and effort and leadership in various areas as we move toward this 1980 goal.

Mr. **Kurzman.** I appreciate your welcome, Mr. Hansen, and your kind words about conciliation here. We obviously do see, from the President's budget and from the two proposals which are now before the Congress, an important Federal role in the education of the handicapped.

As my statement indicates and as you pointed out, that Federal role has been to stimulate a great deal of State and local action which did not exist before the Federal Government moved into the field. The Federal Government's role has developed in a very big way in contrast to what existed less than 10 years ago, in going from essentially a $15 million program to essentially a $131 million program. What we are saying now is simply that where the Federal Government has played the role of turning money over to the States to spend for broad categories of aid to the handicapped, as it has in the four existing State formula grant programs, we are proposing that the Federal Government continue to do so but simplify the process so that instead of applying in four streams under four different programs the States will apply to us under a single one. This will give us, we think, a much better opportunity (*a*) to monitor what the States indeed are doing with the funds, and (*b*) to free up considerable personnel to do the job that we think is basically the Federal Government's role here. That role is to provide the catalytic demonstration factor in showing the States, by way of technical assistance and examples, what can be done and encouraging them to do it.

We do not think that the Federal Government can or should attempt to do the entire job. The increase in serving the need here I think is a proud increase, going from somewhere in the range of 20 percent when the program began to 5 percent of school-age handicapped children today. Obviously we want to see that improved. But we don't think that the Federal Government alone can do it. The increase in State and local funds, as my statement indicates, throughout the United States has been enormous and results in spending by State and local governments which is far greater, by a factor of almost 15 times, to $2 billion annually, where we are talking about a Federal expenditure expanded as many times as it has to something in the range of $130 million.

So that the Federal Government's role here, as a catalytic agent obviously is very important but we do not see it as becoming the dominant role. The States and local agencies have to be stimulated and have been stimulated to do a bigger and bigger job and they have done it. They have indicated in the size of their expenditure and in the number of trained personnel they have put to this very important task that they are ready and willing to do this job.

Now, we are not saying to turn over to them the whole job. We are not saying the Federal Government should get out of it. But we are saying at least simplify the process we now have so that these four formula grant programs can be consolidated into a single one.

We ask that the project grant authorities which are before you this morning be extended for a year, and during that year we come back and talk to you about what possible simplification and improvement in the delivery of those project grants we could make.

Mr. HANSEN. In addition to that it would be very helpful if we could get some estimate in terms of money also of what the Federal Government intends to do to achieve this goal. The education of these youngsters who are handicapped is going to be very expensive. Probably we have dealt with some of the easiest cases because they are less expensive. But as we get to those who have very severe handicapped and highly specialized needs it is going to take more money, it is going to take highly qualified and trained personnel. Somehow we have to develop the programs that will provide the needs for trained personnel who can help in programs of education for the handicapped. What I am searching for, and I would hope that maybe during this year that you are discussing we can get a pretty clear blueprint of the steps that we propose to take, and the money that we propose to invest in these programs, so that we can have the assurance that we are moving ahead in a systematic and planned way toward meeting our obligation to this unfortunate segment of our society.

Mr. BRADEMAS. Mr. Kurzman, if I could ask you and Dr. Martin just a couple more questions. One thought occurs to me, Dr. Martin, as you and I know the education for the handicapped act provides the statutory authority for the office that you head, the Bureau of Education of the Handicapped. Now, if we do not extend this measure, and I realize as I understand, Mr. Kurzman, you ask that it be extended for one more year, but beyond that would not the legal basis for your office and therefore the office disappear?

Dr. MARTIN. I am not sure, Mr. Brademas. Certainly the Bureau is statutory in development. In that particular section of the act it mentions the development of the Bureau, and the National Advisory Committee, and there is a year by year dollar authorization. In the programs where the authorization expires in 1973 I assume they are done. I honestly don't know whether the Bureau itself would terminate. Obviously, if there are no programs there would be no reason for the Bureau.

Mr. KURZMAN. In the Better Schools Act we have proposed an indefinite continuation of the Federal Government's role in elementary and secondary education including the earmark for the handicapped. So I don't see that there is any jeopardy whatever for the Bureau of Education of the Handicapped by reason of the fact that on these six discretionary authorities we are asking for a 1-year extension and an opportunity to come back here within that year to talk to you again.

Mr. BRADEMAS. So that you are saying, for example, where we go to special education revenue sharing that the administration would make a commitment to maintaining the Bureau of Education for the Handicapped.

Mr. KURZMAN. I see absolutely no reason not to, Mr. Chairman.

Mr. BRADEMAS. Thank you.

A more general but yet, I suppose, fundamental question in all of this, and I suppose this will be my final question, brings me back to what has most concerned me, and that is the question of need, and I suppose I would ask you this: Assuming that we were to extend the education of the handicapped legislation for 1 more year, and then let it expire, and then assuming that the proposal for special revenue sharing that you are presenting, Mr. Kurzman, were to be passed, is it then your judgment, yours and Dr. Martin's, that there would be sufficient State aid to meet the needs of educating handicapped children in the United States?

Mr. KURZMAN. We are not proposing, Mr. Chairman, that you extend these project grant programs under the Education for the Handicapped Act for 1 year and then let them expire, as you said. We are proposing that we extend it for a year so that we can come back and talk to you about how they ought to continue. We are not proposing that they be terminated at that point. We just feel that the committee and the administration together ought to take another look within a year as to what might be done with project grant authorities.

We are proposing that the Better Schools Act and its earmark which would fold in the four formula grant programs, go on in the indefinite future. We have not asked for a specific period of time. I do not mean by this to suggest that we are proposing now to terminate the project grant involvement of the Federal Government in education of the handicapped at the end of the next year. We simply would like to come back and discuss with you, having looked at it during that period, how we might improve it.

Mr. BRADEMAS. We have been looking at it here. We know you have a lot of things on your mind, but we have been paying some attention to this in a fairly systematic way. We think on the basis, at least I do, speaking for myself, that we are already getting fairly effective record here to indicate the wisdom of extending the present legislation. I appreciate your suggestion that we ought to take another look at it in a year. I guess I am just a very skeptical and untrusting fellow in this respect.

I have one other specific question that I failed to ask Dr. Martin. As I recall, Dr Martin, title I of the Elementary and Secondary Education Act provides a set-aside for, contains a proviso that institutionalized handicapped children's educational services be fully funded before funds are provided for the education of other disadvantaged children.

Now, do you have that kind of provision in your special revenue-sharing proposal with respect to educating handicapped children?

Dr. MARTIN. I think the discretion would lie with the State education agency as to the sums of money which would be equal to the current amount being spent under that set-aside as well as the others. The State then could have the freedom to continue funding institutions in whatever proportion that they wanted.

Mr. BRADEMAS. Or the freedom not to continue funding for such a program, is that not correct?

Dr. MARTIN. Yes. The discretion lies with the State.

Mr. BRADEMAS. I guess what we have been talking about here in large measure is a kind of classic example of the concern that is expressed by a number of groups whom former Secretary Richardson called in another context vulnerable in American society. One of the reasons that I, myself, have been so strongly opposed to revenue sharing is that it has seemed to me that it only exasperates the existing patterns of inequities in meeting the needs of handicapped, in meeting the needs of vulnerable persons whether they be physically or mentally handicapped, poor, white, black, whatever, but I suppose that is a fundamental difference of philosophy that divides some of us and it runs across party lines, as I think we are aware.

Mr. KURZMAN. I think also, Mr. Chairman, we have a different view of how well we can protect from the Federal level these vulnerable groups when we are chopped up in 307 little boxes with the number rising rapidly every week. We think that our ability to protect the vulnerable groups is weakened, not enhanced, by that kind of categorization. That is why we are asking some simplification of the structure so that we can make sure in the way we now can that the vulnerable groups really are being reached.

Mr. BRADEMAS. I understand the argument.

Just a final observation. I think these little boxes, as you put it, did not just come out of the sky. They are here because of the failure of so many State and local authorities adequately to meet the problems not only in respect of education of the handicapped children but in a wide variety—take child day care services, for example. I know the State of Indiana, so far as I know this has not been any significant leadership at the State level for providing State funds for child day care programs. It is only as a result of some leadership in the Federal Government that there seems to have been some attention paid to some of these needs. But I think we understand each other's point of view on this matter.

Mr. KURZMAN. We think times change, Mr. Chairman, and the facts are there that there is real interest in serving the needs of the handicapped which is not covered at the Federal level.

Mr. BRADEMAS. Thank you very much, Mr. Kurzman and Dr. Martin.

The Chair is going to declare about a 10-minute recess so that he can get over and answer to his name and turn around and come back.

[Brief recess.]

Mr. BRADEMAS. The subcommittee will now resume.

We appreciate the testimony of Dr. Kurzman and Dr. Martin. We are now pleased to hear from Mr. Cunningham, representing the National Easter Seal Society for Crippled Children.

We are glad to have here with us a distinguished leader in the world of sports in the United States and much respected by sports lovers all over the country. We are eager to hear your comments on the subject under discussion.

Go ahead, sir.

I might interrupt you. Perhaps you could summarize your statement and we could put questions to you and insert all of it in the record. But whichever way you prefer to proceed is fine with us.

STATEMENT OF GLENN CUNNINGHAM, PH. D., REPRESENTING THE NATIONAL EASTER SEAL SOCIETY FOR CRIPPLED CHILDREN AND ADULTS, AND OLYMPIC TRACK STAR

Mr. CUNNINGHAM. It will only take a few minutes to read it.

Mr. BRADEMAS. Go ahead, sir.

Mr. CUNNINGHAM. Mr. Chairman and members of the Select Subcommittee on Education of the House, I am Glenn Cunningham, representing the views of the National Easter Seal Society for Crippled Children and Adults in support of H.R. 4199.

Throughout my life I have been concerned with the problems of handicapped and disadvantaged young people. My doctoral training and interests have led me to establish a free residential care program at my ranch Kansas foı adolescents who have come into conflict with society.

As a former member of the Board of Directors of the National Easter Seal Society, the importance of special education has been impressed upon me and the years have only reinforced this belief.

Years ago, when I first became active in the work of the National Society, one could barely discern the beginnings of special education programs for crippled children. The National Easter Seal Society and its 1,400 affiliates have always had a major concern for the education of handicapped children.

In fact, in many States they were responsible for promoting the first special education legislation, in underwriting the salaries of special education personnel in State departments, in pioneering special education classes, in establishing teaching programs for the homebound, in promoting recruitment of promising young people, and in training special education teachers.

Although progress has been made since those days, our interest and efforts in special education have continued. The need, as you well know, is still unmet for over 3 million preschool and school age handicapped children. As public school systems gradually assumed increasing responsibility for serving handicapped children of school age, National Easter Seal Society moved to serving the preschool handicapped child in our comprehensive rehabilitation centers, speech and hearing programs, and preschool centers. We can testify to the rewarding results of preparing these children for entry into regular or special classes in the public school system.

In 1972, 244,650 physically handicapped children and adults received rehabilitation services in programs operated by Easter Seal Societies throughout the Nation. Of this total, almost 25,000 received educational services.

Although the primary population we serve are physically handicapped children with orthopedic and neurological conditions, our education programs also include children with communication disorders, learning disabilities, mental retardation, and emotional problems: 2,686 parents received education services to help them understand and cope with the needs, problems, and potentials of their handicapped children. We have always regarded special education as two-dimensional—for both the child and his parents.

Without the understanding of family members, a handicapped child is further handicapped in trying to achieve intellectually, socially, and emotionally.

Statistics are but part of the whole story of special education. Special education goes beyond cognitive learning. Special education helps shape the handicapped child's capacity to cooperate with other children and to compete with them. It is preparation for adult living and for future employment.

Our preschool programs have demonstrated that progress is more rapid if the child has an opportunity for education, socialization, and supervised group activity at an early age and if provision is made for involving parents in the program. Much that has been learned from the Head Start program for culturally deprived children applies to the handicapped child. Both need an enriched program directed not only toward academic achievement but also toward their total development.

Another key part of the National Easter Seal Society's education program is early identification of infants and very young children with both developmental delays and congenital handicaps, and the training of parents in their care and treatment.

Still another group of handicapped children who are receiving major attention by the National Easter Seal Society and its affiliates are the children with learning disorders who are becoming a growing part of our preschool caseloads and the subject of our annual professional training programs for special education teachers.

A facet of our work which has an important bearing on educational opportunities for the handicapped is the program to eliminate architectural barriers which prevent many children, especially those who use crutches, braces, and wheelchairs, from attending regular public schools.

The education program of the Easter Seal Society we have described is a microcosm of the services provided by public and other private agencies. At present, these services are available for only a limited number of handicapped children throughout the country.

In the near future, we envision an education program adapted to the individualized needs of all handicapped children, which will be provided through tax-supported resources. The extension of the Education Act you are now considering is basic for the realization of this objective.

The National Easter Seal Society has had a gratifying and productive relationship with the Bureau of Education for the Handicapped and its predecessor agency. This partnership has been mutually beneficial to public and private organizations and to handicapped children.

Easter Seal societies have been recipients of research and demonstration grants including support for the initiation of an infant stimulation program under the Early Education Assistance Act.

The Bureau of Education for the Handicapped has pointed out that most of the grants to develop model programs for children under 5 years of age have been awarded to nonprofit organizations. In almost 100 percent of these cases, the model programs were continued on a permanent basis, supported by private funds, once grant support was terminated. In addition, these model programs stimulated similar programs in many communities.

The impact of the Federal programs has been both lasting and extensive, not only under the program of early education but also under the special programs for children with specific learning disabilities.

The National Easter Seal Society, in cooperation with Federal agencies including the Office of Education, launched the first definitive study on terminology and identification of children with learning disorders.

From this initial project, two additional studies were completed by Federal agencies—one on identifying the types of services required in the management of these children, and one on research needs in the field. These projects further illustrate the gains that can be made when voluntary and public agencies coordinate their efforts for the benefit of handicapped children.

Over a hundred years after Congress enacted the first legislation for the handicapped, establishing a national college for the deaf, it consolidated a series of programs under one principal administrative structure—the Bureau of Education for the Handicapped.

It was expected to, and it did, produce more effective educational programs for handicapped children. This Federal program exercises a catalytic influence by stimulating and encouraging State and local educational agencies to improve education through research, to train personnel, and to expand programs.

We strongly urge the continuation of the Education for the Handicapped Act which may determine whether or not a handicapped child receives an education—and equally as important, an appropriate education.

Specifically, we support the extension of all provisions of the act under the administration of the Bureau of Education for the Handicapped:

Assistance to States for education of handicapped children;
Centers and services to meet special needs of the handicapped;
Early education for handicapped children;
Recruitment and training personnel for the education of the handicapped;
Training of physical educators and recreational personnel for handicapped children;
Research and demonstration projects in the education of the handicapped;
Instructional media for the handicapped; and
Special programs for children with specific learning disabilities.

As one who is keenly interested in the wholesome development of young people, I want to make a plea for the continuation of the programs for research and training in adapted physical education and recreation for the handicapped.

Harvey Wheeler of the Center for the Study of Democratic Institutions underlines the importance of the nonacademic side of education:

"Athletics was always a part of the well-rounded curriculum; 'a sound mind in a sound body' was inscribed above the gymnasium door. But the real athletic message applied not to the mind and body for its own sake, but to the competitive situation out there.

