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AUTHOR Hobbs, Barbara, Ed.
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ABSTRACT

Based on data obtained by the Bureau of Education for the Handicapped, the report provides the most recent information on the progress and issues of implementing P.L. 94-142, the Education for All Handicapped Children Act. An introduction gives a general sense of the progress being made nationwide in implementing the Act. Sections entitled "Accomplishments and Issues" and "Remaining Challenges" address 10 major provisions of the Act: right to an education; child identification, location, and evaluation; individualized education programs; least restrictive environment; protection in evaluation procedures; due process procedures; participation of private school children; state education responsibility for all education programs; comprehensive system of personnel development; and state education agency monitoring. Finally, the BEH Administration of P.L. 94-142 section describes improvements BEH is planning to make in monitoring and managing the Act. (SBH)

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PROGRESS TOWARD A FREE APPROPRIATE PUBLIC EDUCATION

**Semiannual Update
on the Implementation of
Public Law 94 142:
The Education for All
Handicapped Children Act**

August 1979

U.S. Department of Health, Education, and Welfare
U.S. Office of Education

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**Progress
Toward a Free
Appropriate Public Education**

**SEMIANNUAL UPDATE
ON THE IMPLEMENTATION OF
PUBLIC LAW 94-142:
THE EDUCATION FOR ALL
HANDICAPPED CHILDREN ACT**

**PREPARED BY:
DIVISION OF ASSISTANCE TO STATES
BUREAU OF EDUCATION FOR THE HANDICAPPED
U.S. OFFICE OF EDUCATION**

AUGUST 1979

**U.S. Department of Health, Education, and Welfare
Patricia R. Harris, Secretary
Mary F. Berry, Assistant Secretary for Education**

U.S. Office of Education

FOREWORD

The Education for All Handicapped Children Act (P.L. 94-142) is designed to assure that all handicapped children in the nation have available a free appropriate public education. Since 1975 when P.L. 94-142 was passed, the Bureau of Education for the Handicapped has been responsible for administering the Act. One of the Bureau's responsibilities is to report to Congress annually on the progress being made toward implementing the provisions of the Act. In January 1979, the Bureau delivered the first annual report to Congress. That report was entitled "Progress Toward a Free Appropriate Public Education: A Report to Congress on the Implementation of Public Law 94-142: the Education for All Handicapped Children Act."

During hearings on the FY 1979 Appropriations bill held by the Subcommittee on Labor, Health, Education, and Welfare of the House of Representatives, the Subcommittee requested in Report No. 95-1248 that the Commissioner of the U.S. Office of Education submit semiannual reports updating the information provided in the annual Congressional report. The current report, which is the first of these semiannual updates, provides the most recent information available on the progress and issues occurring in implementing P.L. 94-142. The new information presented in this report confirms the general conclusions of the January 1979 report that the nation's commitment to implementing the Act is impressive, widespread, and genuine.

Edwin W. Martin
Deputy Commissioner
Bureau of Education for
the Handicapped
August 1979

PREFACE

Public Law 94-142 was passed by Congress in 1975 to:

1. Assure that all handicapped children have available to them a free appropriate public education which emphasizes special education and related services,
2. Assist states and localities in providing for the education of all handicapped children,
3. Assure that the rights of handicapped children and their parents or guardians are protected, and
4. Assess and assure the effectiveness of efforts to educate handicapped children.

States which agree to meet the requirements of the Act are provided fiscal assistance in the form of a formula grant which is based on the number of handicapped children ages 3 through 21 they report serving. The grant is intended to pay a portion of the excess cost of providing a free appropriate public education to all handicapped children. A second source of fiscal assistance provided to the states under P.L. 94-142 is a preschool Incentive Grant which is designed to promote state and local services to preschool children ages 3 through 5. For the next school year (1979-80), the states will receive approximately \$214 per handicapped child ages 3 through 21 and, in addition, approximately \$80 per handicapped child ages 3 through 5.

The Division of Assistance to States, Bureau of Education for the Handicapped (BEH) administers these two grant programs. The Division is responsible for developing and clarifying policy related to the Act,

providing the states with the technical assistance necessary to implement the provisions of the Act, monitoring the states to ensure they are in compliance with the Act, and conducting an annual child count. These latter two activities provided the primary sources of information for the current report. The BEH monitoring system has three components--the annual program plan, program administrative reviews, and a complaint management system. These as well as the child count are described below.

Annual Program Plan. The Annual Program Plan (APP) serves as the basis for awarding funds to states and territories. In the APP each state assures that all eligible handicapped children within the state are receiving a free appropriate public education in accordance with the provisions of the Act and describes the activities and procedures the state will follow in meeting that assurance. Each state's APP is carefully reviewed by BEH staff. Plans are checked to make sure that all necessary assurances are included and that the policies, activities, and procedures described are consistent with the provisions of P.L. 94-142 and its regulations. When inconsistencies are found, the staff works with state officials in revising the plan until an approvable plan is submitted. Once the plan is approved funds are awarded to the state for the next fiscal year. Each state's FY 1979 annual program plan provided