"One had to participate in athletics for very practical reasons. The battles of England were won on the playing fields of Eton. American football and baseball taught the cooperative and team-spirit principles, but also the competitive spirit necessary for success in a business world."

We also support the increased authorizations called for in the bill. The levels proposed for each part of the act reflect confidence in the effectiveness of the program to date. These amounts will permit a gradual and orderly expansion of programs over the next 3 years.

Although Congress must make difficult choices regarding domestic spending, these authorizations are essential to meet the needs of unserved millions of handicapped children.

Dr. Joseph A. Pechman, a Brookings Institute economist, has stated that it makes no sense for a nation with a median family income close to $11,000 to pretend that it cannot do many things for its citizens including improving its education system.

The passage of the Education for the Handicapped Act Amendments will move the Nation forward in achieving the goal of the Bureau of Education for the Handicapped; namely, to assure that every handicapped child is receiving an appropriately designed education by 1980.

Thank you for the privilege of appearing before you.

I believe that neglect of the handicapped is something that has gone on far too long, and the needs of these people should be met. The counties, the States, the local people have not met these, and it is up to the Federal Government to meet these needs.

Mr. BRADEMAS. Thank you very much, Dr. Cunningham.

I think in your last, spontaneous statement you very effectively summed up what I take to be the thrust of your entire prepared statement; namely, that if we are to effectively meet the needs of the handicapped children, there is going to have to be an effective Federal program and that it is not enough to leave it to the States and local communities.

Mr. CUNNINGHAM. These handicapped people just don't wield enough political pressure to get the things that are needed on a local level.

Mr. BRADEMAS. That is what I was trying to tell Mr. Kurzman about an hour ago.

Also, I will make one other observation. I appreciate your comment at the end of your prepared statement that we ought to seek to achieve the goal of assuring that every handicapped child is receiving an appropriately designed education by 1980. This is 1973. That is only 7 years off.

According to Dr. Martin and Mr. Kurzman, we are presently providing, even using their definition and their judgment, appropriate educational services to only half the handicapped children in the United States. It seems to me we have a very long way to go in a very short time.

Thank you very much, Dr. Cunningham.

Mr. Peyser.

Mr. PEYSER. Mr. Chairman, I really want to take this opportunity to welcome Dr. Cunningham with us today and state in general that one of the great privileges of being on a committee like this, Dr. Cunningham, is to have the opportunity of seeing and hearing men like yourself who have contributed so much to the American scene to be with us. Your testimony is certainly very meaningful.

Frankly, I don't have any questions on it because I concur with what you are saying. I just want to take the opportunity of welcoming you here and thank you for coming today.

Thank you, Mr. Chairman.

Mr. BRADEMAS. Mr. Hansen.

I might interrupt Mr. Hansen to say, by the way, Dr. Cunningham, that Mr. Hansen is among the most prolific of our colleagues, with seven children, but you with a dozen have dethroned him.

Mr. PEYSER. I did not know we were competing.

Mr. HANSEN. Thank you, Mr. Chairman.

I will salute you for your leadership in that as well as so many other areas where you have contributed so significantly to our country.

I would single out just one aspect of your statement, and if you have a comment I would welcome it. I noted that much of the effort of the Easter Seal Society is directed to the young children, the infants, the preschool children.

It strikes me that a greater investment in these early years can pay enormous dividends in terms of savings of dollars as well as human values in the later years.

Could you comment on what you see as the value of greater emphasis in trying to identify and respond to the needs of the handicapped children in the early years?

Mr. CUNNINGHAM. I think it has been found that the earlier the child is given the opportunity to be a normal individual and receive some of the special training that they can be given and the more involved they become in society, others of their own age and so forth, the better adjustments they make in later life.

I would be glad to have the National Society give a written report on this question. I am sure they can give a better answer perhaps than I can offhand.

Mr. HANSEN. We would welcome it. It would be of great interest to the subcommittee and to me, personally. Thank you very much.

Thank you, Mr. Chairman.

Mr. BRADEMAS. Mr. Landgrebe.

Mr. LANDGREBE. I will pass.

Mr. BRADEMAS. Thank you.

Mr. Sarasin.

Mr. SARASIN. I have no questions.

Mr. BRADEMAS. Thank you very much, Dr. Cunningham. We appreciate your having come.

Mr. CUNNINGHAM. Thank you, Mr. Chairman.

Mr. BRADEMAS. We are pleased now to welcome Mr. Lloyd Nolan, accompanied by Mrs. Mary Akerley.

Mr. Nolan, we are very pleased to have you. We know of your distinguished acting career. We are pleased to welcome you to our subcommittee in another capacity. We look forward to hearing from you, sir, and from Mrs. Akerley.

STATEMENT OF LLOYD NOLAN, STAGE AND SCREEN ACTOR, HONORARY CHAIRMAN OF THE NATIONAL SOCIETY OF AUTISTIC CHILDREN, ACCOMPANIED BY MRS. MARY AKERLEY, MEMBER, BOARD OF DIRECTORS, NATIONAL SOCIETY FOR AUTISTIC CHILDREN

Mr. NOLAN. Thank you, Mr. Chairman.

I would like to say I am very honored to be permitted to testify before your subcommittee.

I suppose I may be known to some of you as a stage and screen actor for the last half of this century. I am also the father of an autistic son who died 4 years ago at the age of 26, and I am the 1974 Honorary Chairman of the National Society of Autistic Children and a spokesman for that organization today.

Since autism is still so little known or understood even among the professionals, I ask the committee's indulgence to permit me to speak a bit about the problem itself before discussing the proposed legislation and how it can help our children. We do not want to take up too much of your time and have, therefore, attached some supplementary material to our testimony.

Autism is very difficult to diagnose because it plays so many roles. Sometimes it appears to be mental retardation, sometimes emotional disturbance or psychosis, sometimes aphasia or some other learning disability. Strangely, these children almost without exception are beautiful children. My son was very handsome but there are certain telltale signs that set autism apart from other early childhood disorders. Autistic children seem like little robots; they are very compulsive, wanting everything in their daily routine repeated without any variation—those who do take notice of toys usually play with them inappropriately and in the same order day after day. They appear to want little or nothing to do with the world and its inhabitants, even their own families and their own mothers. They look through people, not at them. They cannot use or understand language; those who do speak do so like tape recorders: in a flat voice they endlessly repeat phrases or entire conversations they have heard earlier, usually on the radio or television. They cannot play imaginatively or imitatively—such play implies an awareness of and relation to the outside world.

They occupy themselves by spinning objects such as jar lids or by flapping their hands in front of their faces. I remember my son in the pool, hour after hour, would wet his hand and watch the water drip. He was watching the glare of the sun in the drops.

Dr. Lorna Wing, a British researcher, has observed that much of this symptomatology is also found in children born deaf-blind. There is a clue here: the autistic child, even though his vision and hearing are unimpaired—even acute—somehow cannot use the information they provide. In the midst of the richness of the sensory world, he remains in heartbreaking isolation.

I have painted a very dark picture; for many years it was completely black. The bit of light now making at least the general outlines discernible has come from special education and research. The burden of providing the former has rested chiefly on the parents of autistic children; most of the schools for autistic children in this country were started by desperate parents who had found every public educational door closed and locked to their children. Nor was any incentive to unlock those doors provided at the Federal level until very recently.

Two schools for autistic children, one on each coast, are currently participating in a joint project under the provisions of Public Law 91–230, whose renewal is being considered today. The goal of this project is to develop a national network of interested and cooperating agencies, serving the psychoeducational needs of severely emotionally disturbed children with particular attention to children who are autistic or psychotic. The hope would be for expansion of the network over several subsequent years with the joint team continuing to head up and coordinate the training, interrelated studies, and cooperative research.

That hope will die if the Education of the Handicapped Act dies. Once the first step into the light has been made, we cannot return to the dark. For the first time, autistic children are getting services under a piece of Federal legislation; true, it is only a small group of children, the population of two schools, and the services are really indirect as the thrust of the program is the development of teacher-training methods. But therein lies the greater hope, more and better trained teachers mean more and better programs and, consequently, more children served.

Since 1957 there have been several independent studies on the effectiveness of various types of treatment in alleviating the symptoms of autism; all have come to the same conclusion: autistic children who are in special education programs show marked improvement and a greater rate of progress than those who are not in school.

Mr. Chairman and members of the committee, H.R. 4199, which would extend the Education of the Handicapped Act for 3 years, deserves your favorable attention. I am sure you will not take away from our children what they have only recently been given.

One reason that autistic children have been excluded from so many special education programs is the lack of knowledge about proper techniques. We need more programs such as the BEH project just described, but we also need more schools.

On Monday, Congressman Harrington introduced the Autistic Children Research Act. While not on today's agenda, the matter of the bill is germane to today's topic; and since I have come such a long way to speak about the needs of autistic children, and since this is the first bill calling for services specifically for autistic children to be considered by the Congress, I ask the subcommittee's permission to testify on behalf of it as well.

Although entitled a "research act," the second section of the bill provides for Federal assistance to public or private educational centers, both day and residential, in the form of grants, loans or loan guarantees. The need for more schools can be demonstrated most effectively, I feel, by the experiences of two families whose situation is by no means unusual. Before telling you their stories, let me explain that an autistic child imposes a terrible strain, emotional and financial, on a family. The parents love the child but cannot reach him; they are often blamed by professionals for causing the condition which has broken their own hearts, and which they are trying so hard to remedy; there are either no appropriate services available or they are prohibitively expensive—tuitions range from $2,500 to $28,000 per year.

Incidentally, the breakup of marriages is 52 percent for parents of autistic children.

There is, or perhaps I should say "was," a family in Maryland with an autistic son. I corrected my tense because now only the husband lives there; he remained behind because of his job when his wife and son, as well as their normal daughter, moved to Connecticut so that the boy could go to school. That poor man is now deprived of the comforts of family life and the joy of his normal child; he is exhausted from the physical strain of visiting his family on weekends and from the financial strain of maintaining two households.

The other family lives in Texas. Their autistic son goes to school in Missouri. The school involves parents very actively in the psycho-educational process, so the mother spends the week in St. Louis in order to participate, then goes home to Dallas on weekends.

I know what these families are going through. I live in California but our son had to go to school in Pennsylvania. The accident which took his life happened there—far away from his home and family.

There should be good day and residential programs for autistic children in every State. Residential placement is sometimes the best way to provide the intensive services a child may need; however, it may, unfortunately, be chosen when not appropriate because there is no local day school. Hence, the need for both types of program, which could in many cases be provided in the same facility.

Ladies and gentlemen of the subcommittee, it was 30 years ago this year that Dr. Leo Kanner described "infantile autism" as a separate syndrome. That was just about the time that my son was born. Thirty years is a very long time to wait for help. And Mr. Harrington's bill does not ask for a great deal, especially when compared to other Federal education programs.

Thirty years ago the prognosis for autism was expressed in thirds: one-third of the victims made enough progress to live at least semi-independently if not "normally," one-third did progress out of their severely autistic state; and one-third remained mute and withdrawn. Now, with improved education and research techniques, the outlook is brighter, but to what avail if there are no centers for delivery of services?

What will happen to the family who cannot move to or commute to another State? An autistic child with no program is a restless, frustrated child; as he grows older his hyperactivity—his only way of handling his frustration—may become a destructive force, turned against himself or his environment. The strain of family life is indescribable; the effect on the other children, who are forced to watch their parents give all their attention to their seemingly spoiled, constantly misbehaving sibling, can be devastating.

We have before us a simple choice: educate autistic children, which is really just giving them their rights, or we can ignore them until they have to be institutionalized. The cost of the first choice could run as high as $50,000 per child; the cost of the second is $400,000 per child, plus the incalculable cost of broken families. But even if this were not so, passage of H.R. 4199 would be justified. Autism has been the stepchild of the handicaps. America has not taken adequate care of any of her handicapped children; we know that and are concerned about it, but she has shamefully neglected her autistic offspring—perhaps because there are so few—only 4 in 10,000—perhaps because so little is known about how to help them, perhaps because so many have disappeared into institutions for the retarded or insane.

Whatever the reason or reasons, this subcommittee has before it the opportunity to correct the long years of neglect. Fragmented through the research is, it has shown that autistic children are not retarded or mentally ill; they are constitutionally impaired. This research must be continued and expanded if we are ever to stop wasting a potentially valuable human resource. And this much we do know: autistic children can and must be educated. Passage of H.R. 4199 would insure that the first nationally supported, tentative starts in that direction will not be aborted. Passage of the Autistic Children's Research Act would, in addition to making a powerful national commitment to research, make possible desperately needed day and residential educational facilities—the professionals trained under the BEH programs could carry out the network concept of those programs via the centers provided by this bill.

We have emphasized our children's needs today because this is the very first time Federal programs for them have been considered. We are very enthused about this new potential and hope we have communicated some of that enthusiasm to the subcommittee.

Thank you.

[The statement and attachments follow:]

STATEMENT OF LLOYD NOLAN, STAGE AND SCREEN ACTOR, BRENTWOOD, CALIF.

Mr. Chairman and Members of the Subcommittee: I am Lloyd Nolan, known best to all of you, I'm sure, as a stage and screen actor, and perhaps more recently as "Julia's" employer. But I am also the father of an autistic son who passed away four years ago. And I am the 1974 Honorary Chairman of the National Society for Autistic Children and the spokesman for that organization today.

Since autism is still so little known or understood even among the professionals, I ask the Committee's indulgence to permit me to speak a bit about the problem itself before discussing the proposed legislation and how it can help our children. We do not want to take up too much of your time and have, therefore, attached some supplementary material to our testimony. We ask that this material as well as our entire statement be made part of the record of testimony.

Autism is very difficult to diagnose because it plays so many roles: sometimes it appears to be mental retardation, sometimes emotional disturbance or psychosis, sometimes aphasia or some other learning disability. But there are certain telltale signs that set autism apart from other early childhood disorders. Autistic children seem like little robots; they are very compulsive, wanting everything in their daily routine repeated without any variation—those who do take notice of toys usually play with them inappropriately and in the same order day after day. They appear to want little or nothing to do with the world and its inhabitants, even their own families, and their mothers. They look through people, not at them. They cannot use or understand language; those who do speak, do so like tape recorders: in a flat voice they endlessly repeat phrases or entire conversations they have heard earlier, usually on the radio or television. They cannot play imaginatively or imitatively—such play implies an awareness of and relation to the outside world. They occupy themselves by spinning objects such as jar lids or by flapping their hands in front of their faces. Dr. Lorna Wing, a British researcher, has observed that much of this symptomology is also found in children born deaf-blind. There is a clue here: the autistic child, even though his vision and hearing are unimpaired—even acute, somehow cannot use the information they provide. In the midst of the richness of the sensory world, he remains in heartbreaking isolation.

I have painted a very dark picture; for many years it was completely black. The bit of light now making at least the general outlines discernible has come from special education and research. The burden of providing the former has rested chiefly on the parents of autistic children; most of the schools for autistic children in this country were started by desperate parents who had found every public educational door closed and locked to their children. Nor was any incentive to unlock those doors provided at the federal level until very recently.

Two schools for autistic children, one on each coast, are currently participating in a joint project under the provisions of P.L. 91-230, whose renewal is being considered today. The goal of this project is to develop a national network of interrelated and cooperating agencies, serving the psycho-educational needs of severely emotionally disturbed children with particular attention to children who are autistic or psychotic. The hope would be for expansion of the network over several subsequent years with the joint team continuing to head up and coordinate the training, interrelated studies and cooperative research.

That hope will die if the Education of the Handicapped Act dies. Once the first step into the light has been made, we cannot return to the dark. For the first time, autistic children are getting *services* under a piece of federal legislation; true, it is only a small group of children—the population of two schools, and the services are really indirect as the thrust of the program is the development of teacher-training methods. But therein lies the greater hope: more and better trained teachers mean more and better programs and, consequently, more children served.

Since 1957 there have been several independent studies on the effectiveness of various types of treatment in alleviating the symptoms of autism; all have come to the same conclusion: autistic chidlren who are in special education programs show marked improvement and a greater rate of progress than those who are not in school. Mr. Chairman and Members of the Committee H.R. 4199 which would extend the Education of the Handicapped Act for three years, deserves your favorable attention. I am sure you will not take away from our children what they have only recently been given.

One reason that autistic children have been excluded from so many special education programs is the lack of knowledge about proper techniques. We need *more* programs such as the BEH project just described, but we also need more schools.

On Monday, Congressman Harrington introduced the Autistic Children Research Act. While not on today's agenda, the matter of the bill is germane to today's topic; and since I have come such a long way to speak about the needs of autistic children, and since this is the first bill calling for services specifically for autistic children, to be considered by the Congress, I ask the Subcommittee's permission to testify on behalf of it as well.

Although entitled a "Research Act," the second section of the bill provides for Federal assistance to public or private educational centers, both day and residential, in the form of grants, loans, or loan guarantees. The need for more schools can be demonstrated most effectively, I feel, by the experiences of two families whose situation is by no means unusual. Before telling you their stories let me explain that an autistic child imposes a terrible strain, emotional and financial, on a family. The parents love the child but cannot reach him; they are often blamed by professionals for causing the condition which has broken their own hearts and which they are trying so hard to remedy; there are either no appropriate services available or they are prohibitively expensive—tutions range from $2500 to $28,000 *per year*.

There is, or perhaps I should say "was," a family in Maryland with an autistic son. I corrected my tense because now only the husband lives there: he remained behind because of his job when his wife and son, as well as their normal daughter, moved to Connecticut so that the boy could go to school. That poor man is now deprived of the comforts of family life and the joy of his normal child; he is exhausted from the physical strain of visiting his family on weekends and from the financial strain of maintaining two households.

The other family lives in Texas; their autistic son goes to school in Missouri! The school involves parents very actively in the psycho-educational process, so the mother spends the week in St. Louis in order to participate, then goes home to Dallas on weekends.

I know what these families are going through—I live in California but our son had to go to school in Pennsylvania. The accident which took his life happened there—far away from his home and family.

There should be good day and residential programs for autistic children in every state. Residential placement is sometimes the best way to provide the intensive services a child may need; however, it may, unfortunately, be chosen when not appropriate because there is no local day school. Hence the need for both types of program, which could in many cases be provided in the same facility.

Ladies and Gentlemen of the Subcommittee, it was thirty years ago this year that Dr. Leo Kanner described "infantile autism" as a separate syndrome. Thirty years is a very long time to wait for help. And Mr. Harrington's bill does not ask for a great deal, especially when compared to other federal education programs. Thirty years ago the prognosis for autism was expressed in thirds: one-third of the victims made enough progress to live at least semi-independently if not "normally"; one-third did progress out of their severely autistic state; and one-third remained mute and withdrawn. Now, with improved education and research techniques, the outlook is brighter, but to what avail if there are no centers for delivery of services?

What will happen to the family who cannot move to or commute to another state? An autistic child with no program is a restless, frustrated child; as he grows older, his hyperactivity (his only way of handling his frustration) may become a destructive force, turned against himself or environment. The strain on family life is indescribable; the effect on the other children, who are forced to watch their parents give all their attention to their seemingly spoiled, constantly misbehaving sibling, can be devastating.

We have before us a simple choice: educate autistic children, which is really just giving them their rights, or we can ignore them until they have to be institutionalized. The cost of the first choice could run as high as $50,000 per child; the cost of the second *is* $400,000 per child plus the incalculable cost of broken families.

But even if this were not so, passage of H.R. 4199 would be justified. Autism has been the stepchild of the handicaps. America has not taken adequate care of *any* of her handicapped children; we know that and are concerned about it, but she has shamefully negelected her autistic off-spring—perhaps because there are so few (only 4 in 10,000), perhaps because so little is known about how to help them, perhaps because so many have disappeared into institutions for the retarded or insane.

Whatever the reason or reasons, this Subcommittee has before it the opportunity to correct the long years of neglect. Fragmented though he research is, it has shown that autistic children are not retarded or mentally ill; they are constitutionally impaired. This research must be continued and expanded if we are ever to stop wasting a potentially valuable human resource. And this much we do know: autistic children can and must be educated. Passage of H.R. 4199 would insure that the first nationally supported, tentative starts in that direction will not be aborted. Passage of the Autistic Children's Research Act would, in *addition to making a powerful national commitment to research, make possible* desperately needed day and residential educational facilities—the professionals trained under the BEH programs could carry out the network concept of those programs via the centers provided by this bill.

We have emphasized *our* children's needs today because this is the *very first time* federal programs for them have been considered. We are very enthused about this new potential and hope we have communicated some of that enthusiasm to the Subcommittee. Thank you.

ATTACHMENTS

"A National Network of Interrelated Agencies Serving Seriously Emotionally Disturbed Children with Model Training Programs at Julia Ann Singer and League School." The League School is in New York City; Carl Fenichel, Project Director. Julia Ann Singer Preschool Psychiatric Center is in Los Angeles; Frank S. Williams, Project Director.

Currently in this Nation there is a severe shortage of personnel and programs to educate seriously *emotionally disturbed children. It has become increasingly* evident that these children do not fit any of the neat clinical categories or the labels placed on them. There are vast and extreme differences in intellectual functioning, language skills, behavior, pathology and potential among all children with a similar diagnosis. They range from the extremely quiet, passive and withdrawn to the most explosive and impulse-ridden; from those who are completely infantile, mute, clinging and helpless, to those who are self-managing, self-assertive and communicative; from the severely retarded and defective to some with relatively intact, normal or superior mental abilities. Very frequently one sees within the same child the coexistence and overlapping of many of the symptoms associated with schizophrenia, autism, psychosis, aphasia, retardation and central nervous system dysfunctioning.

This joint project with Julia Ann Singer and the League School represents an attempt to develop a national network of interrelated and cooperating agencies, serving the psycho-educational needs of severely emotionally disturbed children with particular attention to children who are autistic and psychotic. The League School and Julia Ann Singer Center (JAS) are helping to integrate the coordination and the integration of the related staff training, the assessment of children's psycho-educational progress, the teacher training sequences for two centers in addition to League School and JAS. A major goal of the network would be fostering the training of parents and para-professionals, in addition to special teachers in the education of pre-school and school-age autistic and severely emotionally disturbed children.

A large portion of the staff training and overall development of the network of centers would be based on prototype models for such training to be further enhanced and developed at the League School and JAS. The hope would be for expansion of the network over several subsequent years with the League School and the Julia Ann Singer team continuing to head up and coordinate the training, interrelated studies and cooperative research.

The League School and the Julia Ann Singer Center would plan for prototype model training programs in the network of centers to be available for years to come, and for visits from specific agencies throughout the country.

The most significant contribution of this Special Project would be the dissemination throughout the field for special and early childhood education, psychology, and child psychiatry, of a truly psycho-educational approach to autistic and other seriously disturbed youngsters. This approach would be one which attends to both the educational and psychological needs of such children without the neglect of either cognitive or psycho-social development.

Hopefully, as a result of such programs every child will have his own highly individualized program of special education to help him grow and develop physically, mentally, socially and emotionally. With the guidance and support of educational supervisors and clinicians, teachers will be able to plan and provide appropriate strategies, methods, learning experiences and activities that meet each child's specific needs, interests and problems.

Working Definition* of Autistic Children as Adopted by the National Society for Autistic Children Board and Approved by the NSAC Professional Advisory Board January 14, 1973.

General Definition.—The term "autistic children" as used by the National Society for Autistic Children shall include persons, regardless of age, with severe disorders of communication and behavior whose disability became manifest during the early development stages of childhood. "Autistic children" includes, but is not limited to, those afflicted with infantile autism (Kanner's syndrome), profound aphasia, childhood psychosis or any other condition characterized by severe deficits in language ability and behavior and by the lack of ability to relate appropriately to others. The autistic child appears to suffer primarily from a pervasive impairment of his cognitive and/or perceptual functioning, the consequences of which are manifested by limited ability to understand, communicate learn, and participate in social relationships.

Specific Characteristics.—Such children are typically multihandicapped in their abilities to receive and communicate informaton, resulting in behavior inappropriate to physical and social demands of their environment. As in aphasia, the dominent communication disorder or learning disability appears to result from the inability to use and to understand language appropriately. The difficulty is often accompanied by impairment in motor, visual, and auditory perception. The behavior of an autistic child is typically improved by the application of appropriate educational procedures. A combination of some or all of the following behaviors characterize the autistic child. These behaviors vary from child to child and time to time in severity and manner.

1. Severely impaired speech or complete lack of speech.
2. Impaired or complete lack of relatedness and social inaccessibility to children, parents, and adults.
3. Extreme distress for no discernible reason due to minor changes in the environment.
4. Lack of intellectual development or retardation in certain areas, sometimes accompanied by normal or superior abilities in other areas.
5. Repetitive and peculiar use of toys and objects in an inappropriate manner, and/or similar repetitive and peculiar body motions, such as incessant rocking.
6. Unusual reaction to perceptual stimuli, such as seeming not to hear certain sounds and over-reacting to others (e.g., holding hands over ears) or "looking-through" objects, poor eye contact or unable to perform certain gross and/or fine motor activities (walking with peculiar gait, limpness in fingers, inability to hold a pencil appropriately).
7. Onset of disorder at birth or apparent normal early development followed by deterioration in functioning.
8. Hyperactivity or passivity.
9. Apparent insensibility to pain.

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*It is anticipated that this working definition of autism will be changed and made more specific with new research knowledge.

NATIONAL SOCIETY FOR AUTISTIC CHILDREN, PROFESSIONAL ADVISORY BOARD JANUARY 1973

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Mr. BRADEMAS. Thank you very much, indeed, Mr. Nolan, for a very powerful and illuminating statement on the problems of educating autistic children.

I was struck by your statement on page 3 in which you say that the hope for expansion of the network which I understand from your statement is just now getting underway, of agencies to serve the psychoeducational needs of severely emotionally disturbed children with particular attention to autistic and psychotic children would die if the Education of the Handicapped Act were to die. In light of that statement, and in light of the other testimony you have heard today, I wonder if you can make any comment on the extent to which research in problems of autism is supported by State or local governments in the United States; second, the extent to which special education for autistic children is supported by State or local government in the United States as distinguished from Federal support of research and education.

Mr. NOLAN. To my knowledge, Mr. Chairman, there is little help. It has forced families, as you know, after their children have been turned away from four schools, or five schools, to sue the State to put in special equipment and special instruction and start classes for the handicapped children.

Mrs. Akerley, to my right, here, would be better able to answer your question.

Mr. **Brademas.** Mrs. Akerley, do you get the thrust of my question?

Mrs. **Akerley.** Yes, Mr. Chairman. I agree, certainly, with what Mr. Nolan has said. There are no State mandates for our children. Where they are covered they are covered under the term "emotionally handicapped." In other words, if a State has a special education mandate it often will say children with physical, mental, or emotional handicaps, and most States threw in a very interesting little phrase which is used for the exclusion of our children, and it limits those services to those who can benefit from such services or those who are in need of such services.

Of course, this is meant to keep normal children out of special education programs, but it is used backwards. It is used to keep the severely and profoundly retarded, and the autistic children, out of the special education programs. They say they are hopeless, we can't do anything for them. And the health department does not pick them up, either, and they fall right between the two.

Mr. **Brademas.** That is an interesting observation. I must say I was not aware of that. I would simply call to your attention the relationship between what you have just told the subcommittee and legislation that has just been passed by Congress, and will shortly be before the President to extend the existing Vocational Rehabilitation Act in the form of the new Rehabilitation Act of 1973 which contains a special set-aside to be directed to problems, rehabilitation problems, of the severely disabled, because our subcommittee had evidence with respect to the problems of severely disabled people in the United States that vocational rehabilitation authorities at the State level were often, for reasons we need not here get into, ignoring their needs in order to focus vocational training, vocational rehabilitation training, on what, a phrase that always puzzles me, is known as the cream, that is to say, those who are the most easily susceptible of rehabilitation because their statistics for effective rehabilitation then look so much better.

Now, I take it that what you have just said with respect to the ignoring by State handicap agencies of the needs of autistic children is caused by a similar attitude. I think I can understand that attitude but I had not realized that there is the pattern of development that you suggest.

Mrs. **Akerley.** Mr. Chairman, may I comment on something else?

Mr. **Brademas.** Please do.

Mrs. **Akerley.** Thank you.

I would like to emphasize that we're talking about a very small group of children. There are probably only 24,000 in the whole country of school age. I was very much interested in some of the comments made by members of the committee this morning on the Bureau of Education use of statistics because, as we all know, they can be used in deceptive ways as well. The figure that bothered me very, very much was 50 percent because, let's go back and talk about the cream again. Those are the children who are getting services. Not 50 percent of the autistic and 50 percent of the retarded and 50 percent of the orthopedically handicapped. You group them together and you take 50 percent and it comes off the top because it is cheaper to serve them. They are rehabilitatable more quickly. You get a quicker return on your investment.

The other point I would like to make is the point about preschool children. There again the earlier you get the child the cheaper it is going to be to rehabilitate him. I am the mother of an autistic child. He started school in a special, private unbelievably expensive program at age 3. He will be 8 next month. When he began school he did not speak. He would let no member of the family touch him except myself. He cried most of his waking hours. This child is now so close to normal it is unbelievable. He is still in a special school but he carries on a reasonably good conversation and we are told he will be at grade level by this spring. This is a child who initially was diagnosed as hopelessly retarded. This is what special education can do.

Mr. BRADEMAS. That is a very powerful bit of testimony, as we say in the Methodist Church. If you have had that experience that is very compelling evidence.

I have just one other question. Mr. Nolan, is it not true that some years ago efforts were being made under the direction of a man whose name, as I recall, was Omar Khayam something, I can't remember the rest of it, to use talking typewriters to teach autistic children or is my recollection mistaken?

Mr. NOLAN. Talking typewriters? I am sorry——

Mrs. AKERLEY. I know of one such project that was done by the Drs. Goodwin. That has been successful. In fact, it is demonstrated at all of our national meetings. These children respond to machine teaching. It does not impose communication demands on them that person-to-person teaching and they seem more comfortable. They use other teaching machines for the children successfully.

Mr. Nolan, you said there were two schools for autistic children participating under a joint project under the provisions of Public Law 21–230. My last question is how many other schools for autistic children would there be in the United States?

Mr. NOLAN. I would have to guess. The problem is still in its infancy. Of course, when my son was born, I just by chance happened to hear the application of that name. I believe it was kind of in that year and I believe it was Dr. Spock that told us that our child was autistic, that he was brilliant, but he will never let you know it.

Mr. BRADEMAS. Thank you very much.

Mr. Hansen?

Mr. HANSEN. Thank you, Mr. Chairman.

Let me also express my appreciation to both of you for some extremely valuable testimony. When you made the observation, Mr. Nolan, that autism is little known or understood even among the professionals you were talking about me because I learned more in this the application of that name. I believe it was kind of in that year and I am grateful for your bringing that to my attention.

Let me underscore what I think is an important part of your statement as we look at the legislation before us and the goals that we have accepted in this country, and that is the great importance of effective diagnosis in the early years. Implicit in your comment—in fact, I think you made the observation that many are misdiagnosed.

Mr. NOLAN. Yes.

Mr. HANSEN. And we didn't have any hope for helping them if we don't understand what the problem is just as we so often in the past have treated children who have some kind of a reading disability as being retarded. It is a great tragedy. So, it seems to me that in listening to your testimony you have emphasized the point that I tried to make in an earlier comment, and that is that so much of our effort and energy and resources in this whole program of educating the handicapped have to go toward learning more about them, and this means research and also training the people who can understand and respond to them. You just can't go out and hire a bunch of teachers and put them into a program for educating the handicapped because of the wide range of conditions that youngsters have. This means a lot of money and it means a lot of attention and this means, I am convinced, leadership at the Federal level to organize and direct the resources needed to do the job.

I do not have any questions, but I am most grateful for your contribution to these hearings.

Mr. NOLAN. Thank you very much.

Mr. BRADEMAS. Mr. Landgrebe.

Mr. LANDGREBE. Thank you, Mr. Chairman.

Mr. Nolan, it is a privilege for me to be here and have the opportunity of having a dialog with you. I want you to know that you have great concern and understanding on my part of what you went through with your own son. I have a couple of questions that I think are relevant. You state on page 7 that autistic children can and must be educated.

A very serious question: Is the autistic child more of a medical problem or is it educational? Can a truly autistic child be educated or must he first be medically treated to change something in his brain? What do you think is the primary approach to helping an autistic child?

Mr. NOLAN. I would say the autistic child is no different from the other classifications of retardation in that there are hundreds of different types. You cannot lump the autistic child to one single syndrome. For instance, my child never talked. Quite possibly had my child had the knowledgeable impetus that Mrs. Akerley's child had, possibly he would be alive today, he would be talking, and he would, within a limited way, be able to make his way in the world.

But we didn't have that knowledge at that time. People go desperate. They will use anything. They want to use hypnosis, they want to use anything. Yet you go to doctors and you say, "My child is autistic" and they say, "What is that?" The professionals didn't know what it was. The classifications are just beginning to come in. As I stated, there is just an outline of what makes an autistic child. There is brilliance there.

I believe it has almost been proven that the parents are usually of a fairly high intelligence. What this has to do with it I don't know. It has been proven also that in some cases diet can improve the autistic child. If you take away bread and milk—I will be putting myself in trouble there, but this has helped in certain cases. But it is such a mystery that it needs tremendous research, scientific research.

Mrs. **Akerley**. Could I comment on that please?

Mr. **Nolan**. It is a twofold sort of thing. Until we know and understand the biochemical and metabolic abnormalities that we are just getting clues now—I know this is a danger here—I know your question is well meant, but I can see a misapplication, if this is a medical problem, what is the logic of spending money on education. It just does not work that way. Even if we have a child for whom there are no biochemical clues, you can do things with that child such as behavior modification which is a good initial approach to the problem that begins to bring him out of his autism. I think we made the observation in our testimony that education relieves the symptoms. It is not a cure. It is very much like a person who may have had a stroke. Perhaps you cannot restore the muscles immediately, but by physical therapy you can restore the use of the limb.

That is an analogy. That is what education does to these children.

Mr. **Landgrebe**. I want to make it very clear that I fully agree and I will accept the accusation that at least I referred to 50 percent of the people being helped and the administration or HEW representatives indicated that was true and I can fully understand that by taking the c[illegible]nes off the top, you could come up with better numerical figures. [illegible] we seem to have a problem of dollars. What I am trying to do in the kindest way possible, is discuss a very unpleasant condition, how much can be done through education if we don't have the research and the medical work to go ahead first. Is there any use to try to do something else educationally unless we have the other going on ahead of it just a little bit to achieve something?

I would like to continue with a little comment. I voted against revenue sharing myself. I had great reservations about it. I am disappointed at the moment that the general discussion out in my district, in the local political subdivision, is that well, maybe we ought to buy another snorkel or new fire truck or build a new fire station. In fact, considering that we went to a hundred billion dollar budget in 178 years and it took us 10 years to go to $200 billion and now it looks like it will take us less than 5 years to go to a $300 billion budget, something has to happen to get us better services for less money or else just across-the-board substantial tax increases.

So, I am moving around to a more openminded look at particularly how we start talking about specific revenue sharing making the States and the cities and even the lower subdivisions be concerned about human problems other than just putting out the fire when the house is burning down. But I do believe that people at the local level, State level, ought to have the same moral concern as we have at the Federal level.

Even churches, and we have had an Easter seal representative here. We must have a lot of concern other than right here in the Federal Government about these people. We are going to have to find ways of leading the way, putting our money at the Federal level on research and new methods of reaching these very difficult people and encouraging and certainly we will have to find a way to get the States and the people at the local level to accept their responsibility and do more for people out there with less money than it takes under our present system of bringing it into the Federal Government and going through this huge bureaucratic strainer before it gets down to that level.

I do not believe I have any more questions. I think you are very patient to listen to my speech. Thank you very kindly.

Mr. BRADEMAS. Mr. Sarasin.

Mr. SARASIN. Thank you, Mr. Chairman. Mr. Nolan and Mrs. Akerly, I do thank you for taking the time to come to Washington and appear before us to provide us with absolutely firsthand information on autism. I was curious, Mr. Nolan, about one of your statements where you said a family split up and the wife and child went to Connecticut.

I wonder which school in Connecticut, if you know.

Mr. NOLAN. Ben Haven.

Mr. SARASIN. I don't think I am familiar with it. My experience as a former State legislator in Connecticut is that we did not do enough for autistic children in Connecticut, although we were making a start. I am not familiar with the school. I am curious as to the difference in handling or training an autistic child as opposed to a child handicapped with another disability, a cerebral palsied child.

Mrs. Akerly, you spoke of the physical therapy aspect on behavior modification. In that sense would they not tend to be identical?

Mrs. AKERLEY. I was using the physical therapy only analogously. My point was that education, while it won't cure autism, relieves the symptoms. It does most of the time help the child to control his behavior and then once that is done actually begin academic learning. But he is still autistic.

Whatever biochemical error exists, still exists. You can't cure that with education certainly. I draw an analogy with a person who may have had a stroke and be paralyzed. You haven't really cured the stroke, but physical therapy can restore the use of the limb. This by way of illustrating what education can do for the children.

They are not physically handicapped. They seem to have extraordinary dexterity and coordination.

Mr. SARASIN. So that the training of the autistic child would probably be greatly different than the attempted training of a physically handicapped child?

Mrs. AKERLEY. Yes.

Mr. SARASIN. What kind of training exists at this point? That is perhaps too general a question. I don't really know if I can refine it. What is now being done, what types of efforts are being made in the field of autism? I ask this question because I simply don't know. Very few people do, I think.

Mrs. AKERLEY. I think one of the most popular methods of educating the children is behavior modification and that is a system whereby a rather complex task, such as learning to speak, can be broken down into little tiny individual steps and you only take one step at a time.

The philosophy behind it is that the child is rewarded immediately for even taking the first step. That is how minutely the process is broken down. And he is ignored when he does not do what you are trying to teach him to do. In some systems of behavior modification the child is punished for not doing it, but it is a pretty extreme thing and it is not used universely.

Hopefully you do several things with this system. You teach a child a skill even if it is just to say "oranges". You also begin to socialize a child because if you and he are alone in a very small room with no distraction and you are both sitting at a table he has to pay attention to you and pretty soon he does.

If you are teaching him to say the words "oranges" the logical thing to reward him with is with a sip of orange juice every time he says another symbol and put a word together. Then you work away from this to where you give the child social reward. We don't want to train him like an animal, a sip of juice or M and Ms. As soon as he responds to a hug, a kiss or a smile, you move on to this kind of reward. Then you get academically very sophisticated and you use the next thing you are going to give him as a reward for the task he is learning. Of course, that makes him very eager to go to the next thing. It has been a remarkably successful system. It is not the only one used. There are other much more traditional types of education for the children where they just work with one teacher and get lots of tender, loving care kind of thing. They seem to do better in a very structured school.

The two schools in the BEH project are both based on a very structured approach. They do not do very well if you are permissive. You have to really set limits and make them live up to it. Is that right?

Mr. **Nolan**. Yes. Of course, the instinct is to be permissive. That is one definite thing that they have found out you cannot do.

Mr. **Sarasin**. Is there any training at this point for parents of autistic children to help them cope with the situation.

Mrs. **Akerley**. Yes. There is a school in Missouri that the Texas family uses that trains the parents to work with the children. Many, many of the schools do this. You know, here again we are working with a burden that has been imposed upon us by historical error. If you believe the parents have done the damage you can do one of two things. You can work on the parents and try to modify them or you can cut them off from the child and this was Bruno Belheim's philosophy.

Neither one of those things is going to work. You have a biochemically impaired child. What schools like the one in Missouri do, which is very, very helpful, is teach the parent how to carry on the methods in the classroom at home so that you don't lose all that when the child goes home. In other words, they almost make professionals out of the parents and this is very effective.

Mr. **Sarasin**. How many children are now being helped in the two schools that you refer to?

Mrs. **Akerley**. I can't answer that. I would guess maybe 25 percent of them.

Mr. **Sarasin**. I am sorry. I did not mean to phrase the question to get that kind of response. I did not mean how many be actually benefited from the education but how many children are being treated in the schools?

Mrs. **Akerley**. In the two schools I mentioned? I think in Dr. Fenichel's school in New York he has children in his program plus children that he helps working with the parents because there is such a big waiting list. I would say probably a hundred at a time are being helped.

The other school is in Los Angeles. I tried to get some information on the program before the hearings and was not able to. It is a smaller program, I know that.

Mr. Sarasin. Thank you very much for your testimony. Mr. Chairman, I have no further questions.

Mr. Brademas. Thank you very much, Mr. Nolan and Mrs. Akerley. This has been, as I think you have seen, a most interesting subject for our subcommittee on which to question you. You have been most helpful to us.

We are very pleased next to hear from Mrs. Thomas W. Sarnoff, president, Western Special Olympics, accompanied by Dwight Rettie, executive director of the National Recreation & Park Association. The Chair will observe as our witnesses can see that we have been so interested in putting questions to the witnesses that our time is getting away from us. We do have several other witnesses.

I wonder, Mrs. Sarnoff and Mr. Rettie, if it would be possible for you to summarize your statements or if you could read what you have to say very rapidly and we will put them all in the record and we will put some questions to you. Would that be possible?

STATEMENT OF DWIGHT F. RETTIE, EXECUTIVE DIRECTOR, NATIONAL RECREATION AND PARK ASSOCIATION, ACCOMPANIED BY, MRS. THOMAS W. SARNOFF, PRESIDENT, WESTERN SPECIAL OLYMPICS; AND DAVID C. PARK, EXECUTIVE SECRETARY, NATIONAL THERAPEUTIC RECREATION SOCIETY

Mr. Rettie. Mr. Chairman, we are very grateful for the invitation to appear before you today and pleased to have a chance to express our support for renewal of the authorization contained in H.R. 4199 of the Education of the Handicapped Act. With me today is Mrs. Thomas W. Sarnoff, president of the Western Special Olympics, an event sponsored annually by the Joseph P. Kennedy Foundation. Also with me is David C. Park, executive secretary of the National Therapeutic Recreation Society, a branch of the National Recreation and Park Association. I am Dwight F. Rettie, executive director of the National Recreation and Park Association.

I will take you up on your offer to summarize very briefly my testimony which I will leave with you for the record. I think there are really only two or three major thoughts I would like to underscore. The best of this legislation that we are addressing today is a relatively small piece from an economic point of view involving only somewhat more than a million dollars in recent appropriations for recreation and support and athletic and physical education programs associated with the work of the Bureau of Education for the Handicapped.

What I want to leave you with is perhaps a somewhat different view than the conventional wisdom about what recreation is all about. We are not talking about simply fun and games. We are not talking about large muscle development and the sorts of activities that are normally associated with the public mind when we speak about recreation.

We are talking about programs that touch human personality, that provide people with an opportunity for self-identity, for self-fulfillment, for human endeavors, and for ways in which they can relate with other people and with their environment better.

Programs and recreation and supports are offering new and enlarging fund opportunities for people to do this, for people to find a way in which they can achieve individual satisfaction, for finding a way in which they can achieve something perhaps for the first time in their lives largely through the activities of professional development that is coming about through the work of the National Therapeutic Recreation Society.

Administration witnesses this morning stressed in their rationale for special revenue sharing the fact that the present programs require separate applications and regulations. Mr. Chairman, with only a very few exceptions specified by the Congress, the decisions to invent and use different applications, forms, and different administrative regulations is a decision made by the Secretary of Health, Education, and Welfare. He can change that without changing the legislation, without even an authorization that extends more than a single year. They need that kind of assurance from the Congress of the United States and from the President that this program is important and that is has a life ahead of it.

The administration is once again in this particular case proposing the end of an existing program and authorization under the vague and unspecified promise or even just the idea that something better might conceivably be invented. Of course, if the administration invented something better, they could always come back to the Congress and propose it at a later date.

We are also disappointed that the administration has not supported any increased authorization sought in this legislation. We do not agree that the problem has too large gaps that are there, but created. The problem has been too little delivery on the appropriated resources to live up to the expectations of the Congress and the people, the needs that these services are trying to fill.

We are doing a better job today of training professionals in the field in order better to prepare them to meet these needs of a large segment of the American population. We are frankly very disappointed to hear the administration take the position that this act should only be extended for 1 more year. We are disappointed because we think local officials, public and private organizations alike, need the kind of leadtime represented by no act whatsoever on the part of the Congress. These are matters over which he himself has the discretion to act to promote those kinds of administrative simplifications without taking the kind of steps that have been proposed in special revenue sharing, which in fact could pull the rug out from underneath the delivery systems that can provide these vital public services for our people.

With that, Mr. Chairman, we want again to stress our support for the continued authorization you have before you: and I would like to turn our testimony over to Mrs. Sarnoff who, I think, can shed some deep personal experiences that will be helpful to you and to the committee.

[The statement referred to follows:]

STATEMENT OF DWIGHT F. RETTIE, EXECUTIVE DIRECTOR, NATIONAL RECREATION AND PARK ASSOCIATION

Mr. Chairman, we appreciate the invitation to appear before you today and we are grateful for the opportunity to express our support for H.R. 4299 which would extend the Education of the Handicapped Act. I would first like to introduce the members of our panel this morning.

With me today is Mrs. Thomas W. Sarnoff, President of the Western Special Olympics, an event sponsored annually by the Kennedy Foundation.

Also on the panel is David C. Park, Executive Secretary of the National Therapeutic Recreation Society, a branch of the National Recreation and Park Association. I am Dwight F. Rettie, Executive Director of the National Recreation and Park Association.

The National Recreation and Park Association is the nation's principle public interest organization representing citizen and professional leadership in the recreation and park movement in the United States and Canada. The National Recreation and Park Association's membership of some 18,000 includes professionals working in public park and recreation agencies, members of policy making boards and commissions, educators, leaders in the private recreation and leisure industry, and concerned lay citizens. We are dedicated to improving and expanding opportunities for personal development and fulfillment through parks, recreation and leisure activities.

The National Therapeutic Recreation Society, which is one of the seven professional branches of the National Recreation and Park Association, is dedicated to the improvement and expansion of leisure services for the ill and handicapped. The NTRS represents over one thousand professionally trained individuals presently providing services for the ill and handicapped.

As I stated in my opening remarks, we support extension of the present law and an increase in the authorization level for the Act. In addition, we would like to see this committee take a somewhat broader look at the provisions of the Education of the Handicapped Act, which this bill proposes to extend. We would like to discuss today the importance of recreation as a tool in the education and development of handicapped children, and note additional recommendations for Committee consideration.

There are over 30 million handicapped people in the United States. Of these, over 7 million are children. The Education of the Handicapped Act will contribute to the development of these children and their eventual happiness and fulfillment as adults through direct assistance and through the expression of national concern.

The time we spend in recreation and leisure is an important part of our lives.

We feel that an understanding of the importance of leisure and the development of life-time leisure interests is not now found in the curricula of our schools. Physical education programs do contribute to recreational outlet development but do not provide an adequate understanding of the place of recreation in our lives. What is needed is a broader concept of recreation and leisure than is currently found in most physical education programs.

But as important as recreation is to those of us blessed with good health, it is perhaps even more important to the mentally or physically handicapped—and in most cases, less understood and less accessible. A basic tenet of the recreation profession is that handicapped people are as entitled to personal fulfillment through recreation and leisure as non-handicapped individuals. Exclusion from recreation pursuits produces another handicapping condition—social and cultural deprivation.

What has been done in this area and what has the Education of the Handicapped Act contributed? The record is good, but it should be better. In 1967, the Congress initiated Federal efforts to meet the needs of handicapped children with the passage of PL 90-170. That Act authorized the creation of the Unit on Physical Education and Recreation within HEW's Bureau of Education for the Handicapped, and ten million dollars was authorized for appropriation over a three-year period. Also, a National Advisory Committee on Physical Education and Recreation for Handicapped Children was to be appointed by the Secretary of HEW to advise him on administration of the Act. The Advisory Committee was finally appointed in 1970 but had less than one year to work before its authorization expired. This was a start—and a good one—but a great deal more needs to be done.

The needs of handicapped persons must be met in two settings—institutional and public. There are deficiencies in both. In institutions, we often find that the care is custodial rather than developmental. The treatment in such institutions is a national disgrace. However, there are some enlightened institutions providing a wide-range of services and opportunities. One of these services is provided by people trained in therapeutic recreation. Therapeutic recreation specialists are able to reach beyond the handicap and touch the person, to teach him to utilize his abilities; to encourage social interactions to help him to respect himself as a person.

The National Therapeutic Recreation Society has a *voluntary registration* program for therapeutic recreation specialists. Presently over 800 professionals are registered and just under half of these individuals have completed graduate training.

Some therapeutic recreation specialists are also employed in public recreation programs. But the numbers, unfortunately, are not large. For the most part, only in recent years have public recreation agencies begun to accept ther responsibilities to all segments of the population. With limitations on staff, facilities, and funds, sensitive development plans for parks and special programs which take into account the unique needs of the handicapped have been the exception and not the rule.

An assessment of recent studies on programs for the handicapped indicates that only approximately 35% of local park and recreation agencies offer programs for handicapped children and only a small proportion of the total number is being served. Those programs that do exist are not generally directed by individuals professionally prepared in services to handicapped persons.

The National Recreation and Park Association is actively encouraging recreation agencies to re-examine their programs, facilities, and personnel to meet the needs of handicapped persons of all ages.

Sensitivity to the needs of the handicapped is something that must be a meaningful part of all *programs*. There are both *physical* and *attitudinal barriers*. The legislation against architectural barriers is a start that, unfortunately, has neither been widely enough publicized or enforced. The Education of the Handicapped Act can help breakdown some of those barriers.

Some progress has been made by the Bureau of Education for the Handicapped but funding for recreation and physical education has been minimal. We feel the importance of these programs has not been adequately recognized.

The original legislation authorized $10 million for recreation and physical education for the first three-years. Only $1.2 million was actually appropriated and spent during that time (FY 68-70). The 1970 amendments did not earmark *funds specifically for recreation, but since that time $.7 million was allocated* in FY 71; $1 million in FY 72 and $1.4 million in FY 73. Thus, the total amount allocated to this very important facet of services to the handicapped has been $4.6 million over the last six years.

The contributions of BHE have mainly been in the leadership and service it has provided, the assistance to training of physical educators and recreation personnel for handicapped children (Section 634, Education of the Handicapped Act), and grants for research and demonstration projects in physical education and recreation for handicapped children (Section 642).

Specific accomplishments include: Funding of Masters and Doctoral level professional *preparation programs at 32 colleges and universities*. This has provided training for approximately 450 advanced students and has helped alleviate the acute shortage of trained therapeutic recreation specialists.

Coordinating and funding the preliminary phase of a concerted research and demonstration effort. Projects funded include (1) a mobile recreation and physical education program that has provided direct services to 50,000 mentally retarded children in Kentucky; (2) development of a description of recreation and leisure activities to be used as a guide to avocational counseling for handicapped children; and (3) curriculum development in physical education for the mentally retarded child in the elementary school.

Supporting five regional conferences to improve the cooperation and communication among existing state and local agencies working in the areas of special education, physical education and recreation systems. By working together, these agencies can expand and improve the quality of services to handicapped children.

Support of four national conferences on (1) therapeutic recreation services and adapted physical education curricula: (2) research and demonstration needs in physical education and recreation for handicapped children; (3) Black college involvement in physical education and recreation for handicapped children; (4) camping for handicapped children.

Sponsoring a major project resulting in curriculum guidelines for graduate preparation in the professional specialties of therapeutic recreation service and adapted physical education.

Publishing critically needed professional literature including the guidelines for professional preparation and a book entitled *Training Needs and Strategies in Camping for the Handicapped.*

Providing basic information and technical advisory services to the field.

Convening the National Advisory Committee on Physical Education and Recreation for the Handicapped. This committee began to review the overall needs for recreation and physical education for the handicapped and examine the thrust of the BEH program.

Funding of the Information Research Utilization Project currently underway which will gather and disseminate information and establish a communication network.

What must we do? We still do not know enough about the best services for various handicaps. Applied research and demonstration projects are needed in such areas as the effectiveness of recreation and leisure counseling on handicapped children and their parents, effective recreation facility design for handicapped children: models of delivery of recreation service to handicapped individuals. There is a great need for additional trained personnel. There needs to be a definite expression and priority for and the role of recreation and physical education services in all phases of education of the handicapped.

We would like to make the following recommendations: that the Education for the Handicapped Act be extended and funding increased as proposed in H.R. 4199.

That the committee report reflect Congressional and public interest in this program and the importance of recreation and physical education as a component of education for the handicapped.

That training programs be expanded to include graduate level training in addi-

That the committee report reflect Congressional and public interest in this programs, special efforts to recruit the disadvantaged and handicapped for training programs.

That research in recreation for handicapped individuals be expanded.

That the National Advisory Committee on Physical Education and Recreation for the Handicapped be reauthorized.

Before I conclude, I would like to suggest one small correction in H.R. 4199 which I suspect is the result of a typographical or printing error. I believe Line 4, Page 3 of the printed bill should read Section 654, rather than 664.

In conclusion, I would reiterate our support for the extension and increased authorization in H.R. 4199 and we thank the committee for the privilege of appearing before you. We will be pleased to answer any questions.

Mrs. SARNOFF. Mr. Chairman and members of the committee, I am pleased to have this opportunity to appear before you and this panel, Mr. Rettie of the National Recreation Park Association, to support the Education for the Handicapped Act. I am specifically concerned with all those aspects dealing with meeting the needs of the handicapped children through physical education and recreation activities.

You have my written statement before you, but if I may ad lib, I would like to share with you the problems that we face in California and some of the positive concrete examples of how physical fitness programs in our State have benefited the handicapped children and retarded.

Our population is 22 million. We have 750,000 retarded. According to our director, Mr. Mason, former director, in 1969 an indepth study was done in Wisconsin with the finding that for every mentally retarded adult institutionalized it costs $1.7 million from the age of 19 to 58.

We have 50,000 mentally retarded children in our special olympics sports training program in California. Through the sports training program and physical education structured program these trainable mentally retarded children or TMR's are motivated and from successful experiences in these events they become global oriented. For instance, last January our area coordinator for special olympics, Mrs. Kay Mason of northern California, told our western olympics workshop that she had a pupil and after the pupil won two gold medals, she was reevaluated and went back to a regular school. At Hope School in Anaheim we have two TMR graduates from the adult education program who participated in our special olympics and are now employed as full-time night custodians at Cypress College in Orange County. The Anaheim Union High School District Board of Trustees has authorized the TMR students as full-time employees in the district as yard maintenance men. They will receive all the benefits of the norm and place. The director of the Hope School, Mr. Harry Smith, said he does not know of another district that has done this. He feels that the participation in physical education program and special olympics program gave them the self-esteem necessary to convince the board of trustees they were capable.

One child at Hope School weighed 330 pounds. Through the cooperation of his foster parents and his special olympic sports training program he is now down to 180 pounds and he can do 50 pushups a day and he is goal oriented. There were 15 games of basketball last year in Orange County between the special school education kids and the regular schools.

This expanded the awareness of the normal children, making them understand that retarded children are capable of the same ability that they themselves have. Last year Hope School trained TMR's in three different areas, housecleaning, lawn maintenance, and custodial work.

Now the children while they were in school went out and worked part time and made $5,000 last year. These young retarded adults have the opportunity and ability to become self-supporting. Instead of seeing their frustration, they learn self-esteem through successful participation in physical and sports training programs.

This is beneficial to everyone. In Corona, Calif., we have a prisoner who is in for life. He is a stroke victim. He shot his retarded son rather than leave him unattended after he died.

We have 22 Los Angeles special schools and in our 22 special schools we have 40 specially trained physical education teachers. The State law limits the class to 20 per class. This average is about 8 or 10 children and the elementary schoolchildren have 30 minutes a day and the high school children have a period equal to the rest of their period.

In order to meet State law requirements many schools have what they call mass play with supervision of a tournament coordinator. What this really is is that they let the children out for an hour just to run around. They see to it that they don't get on the streets or climb trees, but there is no structured physical education program. Out of our 400 regular schools we have only three physical education trainers, instructors who are capable of handling any special handicapped children.

San Francisco has a recreation center for the handicapped and it currently serves over 525 persons whose ages range from 14 months to 80 years. This was founded in 1952. It has activities ranging from music, reading, grammar, and physical neatness programs. It is supported by the parks and recreation department, social services, Federal grants, and personal solicitation. The most significant have been in two major areas.

The multiple handicapped and retarded children not accepted in regular school and retarded teens and adults who have been previously institutionalized. Now of the 500 children served in the past 5 years, 225 have improved enough in physical, social, and emotional self-help skills in city schools for the retarded or in special classes in regular schools. Of 300 teens and adults previously institutionalized, 83 have developed sufficiently in social and self-help skills to graduate from a center into municipal, recreation, and park program.

Five have found jobs in the community and 10 are serving as program helpers at the recreation center. The overall picture of recreation services for the mentally retarded in the municipal agencies suggests a wide gap between the services that are provided and the services that are needed. To aid the community in changing the deplorable picture of inequality in recreation services retarded both the State and Federal aid is paramount.

In 1971 and 1972 a study was done in MEOPE in California of 150,000 school-aged handicapped children. Of the 150,000 only 17,000 or 11 percent were receiving remedial physical education.

Now 867 schools were polled, 485 responded. Our special olympics sports training program has 200,000 mentally retarded in 50 States and in 8 foreign countries. It is not winning, but it is just participating and receiving the recognition and success. Some of these kids for the first time in their lives after attending our International Special Olympic Games at UCLA last August where we had 28 young athletes from 50 States and 8 countries, our Los Angeles Times sportswriter, Jim Murray, wrote "There was a winning runner who saw a companion trip and fall.

"He circled back to help his pal up and he lost his gold medal. Do you remember the autorays where a driver sped past the burning car that had his brother in it? Ask yourself who is retarded. It is no trick to win a long jump when you have two legs and neither one is metal. It is no achievement as to win a race when you can see which way to go. It is no honor to win a 440-yard dash when a fellow athlete stumbles and falls and you don't stop to help him out."

Thank you.

Mr. BRADEMAS. Thank you very much, Mrs. Sarnoff and Mr. Rettie. I might just observe that your description of the situation, Mrs. Sarnoff, in the State of California of the enormous gap between the needs and the resources that are being provided to meet those needs is, in my view, very telling, indeed.

While one might hope that State governments would provide adequate resources to fill that gap, whether one wants to speak critically or not is another question, simply does not see that assistance on the horizon. I do want to commend you for your work with the Special Olympics.

I believe, though I have not had to chance to be on hand, that a Special Olympic program, also operates in the State represented by Mr. Landgrebe and me in Indiana at Indiana State University. The only other observation I would make, Mr. Rettie, is that when you expressed your deep disappointment that the administration was seeking but a 1-year extension of this legislation and that you observed that persons who work with the education of handicapped children need greater assurance and more leadtime and some commitment of the funds if they were to be effective in meeting their responsibilities, that you have been far more trenchant in your criticisms of the administration's position on this matter than I have.

I think also your contribution with respect to suggesting that the Secretary of Health, Education, and Welfare, if indeed the administration is anxious to get rid of redtape and duplication, and I guess everybody is against unnecessary redtape and regulations, that the Secretary could himself by regulations move in that direction and streamline some of these programs—the administration of some of these programs.

I want only to say that I find myself in great sympathy with the positions represented by both of you. If either of you would like to make further comment on what I have said before I yield to my colleagues, you may feel free to do so. The Chair would, before turning to Mr. Landgrebe, like to welcome students who are participating in the presidential classroom program.

We are very glad to see them here today. The Chair sits on the advisory panel of the presidential classroom and he sees some of his constituents here, so he is all the more pleased to welcome them.

Mr. Landgrebe?

Mr. **Landgrebe**. Mr. Chairman, in consideration of the shortage of time, I will simply extend a word of welcome to these two very fine representatives of groups who are doing a great deal for handicapped people. I think I have made my point repetitiously already that I feel that the Government's Federal role should be more in the line of research, innovation, seed money, coordination, and, when necessary, applying pressure to the States and local units.

The testimony of a former witness, Mr. Nolan, would indicate that at least in the particular area he is interested in, we need more research in this terrible disease. So, I am going to run the risk of being just a little bit out of step with our present witnesses and say that I think the Federal Government should address itself more to research, development and innovation, and then insist that the State provide the main part of the money and that the State supervise and see which programs are being most effectively and, of course, expand those to the point where we can hopefully in a very few years take pride in America over the fact that we are taking care of our handicapped people. I can recall less than 25 years ago when no handicapped children, particularly mentally retarded, had any consideration at all in our school system.

We can rejoice in the progress that has been made. We can also feel terribly bad that there are so many mentally and physically handicapped who are denied the joys of life.

Mrs. **Sarnoff**. May I tell you that in 1968 two bills were passed which made special education mandatory in the State of California for all retarded children, but implementing that law is another thing.

Mr. **Landgrebe**. Thank you.

Mr. Rettie. Mr. Congressman. I would like to associate myself with your observations about the need for added research in this field. I can support that proposition. There is no doubt but what our tools to adequately meet the needs of handicapped people indeed need a great deal of research. The problem is, however, that we need both the research and the implementation at the same time. The fact is that the Federal share right today of all that is being done in the field of services to handicapped people represents a very large and significant fraction of what is going on at the local level.

If the Federal programs are in anyway endangered or jeopardized or cut back. I am deeply disturbed at the proposition that there is a possibility that money could be reduced almost instantaneously by up to 30 percent under the administration's special revenue sharing proposal. If that should actually happen, we would be in fact going backwards at a raising pace instead of going forward in the kind of direction that we ought to be going.

Mr. Brademas. Mr. Sarasin?

Mr. Sarasin. Thank you, Mr. Chairman. I am curious and I always have been on the question of the Special Olympics. I can certainly appreciate the value for those who win. What about those who don't?

Mrs. Sarnoff. It is not a matter of winning. It is a matter that these children have been hidden in the closets for many years. Their parents are ashamed of them. Their brothers and sisters have been ashamed of them. All of a sudden these children are being brought out and are able to participate in track meets. They are being brought into the sunlight. Nobody tries to win.

We have a boy who has learned to run the 50-yard dash. He has learned to run the 50-yard dash through the voice of his coach. Not only is he retarded, but he is also blind.

When you always are a failure, you will always be a failure. When these children are successful for the first time in their lives they are able to succeed at other things such as custodians or janitors. They learn what success feels like and they go on to try to retain that feeling.

Mr. Sarasin. I certainly appreciate that aspect of it.

Mrs. Sarnoff. You are thinking of the competition.

Mr. Sarasin. The competitive factor; somebody is going to exceed in a situation like that and for those people you can see the great result. I am wondering if it is counterproductive.

Mrs. Sarnoff. Every child who crosses the finish line receives a participation medal. Some of them just to cross the finish line is a success. It does not make any difference if they cross first or last. It does not make any difference if they come in. They are like Peter Pan compared to our normal competitors. These are children that have never been given any recognition.

Through our Special Olympics program our celebrities come out from California, our athlete, Raverford Johnson, they pat these kids on the back and give them a hug. These children are radiant. I do have with me something and I would like to share it with you. May I approach and share this with you? I think this will answer your question.

Do you have any other questions, Mr. Sarasin?

Mr. Sarasin. No. I don't.

Mr. BRADEMAS. Thank you very much, Mrs. Sarnoff and Mr. Rettie. We are grateful for your appearance.

Mr. RETTIE. Thank you, Mr. Chairman.

Mr. BRADEMAS. Our next witness is Dr. William F. Ohrtman, director of the Bureau of Special Education, Department of Education—Pennsylvania, and president of National Association of State Directors of Special Education—1972–73, accompanied by Herbert D. Nash, director of special education program, Division of Early Childhood and Special Education, State Department of Education—Georgia, and president-elect of National Association of State Directors of Special Education; and Earl B. Andersen, executive director of National Association of State Directors of Special Education, Washington, D.C.

You can see that the clock is rapidly moving toward noon. If you can summarize your statements, we will put them all in the record and put some questions to you.

STATEMENT OF DR. WILLIAM F. OHRTMAN, DIRECTOR, BUREAU OF SPECIAL EDUCATION, DEPARTMENT OF EDUCATION—PENNSYLVANIA, AND PRESIDENT OF NATIONAL ASSOCIATION OF STATE DIRECTORS OF SPECIAL EDUCATION -1972–73, ACCOMPANIED BY HERBERT D. NASH, DIRECTOR, SPECIAL EDUCATION PROGRAM, DIVISION OF EARLY CHILDHOOD AND SPECIAL EDUCATION, STATE DEPARTMENT OF EDUCATION—GEORGIA, AND PRESIDENT-ELECT OF NATIONAL ASSOCIATION OF STATE DIRECTORS OF SPECIAL EDUCATION; AND EARL B. ANDERSEN, EXECUTIVE DIRECTOR, NATIONAL ASSOCIATION OF STATE DIRECTORS OF SPECIAL EDUCATION, WASHINGTON, D.C.

Dr. OHRTMAN. Mr. Chairman, members of the committee, I am Dr. William F. Ohrtman, director, Bureau of Education for the Handicapped—Pennsylvania, and current president of the National Association of State Directors of Special Education—NASDSE. Also representing the organization here today are, on my left, Mr. Herbert Nash, director of special education services—Georgia, and president-elect; and, on my right, Mr. Earl Andersen, executive director of the association, with offices here in Washington, D.C.

It is indeed a pleasure to come before the House Select Subcommittee on Education and offer testimony in behalf of the National Association of State Directors of Special Education. In continuing their support for H.R. 4199, legislation that will extend the Education of the Handicapped Act to July 1, 1976, the association acknowledges, with sincere gratitude, the many hours of dedicated concern that members of this committee have already devoted to the improving and strengthening of existing services and programs for the Nation's target populations of exceptional children and youth.

Further, recognition is hereby given to the chairman, Mr. Brademas, for his untiring efforts to provide continuous and extended leadership in a successful effort to equitably develop the role of Federal and State governments as they pursue mutual and exclusive responsibilities in behalf of the handicapped learner.

As the representative of the approximately 80 individuals that function in key leadership roles in the various departments of education in the many States and territories, I would like to emphasize that the National Association of State Directors of Special Education be recognized as one of the many professional and lay organizations endorsing both the content and intent of H.R. 4199. In our view, title VI of Public Law 91–230, "Education of the Handicapped Act," represents the continuing, necessary foundation of Federal-State support for the handicapped in public education.

Of particular significance has been the creation and development of the Bureau of Education for the Handicapped. This principal agency of the U.S. Office of Education, under the able leadership of James Gallagher and Edwin Martin, has been the key factor in assisting the States and territories to administer and carry out programs and projects relating to the education and training of exceptional children and youth, including programs and projects for the training of teachers of the handicapped and for research and development connected with such education and training.

In our view, it is of particular importance that the BEH continue in its role as a recognized administrative and leadership resource.

The aid-to-States grant program under title VI, part B, has served as an important catalyst. It has significantly promoted the growth and development of local and State programs of education for the handicapped. Joint planning with the States under this legislation has strengthened the Federal-State interface and has provided the basis for comprehensive planning at local, State, and regional levels.

Of particular importance has been the capacity to incorporate the scope, function, and funding of related Federal programs such as the Elementary and Secondary Education Act, titles I and III; the Vocational Education Act; the Social and Rehabilitation Act titles; and the many other provisions of Federal legislation relating to other aspects of the health and social services.

Funding under provisions of the Education of the Handicapped Act has clearly encouraged the development of statewide comprehensive planning for all children and youth, including the handicapped. Needed supportive services in the form of the special education instructional materials and the regional media centers networks have become a reality.

The regional resource center concept has become operational, and newly identified target populations such as the deaf-blind, severely multiply handicapped, and the very young preschool handicapped groups have been offered necessary services and hope for the first time.

In essence, EHA has been and continues to be the motivating force for the encouragement of personnel, the source of funds for expansion and development of needed supportive services, and finally the legal foundation upon which each handicapped child and young person can and must be provided his guaranteed right to an appropriate education.

The problem of determining the necessary and actual parameters for the education of all handicapped children and youth in each of the States and territories is indeed complex. Current best estimates suggest that there are 6 to 7 million children in the Nation with identifiable mental, physical, emotional handicaps and/or specific learning disabilities. Collaborative data-gathering efforts among and between the separate States indicate that only 40 percent, or approximately 2½ million of these children and youth are now receiving the education that they need and are entitled to receive.

It is important to note that included in these target populations are 1 million very young preschool youngsters and approximately 1 million others of school age who are totally excluded from the benefits of an appropriate public education.

As you can well imagine, State directors of special education and State education agency staff personnel are vitally concerned with the need to develop and put into operation programs of special education that will provide suitable and appropriate learning opportunities for the unserved 60 percent of the target populations noted above.

As has been brought to this committee's attention by previous testimony on the part of other nationally based organizations, the recent and developing series of court decrees mandating full, appropriate public education for all exceptional children and youth suggests that there is an immediate and continuing need to encourage and subsequently develop even stronger Federal-State collaboration behalf of the handicapped.

With the courts now stipulating that such services and programs of special education be provided, you in the Congress as well as those of us who serve in State governmental agencies are on the threshold of a need to develop and implement creative and innovative approaches that will indeed promote flexibility within and among the separate States and Territories and, at the same time, supply the means by which such efforts can, in fact, be accomplished.

It is, therefore, our contention that the EHA is a significant bridge that can provide vital services, develop necessary training stategies, support necessary research and, finally, enable the Nation to continue, uninterrupted, the flow of information, materials, and human resources that have significantly strengthened and expanded opportunities for the growth of all children and youth, including the learning handicapped.

It is the view of the State directors of special education that what has thus far been a functional and productive relationship between Federal and State governments should, with continued effort and attention, become an intact, viable partnership.

The recognition of past successes and accomplishments, in combination with the development of the "right to education," suggests quite clearly that continued close collaboration between Federal and State governments is, in fact, a priority. This is particularly evident in regard to the development and accomplishment of comprehensive, applicable methods of Federal-State funding in behalf of the handicapped.

At the present time, it is projected that the cost to educate all handicapped children and youth in the Nation is approximately $7 billion per year. The current Federal commitment is, at best, estimated to be approximately $230 million. Thus, the Federal Government is now providing slightly more than 3 percent of the cost of educating the handicapped, which can be compared with 7 percent of the cost of educating all other children.

These questions remain: Shall a proven effort, represented by the EHA, be developed to the point where the Federal Government does, in fact, share a significant role in the overall costs needed to educate exceptional children and youth? Or will this vital effort be diminished or deemphasized by the adoption of a recently presented method of education revenue sharing which is designed to increase the capacity and responsibility of the States and Territories to administer and fund special programs of education for the handicapped?

Based on available information, the second alternative—education revenue sharing—is not fiscally developed to the point where the appropriation and allocation of Federal moneys is sufficient to close the gap between the designated needs of the States and Territories and the available scarce resources necessary to fulfill such needs. When more information about the concept of education revenue sharing is made available, the National Association of State Directors of Special Education will address itself to this subject in greater detail.

In the interim, we are concerned that such funds not be lost in the administrative entanglements that somehow seem to accompany such new and untried programs. Funds to support and assist target populations of exceptional children and youth are too few, too scarce, to allow them to be expanded for purposes other than those that are earmarked for the handicapped.

Along with others who have testified before this committee, it is the association's current position that H.R. 4199, a bill to extend the Education of the Handicapped Act, be considered a practical and effective foundation for both present and future Federal-State commitments to the education of all handicapped children and youth.

The EHA maintains vital basic services in the development of educational personnel, in continuing research, in creating model programs, and in promoting cooperative interstate planning for the handicapped.

We are gratified to note that you, Mr. Chairman, have developed a keen and discerning sensitivity to the fundamental issues and concerns that confront the various States and Territories in their pursuit of solutions to complex, vexing problems. Your commitment is clearly illustrated by the introduction of the Education for Handicapped Children Act, H.R. 70, in the opening days of this 93d Congressional Session.

We are interested in and anticipate that this proposal will be given full consideration and debate when basic programs contained in H.R. 4199 and S. 896 have been successfully extended.

In closing this testimony, be advised that the full resources of the National Association of State Directors of Special Education will be at your disposal as you and fellow committee members deliberate on these difficult problems.

Mr. BRADEMAS. Thank you, Dr. Ohrtman, for a very substantive statement. Let me put two or three questions to you in light of it.

Now, you have heard the testimony of Kurzman and his associates with respect to their proposal to support special education revenue sharing. And at least one of the justifications for that proposal is that there are too many categorical problems and that you at the State level are mired deep in redtape and categorical grants.

What is your reaction to that justification?

Dr. OHRTMAN. As the testimony previous to this presented to you, it would be our belief that the details of this could be an administrative matter where the change in legislation would not necessarily show any decrease in the kinds of demands made upon State departments to produce records to HEW but rather these could be reduced simply by administrative decision within HEW and could proceed under present legislation.

Mr. BRADEMAS. I am sorry; I was interrupted. I hate to ask you to repeat this, but I wanted to hear your answer.

Dr. OHRTMAN. It would mean that administratively the present legislation could have a reduction in the kind of records that are demanded from State departments. There is no assurance actually that in the revenue sharing there would be any decrease in the kinds of things that would be asked for. They might be just as voluminous as under the present category.

Mr. BRADEMAS. Is it not possible that the Secretary could help streamline the administration of some of these programs so far as you at the State and local level would be concerned?

Dr. OHRTMAN. Yes, and I agree with that position.

Mr. BRADEMAS. One of the concerns I have had with respect to revenue sharing, I think, is touched upon in your statement. I want to be sure I understand it. It is that if moneys are provided under special revenue sharing to the States to expend as they see fit, the needs of the variety of groups whom I suggested, quoting Secretary Richardson, could be described as vulnerable, such as handicapped or poor children or minority children, can be lost because they don't have the political muscle that more affluent groups may have. Have you any observation on that apprehension?

Dr. OHRTMAN. Yes. One of the things we discovered under the vocational education set-aside was that there were statements and memorandums of agreement across bureaus who would administer those funds to be sure, in fact, they would be directed to the education of the handicapped.

Our experience, as has been pointed out before this committee and on many other occasions, is that unless there is a direct categorical identification, oftentimes those in decisionmaking roles do not choose to place that money on behalf of educating handicapped children.

Mr. BRADEMAS. I might say—and I have one question after this—one of the things that has puzzled me is that on occasion after occasion, when the administration witnesses have appeared before this committee to justify revenue sharing, they have cited, in almost Pavlovian tones, category is bad, bloc grants are good. And they have suggested you out there at the State level are bitter and troubled and outraged by having to fill out all these Federal forms.

Yet I must say, as the chairman of this subcommittee and one who has been handling it for the last 4 years, in Congress I do not find myself knee deep in letters of protest from State directors of special education programs or from others who have responsibility at the State and local level complaining that they want to get rid of the categorical programs.

The people at the grassroots who have to live with these problems, as distinguished from the appointed bureaucrats in the Department of HEW, seem to have a rather different attitude.

Am I mistaken in my perception of the situation?

Dr. OHRTMAN. I believe, Mr. Chairman, that you are probably accurate in that you have not received a desire from the State directors to do away with the categorical funding. I am rather biased on that particular area myself, having known what sometimes occurs with the funding to the handicapped and the way in which we must really then assist in assuring that the funds are directed into that particular matter.

However, maybe Mr. Nash, as the president-elect, would like to speak from that standpoint, or Mr. Andersen, to support that position.

Mr. NASH. I would have no different feeling really. The categorical funds—and it is always difficult to talk just about the Nation when you have so much responsibility within your State to carry out programs for the handicapped—the categorical funds have assisted us in our State tremendously in filling gaps and in providing programs and services where, in fact, we were not getting the funds through State legislature.

But the most important fact of all, in my opinion, is that these funds have stimulated our State and our State legislature, and I think that is tremendously important in what has occurred in the last 4 or 5 years.

I would say also that the bureau of education of the handicapped has not only stimulated our State but stimulated the Nation as well in terms of identifying the needs of handicapped children.

Mr. BRADEMAS. Thank you. Sir, did you have a comment?

Mr. ANDERSEN. I have just one comment. I think it is important to state that the factor that State directors are concerned about now is the continuity that is involved in support of these programs. I think it is fair to say that we have individual differences within State directors as we have everywhere else and you get different versions of this. But the most consistent theme that I receive in terms of the national scene is that the continuity of funding should remain in order for us to continue the planning and development of programs that have already helped even the children who are under the program that we are now working with.

Mr. BRADEMAS. I am almost moved, as I listen to your responses, to the conclusion—to borrow the rhetoric of some people in these towns—that some of the revenue-sharing proposals, in view of the apprehensions you have expressed, have been put together by a tiny self-appointed elite seeking to inflict their ideological plugola on the rest of the country.

I wonder, Dr. Ohrtman, if you would say a word about the impact in your State about the celebrated State court decision with respect to the constitutional right of handicapped children to receive an education.

Dr. OHRTMAN. Yes, sir; I appreciate the opportunity to do that. Prior to that, I would like to make one brief comment about categories. I am one of the few State directors who has stood up and said I am satisfied with dealing with categories of handicapping conditions and classification of individuals as regard to handicapping conditions.

We do have on the national scene an attempt to do what we call "mainstream" handicapped children and place them all into regular education in some people's minds. There are those individuals who are exceptional children and handicapped who will need a lifetime of special education.

I think at times some of the idea of placing all of the funding in one revenue-sharing bill is an attempt to also wipe out the idea of placing handicaps before us as a viable category in the way of dealing with problems of individuals.

You heard presented by Mr. Nolan in a very passionate way the plea for the autistic child. We have become refined in diagnosis and evaluation of children. We have become more sophisticated in knowing about these, and I guess that is one of the reasons that lead us to a classification system.

In the State of Pennsylvania, a case was brought against the Commonwealth for denial of education to mentally retarded children. I can assure you that the parents of the mentally retarded in Pennsylvania are not about to give up the category of mental retardation and what they feel they have gotten in the consent decree on behalf of an education for these children.

The plantiffs said that in Pennsylvania there were approximately 50,000 children who were being denied a free public education. At our latest count, we have, through census procedures and wide search, identified at least between 2,500 and 2,600 children between the ages of 4 and 21 who have never been in a program of free public education. This is a far less number than the plaintiffs had said. However, if it was one child who was denied the right which was guaranteed to him, we have not done what we should do.

We have proceeded, in a very effective manner, I believe, in the State of Pennsylvania, to provide a free public education to all children mentally retarded or thought to be mentally retarded. There are approximately 3,500 children who, for one reason or another, left the public school system between the ages of 4 and 21 who have since reentered into the public schools. About a third of the children I talked about in the identification of those not in school are in the city of Philadelphia.

I think all of us know the major problems of the urban centers in this Nation. It has been assumed by some that perhaps the case that was brought in Pennsylvania was brought there not because of Pennsylvania not doing an excellent job or a commendable job on behalf of the handicapped but rather because Pennsylvania had, as you see, the number that we were serving in contrast to what was said we were serving—if that case could be made to stick, if it could, in fact, be pointed out in Pennsylvania that then those States who are doing far less would in no way have a justifiable position to continue to deny education to the handicapped children.

Our legislature has been very generous in meeting the requests of the appropriations that we have asked for. Pennsylvania at this time, in the 1973 budget, will carry a sum just short of $100 million in the State appropriation. There is about $50 million at the local level to supplement that. The legislature in December was willing to take the Federal revenue sharing that was coming to that State and redirect that revenue sharing to those permissible areas and to withdraw approximately $41 million from that revenue sharing and to make current payments to school districts—the $41 million.

It is my understanding that the recommendation next year in the Governor's budget and those things that are to take place have again set aside and earmarked $23 million which would again be directed to the education of the handicapped to meet the mandate which has been set before the Commonwealth of Pennsylvania.

Mr. Brademas. That is fascinating. I congratulate you on that leadership and also my old friend Jack Pittenger, with whom I studied, many, many years ago, in England.

What percentage increase does that represent over what you were spending?

Dr. Ohrtman. We had an appropriation of $68 million last year. It went to $98 million this year.

Mr. Brademas. That is most encouraging. I hope other States will look at Pennsylvania and go out and do likewise.

I would also want to draw particular attention to your statement on page 5 that it would cost, to educate all handicapped children and youth in the Nation, approximately $7 billion annually and the current Federal commitment is estimated to be approximately $230 million, or slightly more than 3 percent of the cost.

Thank you very much, Mr. Sarasin.

Mr. Sarasin. Mr. Chairman, because of the quorum call, I have just a brief question. If somehow we were able to provide or answer the question of continuity that you were speaking of, the continuity of the funds, do you feel that there might be, in fact, a better way other than the straight categorical grants that we now have?

Dr. Ohrtman. There possibly is. I think at this point in time we don't know enough about the other ways. It seems to me that the way in which we have set the mechanism, we know very well where these moneys are going. We do feel that we have a very good, accountable system. We know the children by identification down to the very classroom where they are attending, the kinds of services they are getting, whether these be interant services, full-time classroom, so that we do know the accountability of that funding pattern.

One of the major concerns is—and I know that the testimony here said that the 30-percent discretionary change was now negotiable—however, any amount of money which is negotiable and could be redirected would cause concern because we have a great need shown. We have less than what it takes to do, and then to lessen that by somebody's discretionary direction of funding could cause a major problem.

Mr. Andersen. I think that one of the major provisions of 4199 would certainly be most applicable, and that would be to increase the available funds that are now being used for these separate programs. We could extend and expand and meet the needs of the other 50 percent that have been referred to a number of times this morning.

Mr. Sarasin. Thank you very much. Thank you, Mr. Chairman.

Mr. Brademas. Thank you, gentlemen. It has been excellent testimony. We now hear from Janet Rhoads accompanied by Dorothy Marsh, representing the American Occupational Therapy Association. You understand that the time is running out on us. I would like you, therefore, if you would mind putting your statement in the record and allowing us immediately to put questions to you.

STATEMENT OF MRS. DOROTHY MARSH, SPECIAL EDUCATION CONSULTANT, LINCOLN CENTER, ACCOMPANIED BY JANET RHOADS, CHIEF OCCUPATIONAL THERAPIST, LINCOLN CENTER, PRINCE GEORGES, MARYLAND

Mrs. Marsh. That will be fine.

Mr. Brademas. I have looked at your statement. I am especially struck. Is it Mrs. Rhoads?

Mrs. Marsh. Mrs. Marsh.

Mr. Brademas. Mrs. Marsh, your statement responding to the proposals for education revenue sharing and drawing attention to the dangers to which I have earlier tried to address myself and I only want to say that I think you have put any criticism better than anyone so far. So I think you for that.

Mrs. Marsh. Thank you.

Mr. Brademas. I would ask you to explain very quickly your proposal with respect to language in part G of the Education for the Handicapped Act. This is on page 5 of your statement. You refer to section 661(a)?

Mrs. Marsh. Yes. Special education programs for specific learning disability. This restricts the money ascribed in the act to educational personnel who are teaching parents, children with specific learning disabilities. We feel this is particularly restrictive if you are not specifically an educator, but have a vested interest in these children.

Mr. Brademas. What you really want to get at in much of your testimony, as I understand it, is rather broader interpretation of the act and by amendment if necessary to be sure that occupational therapists may make a contribution to the education of the handicapped?

Mrs. Marsh. That is true.

Mr. Brademas. Is that the major thrust of your statement?

Mrs. Marsh. That's right. We feel that we have a definite offering here for these children.

Mr. Brademas. You are in favor of a 3-year extension of the Education for the Handicapped Act?

Mrs. Marsh. Very much so, yes.

Mr Brademas. I would hope that you will allow us if we have further questions to put to you in writing because of the shortness of the time, that you will be willing to respond to any questions we might put to you Would that be possible?

Mrs. Marsh. We would be delighted.

Mr. Brademas. I want to thank you very much, indeed. Again I am apologetic for the lateness of the hour. You have been very patient. Thank you so much.

Mrs. Marsh. Thank you, Mr. Chairman.

[The statement referred to follows:]

Statement of Mrs. Dorothy Marsh, American Occupational Therapy Association, Inc., Rockville, Md.

Mr. Chairman: We appreciate this opportunity to appear before you to present the views of the American Occupational Therapy Association in support of H.R. 4199, which seeks to extend the Education of the Handicapped Act for three years. Such an extension is imperative, if programs initiated under the authority of the Act and ably administered by the Bureau of Education for the

Handicapped, are to be continued and expanded to meet the educational needs of our handicapped children.

The American Occupational Therapy Association represents some 14,000 registered occupational therapists and certified occupational therapy assistants. Many of our members are employed in various types of facilities established to meet the special needs of handicapped children. In addition, our Foundation (the American Occupational Therapy Foundation) has chosen as its first priority the promotion of research and its application to the problems of children with neurological dysfunctions, in particular, those with learning disabilities. These are some of the reasons for our keen interest in this legislation.

As an occupational therapist specializing in the identification, evaluation, and treatment of children with learning disabilities, I was, until recently, a special consultant in the Laurel Elementary School, Prince Georges County, Maryland. I also served as an occupational therapy consultant to the Kingsbury Center and the Potomac Foundation for Mental Health, both in the Washington area. Janet Rhoads, who is accompanying me, works as an occupational therapist in the Lincoln Special Education School in Lanham, Maryland.

We should like to submit several recommendations, Mr. Chairman, for minor amendments to this Act. Our first proposal would help to bring occupational therapy into the mainstream of educational programs for these children, not as a substitute for special education teachers, supervisors or members of other disciplines presently involved with handicapped children, but as another ancillary, and as yet, largely untapped resource that can be utilized to help meet the special needs of these children.

The basic curriculum for occupational therapy includes a background in neurophysiology, human growth and development and psychiatric disciplines. Those occupational therapists who complete the four-year curriculum and whose clinical affiliation includes a period in an educational setting have the special knowledge and skills that can augment and enhance—not replace—those of the special education teacher. Our specific knowledge includes measures for evaluating growth and development in children as well as appropriate activities for overcoming their developmental deficits. We are concerned with the occupational or everyday performance of children, their ability to function adaptively at home, in their community and in school.

The functions of the occupational therapist with handicapped children include screening and evaluation of developmental delays particularly in sensory-motor integration, providing or recommending suitable techniques to correct or modify deficiencies, and helping the handicapped child to achieve success in everyday activities at home, at play, and in school.

Occupational therapists may also serve as consultants to school personnel regarding sensory-motor integrative techniques useful for groups and individual children in the classroom. By participating in in-service education programs, they help to extend available knowledge, thus, maximizing scarce manpower.

Many state departments of education still require a therapist to be a certified teacher of special education, with a teaching certificate and/or a specified number of hours in practice teaching before she can be employed at an appropriate level. In other states, local school districts have sometimes circumvented this requirement for teacher certification by contracting for special services through a local agency which employs occupational therapists.

While recognizing that the credentialing problem must be dealt with directly at the state level, we feel that specific mention of occupational therapy in the Federal statute or the accompanying Committee Report would give recognition to and further legitimatize our role in special education programs. Accordingly, we would like to suggest that Section 631(2) be amended by adding the phrase "occupational therapist" before or after the phrase "speech correctionists".

Mr. Chairman, we are aware of the pending proposals for educational revenue-sharing, and we should like to comment on them at this time. It is our feeling that funds for the education of the handicapped should not be distributed as part of a block grant to the states. Such a broad grant would be extremely vulnerable to budget cuts. Nor have the states uniformly demonstrated a concern for educating the handicapped. The court-ordered recognition that handicapped children have a right to an education in an appropriate environment was a direct outgrowth of years of neglect by the states. Many of the improvements in programs for the education of the handicapped that have been made in recent years have been the result of initiatives authorized by this Act. To distribute the financial resources needed to educate the handicapped to the states to divide among a host of competing programs would be ill-advised.

The occupational therapist, Mr. Chairman, also has an important function in *vocational education programs* for the handicapped. Since this may be considered under the Vocational Education Act, which has a set-aside provision of funds for the handicapped, we shall not discuss it at this time.

Because of our work with handicapped children during the early years of life and the early school years, we would like to submit a proposal for a change in Section 623 of the Act, which is entitled, "Early Education for Handicapped Children." This section authorizes grants and contracts for the development and implementation of experimental preschool and early education programs for handicapped children and has already been a stimulus to several very successful projects.

Our proposed amendment is intended to highlight the fact that in order "to facilitate the intellectual, emotional, physical, mental, social and language development" of handicapped children, an early comprehensive assessment of each child's developmental status and potential is required.

We would like to suggest, therefore, that Section 623(a) be modified by deleting the phrase, "such programs shall include activities and services designed to," and substituting the phrase, "such programs shall utilize educational specialists and other personnel, such as occupational therapists, to carry out a comprehensive assessment of the developmental and educational status of each child, to identify special problems, and to provide activities and services designed to" and continue with the present language.

This assessment should not be interpreted as a separate evaluation or diagnosis, but rather as the starting point for the provision of appropriate individualized services fo reach handicapped child. This should also minimize the possibility that porblems will be overlooked or misunderstood. Both parents and teachers should fully understand the interpretation of findings to insure consistent and cooperative efforts by all those who work most closely with the child.

Our last suggestion is concerned with the language of Part G of the Education of the Handicapped Act. This is entitled, "Special Programs for Children with Specific Learning Disabilities". Section 661(a) restricts the training monies authorized by this section to "educational personnel who are teaching or preparing to be teachers of children with specific learning disabilities, . . ." We feel that such a stipulation is unduly restrictive.

Dr. A. Jean Ayres, Ph.D., is an occupational therapist who has developed methods for the evaluation and treatment of learning disorders that have gained nationwide recognition. Her sensory-integrative approach to the identification and treatment of learning disabilities stemming from perceptual-motor dysfunction in children has become an invaluable supplement, not a substitute to formal *classroom* instruction or tutoring. She has demonstrated "that the treatment based on this theory can bring about statistically significant increases in academic learning among young disabled learners with certain types of sensory-integrative dysfunction." [1]

Our point is that financial support for professional or advanced training under this section of the Act should be made available not only to persons who wish to become teachers of children with specific learning disabilities or supervisors and teachers of such personnel, but to representatives of the full range of professional disciplines that can contribute to the effective identification, assessment and remediation of these disabilities.

The earliest possible detection of developmental deficits and intervention to minimize their effects is, of course, the goal. For example, there is a large group of high-risk infants and children—those subjected to severe deprivations in early life, including nutritional deficiencies; those exposed to overcrowded, unsanitary or unstable living conditions; and those with genetic and metabolic disorders—who experience an abnormally high rate of developmental disorders. Premature infants, especially boys, and full-term infants with extremely low birth weights belong to this high-risk population. Case-finding among these youngsters and early intervention, before they reach school-age, will pay substantial dividends. Among them may be the avoidance of more costly educational and related services as well as the prevention of behavioral disorders and delinquency.

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[1] Ayres, A. Jean, *Sensory Integration and Learning Disorders*, Los Angeles: Western Psychological Services, 1972, Page 4.

Just as proper and timely prenatal care for expectant mothers has been demonstrated to reduce infant mortality, so also early detection and treatment of developmental deficits before they are compounded by the pressures and problems which arise when school-age is attained or when higher levels of school-age are reached will be less costly than subsequent corrections of more severe disabilities. This is recognized by the present language instructing the Commissioner to give special consideration to projects which "emphasize prevention and early identification of learning disabilities". We should like to add the phrase "and intervention to minimize their effects" as well as to stress the broad range of disciplines involved.

Mr. Chairman, we also heartily support the concept in other bills before this Committee regarding maximum involvement of the handicapped child in the mainstream of his educational world. Again we trust that those charged with this complex responsibility will represent a variety of professional disciplines, including occupational therapy. In this context, we might point out that the *occupational therapists* are especially qualified to make recommendations for appropriate modifications in the school environment, including playground layout and equipment.

Many children require not only supplementary services during the regular school day, but can benefit substantially from year-round or summer programs. It was my personal privilege to participate in a summer program for 120 learning disabled and physically handicapped kindergarten and first grade children who had been identified as not succeeding in their regular school year. The objective was to increase their learning potential. It was rewarding to find that the before and after test scores of the group on a battery of developmental tests showed a significant increase after only one month of intensive programming in small groups with specialized teachers and therapists.

Mr. Chairman, I hope that my testimony makes it clear that the American *Occupational* Therapy Association enthusiastically supports the proposed three-year extension of the Education of the Handicapped Act. I have tried to point out the contribution, both actual and potential, that occupational therapists can make to educational programs for handicapped children. We share your conviction that more children can be better served, to the ultimate benefit of all Americans, by extending this vital legislation. Admittedly, the cost will be considerable, but the ultimate costs of not meeting the developmental and educational needs of handicapped children, are bound to be much greater.

Mr. BRADEMAS. Our final witnesses this morning are old friends of the subcommittee, Mr. Irvin P. Schloss, coordinator of Government relations, American Foundation for the Blind; John Nagle, chief, Washington office, National Federation for the Blind.

STATEMENT OF IRVIN P. SCHLOSS, COORDINATOR OF GOVERNMENT RELATIONS, AMERICAN FOUNDATION FOR THE BLIND: ACCOMPANIED BY JOHN NAGLE, CHIEF, WASHINGTON OFFICE, NATIONAL FEDERATION FOR THE BLIND

Mr. BRADEMAS. We are glad to have you before us gentlemen. The quorum call and the second bells are in process. I would like, therefore, to ask that both your statements be included as if read in the record and I would like to put a question to each of you, if that procedure is satisfactory.

[The statements referred to follow:]

STATEMENT OF JOHN F. NAGLE, CHIEF OF THE WASHINGTON OFFICE, NATIONAL FEDERATION OF THE BLIND

Mr. Chairman, and members of the committee: My name is John F. Nagle. I am Chief of the Washington Office of the National Federation of the Blind. My address is 1346 Connecticut Avenue, N.W., Washington, D.C. 20036.

I am appearing here, today, Mr. Chairman, to express the endorsement and support of the National Federation of the Blind for H.R. 4199, a bill introduced by Congressman John Brademas to extend the Education of the Handicapped Act for three years.

As a membership organization of blind adults, Mr. Chairman, we of the National Federation of the Blind speak with an expert's knowledge of programs of education available to the blind in past years.

We know of the deficiencies and inadequacies of such programs for they have continued and remained with us as burdens and handicaps through all of our lives.

As blind persons, we know that educational programs for handicapped children, whether such children are blind or deaf, whether they are crippled in body or defective in mind, such programs must offer these children two parallel areas of education—

To the utmost of their mental capacity, they must be taught to read and write, to use figures, to understand the history of yesterday and today, they must be exposed to the philosophy and the literature of the ages, and so much else of academic character, that they may grow into their responsibilities of family, citizenship and employment.

For the physically and mentally disabled must share with the physically and mentally fit the opportunities and obligations of managing our nation and the world tomorrow.

And in addition to this general education provided to others, the disabled child must be taught and taught well and competently the skills of his particular disability.

The deaf child must learn to hear and comprehend through use of his sight.

The orthopedically impaired child must learn to use canes and crutches and similar prosthetic devices to give movement and utility to defective limbs.

The blind child must master braille, achieve independent travel through use of a long cane, he must learn to do without sight what others do with sight, by acquiring facility in the use of different methods and techniques, alternative tools, devices and equipment.

As blind adults, we believe that continuation of the Education of the Handicapped Act as public law will make this kind and quality education possible for ever increasing numbers of disabled children who will become self-confident, self-sufficient adults.

Although the National Federation of the Blind endorses and supports all of the provisions of H.R. 4199, we will discuss only some of the proposals.

We certainly ask and urge continuation of the Bureau of the Education and Training of the Handicapped.

Acting vigorously as a proponent of better State programs for the education of disabled children;

Acting, too, with zeal and dedication through its personnel as advocate of the rights and needs of handicapped children—

This agency has served the Nation's disabled children well and, we believe because of it, greatly increased numbers of handicapped children have been given a better chance for achieving a better life.

We support the provisions of H.R. 4199 which would continue grants to the States for their programs of special education, for with Federal funds added to State money, we believe that such programs will improve in caliber and grow broader in scope, thereby offering more disabled children enhanced educational opportunities.

The fine and elevated goal of equal and quality educational opportunity for all disabled American children will only be a reality when there are sufficient numbers of teachers trained and competent in special education.

The National Federation of the Blind, therefore, approves the provisions of H.R. 4199 that would continue Federal funding of special education training programs.

We believe there must be a constant and tireless search to determine upon different and better ways to teach the handicapped child, to discover and develop new and improved tools and equipment, to invent or adapt methods and techniques that will help the handicapped child learn more easily and in shorter time and with less arduous effort than is required of him now.

The National Federation of the Blind, therefore, supports the provisions of H.R. 4190 that would continue funding of special education research.

Children who are born impaired or become impaired by disease or accident in early years have great and grievous need, as do their parents, for very special and specialized help if these children are to be prepared, at the very commencement of their lives, to adjust and adapt to their disabilities.

If such children must wait for the help they need until they are eligible to enter elementary school, much valuable training time will be lost, much harm can be done through ignorance or misinformation, through too much love and overcare, through indifference, antagonism and neglect.

The National Federation of the Blind, therefore, supports the provisions of H.R. 4199 that would continue funding for pre-school special education projects and activities.

Then, Mr. Chairman, we who are blind would say a special word, we would make a special plea for deaf-blind children.

As blind persons, we are acutely aware of our incessant and so complete dependence upon our hearing sense.

Therefore, we have a very deep and sympathetic understanding for those who are blind and are also deaf.

Cut off from the sights and sounds in the world that surrounds them, the deaf-blind will only emerge from their solitary confinement as highly trained and qualified people are available to teach them, to train them, to help them learn how best to help themselves.

Given such help, the deaf-blind child will grow into a substantially independent person, at least able to care for himself, and perhaps, in some instances, even be able to earn a living and support himself.

The National Federation of the Blind, therefore, particularly urges continuation of the provisions of H.R. 4199 that would provide funding of educational programs for deaf-blind children.

In conclusion, Mr. Chairman, Members of the Committee:

We would remind you as you deliberate on H.R. 4199 that a few thousands of dollars spent to educate a handicapped child who may grow into a self-supporting adult is far more sensible economics than withholding these dollars or not providing enough of them and thereby condemning the handicapped child to a lifetime of dependence upon others.

We believe it is far wiser legislation to approve sufficient Federal funding that will multiply many times the possibility that a handicapped child will grow into a tax-paying and productively employed adult than to legislate program funding that will so diminish program effectiveness that handicapped children will be assured of Welfare-dependent lives, a lifetime burden upon others, a perpetual drain upon the resources of and reserves of others.

But even more than dollars spent or not spent by legislative action, we of the National Federation of the Blind would say to you that whether handicapped children become self-supporting adults or, in spite of education and training, remain obligations upon the earnings and taxes of others, still, if the education given handicapped children enables them to live more fully and more satisfying lives, then, we believe, the dollars spent will still be well spent.

For equal opportunity in America can only mean a full and fair chance to develop, to achieve, to succeed, to the maximum extent of each individual's capacity and capability.

Less than this for the physically and mentally fit, for the physically and mentally impaired, is a denial of equality of opportunity.

We of the National Federation of the Blind seek for the handicapped children of today and of tomorrow a better chance than we had as disabled persons yesterday.

We believe they will have this chance with the enactment of H.R. 4199 into Federal Law.

STATEMENT OF IRVIN P. SCHLOSS, COORDINATOR OF GOVERNMENTAL RELATIONS, AMERICAN FOUNDATION FOR THE BLIND

Mr. Chairman and members of the Subcommittee, I appreciate this opportunity to testify before you in support of H.R. 4199, a bill to extend the Education of the Handicapped Act. Early favorable action on this bill is vital to the education of the Nation's handicapped children.

In addition to representing the American Foundation for the Blind, the national voluntary research and consultant organization in the field of services to blind children and adults. I am speaking for the American Association of Workers for the Blind, the national professional membership association of workers and educators of blind persons; American Parents Committee, the national organization dedicated to improving services to all children; and Blinded Veterans Association, the national membership organization of blinded servicemen and women. All four national organizations wholeheartedly endorse enactment of H.R. 4199.

As you know, H.R. 4199 extends the essential programs authorized by the Education of the Handicapped Act for an additional three years through June 30, 1976. All of the organizations I am representing here today believe that every handicapped child should have the right to educational services at least equal to those he would be entitled to receive if he were not handicapped. We believe that each handicapped child is entitled to the special education procedures which will enable him to benefit from as comprehensive an elementary and secondary education as he is capable of absorbing, so that he can move into advanced education or other vocational training which will equip him to earn his own way in life as a contributing member of society.

The Congress of the United States recognized the special needs of blind children almost 100 years ago in 1879, when it established the Federally-supported program through which the American Printing House for the Blind in Louisville, Kentucky, provides textbooks in braille and large print as well as special instructional aids for blind and visually handicapped children in elementary and secondary schools throughout the country. In recent years, largely as a result of the awareness and sympathetic consideration of this Committee, the Congress has provided for a variety of programs designed to assist in the education of all types of handicapped children.

This culminated in 1970 with enactment of the Education of the Handicapped Act. Under this Act, we now have Federally-assisted comprehensive programs for training all types of specialized personnel needed in education programs for handicapped children. research and demonstration projects to develop improved devices and techniques. grants to the states to assist in educating handicapped children. regional resource centers. centers and services for deaf-blind children and their families, instructional materials centers. assistance in the early education of handicapped children, and special aid for children with specific learning disabilities.

The recognition of needs and decisive action by the Congress to meet these needs have been gratifying to those of us in national voluntary organizations who have seen increasingly critical problems in the education of handicapped children which only Federal assistance can solve. The outstanding leadership given by the Bureau for the Education and Training of the Handicapped in the Office of Education has been a major force in the progress made thus far in the effort to assure educational opportunities to handicapped children throughout the country.

However, we must express serious concern over the lack of adequate appropriations to effectively implement the services established by excellent authorizing legislation. With more adequate funding. these programs will be able to cope with the backlog of need.

For example. there is still the need to train more teachers and other specialized personnel. such as school psychologists, school social workers. school-oriented occupational therapists. recreation workers. therapeutic recreation workers, physical education instructors. and teacher aids. There is still an acute need for training highly specialized teachers of deaf-blind children. As a result of the rubella epidemic of 1964 and 1965, a substantial number of deaf-blind children already of school age are not receiving adequate educational services because of the shortage of trained personnel. These same epidemics also produced a substantial number of children with a variety of other combinations of handicapping conditions who are not receiving educational services because of the lack of trained personnel. There is also a serious shortage of trained orientation and mobility instructors for blind children. Therefore, we would urge the Subcommittee to extend all of the programs under the Education of the Handicapped Act as provided for in H.R. 4199.

In closing. Mr. Chairman. I should like to restate the fact that our greatest concern for the effectiveness of special education programs for all types of handicapped children continues to be the great disparity between authorizations developed after careful study by the Congressional committees handling the enabling legislation and the actual appropriations. We hope that the appropriations process will take cognizance of the backlog of unmet needs in the education of handicapped children due to underfinancing. Otherwise costlier institutionalization and increases in the welfare rolls at a later date will be the predictable result. An adequate preschool, elementary, and secondary education for the Nation's handicapped children is the essential first step in assuring them of a productive life instead of a life of dependency.

Mr. BRADEMAS. What is your own position with respect to the recurrent question in these hearings on the relationship between revenue sharing and programs for handicapped?

Mr. NAGLE. Mr. Chairman, I sat and listened this morning. The administration witnesses seemed to consider categorical programs as though they were something nefarious, pernicious, disrepresentable. As a matter of fact, blind people know perhaps better than any other group in the country that categorical programs developed because there was a need and the need was not being met until that particular program was established.

The question really is not whether you can achieve greater efficiency of administration by consolidating programs. The question is whether or not the needs of handicapped people are going to be better served. That we feel should be the only test, that is the only question. If they will not be better served by consolidation then consolidation should not be adopted. If categories are better weighed to do it, certainly that is the obligation of this committee and the Congress to continue. Otherwise the answer, of course, would be to terminate the program entirely and not try to arouse hopes that cannot be fulfilled.

Mr. BRADEMAS. Mr. Schloss?

Mr. SCHLOSS. There is nothing in the history of special education services to handicapped children or services to handicapped adults which would reassure us as far as discretionally transferring funds from those programs or into those programs. Based on past experience we would say they would be transferred out of those programs.

Mr. BRADEMAS. Do both of you gentlemen and your organizations favor extension for 3 years of the Education for the Handicapped Act?

Mr. SCHLOSS. Very definitely. Based on past experience, administering agencies of the Federal Government, no matter what political party the President happens to be of, make studies. I suggest to the committee that the legislation be extended for 3 years; that if the administration does in a year come forward with a good, viable program which we can all support, there is no reason why in that legislation the education for the handicapped part that is no longer needed, cannot be repealed.

Mr. BRADEMAS. You share that view, Mr. Nagle?

Mr. NAGLE. That is right.

Mr. BRADEMAS. Thank you, gentlemen. You have been most helpful. I appreciate very much your patience with us. We are grateful to you for coming. Our session this morning is adjourned.

[Whereupon, at 12:25 p.m., the subcommittee adjourned, to reconvene at the call of the Chair.]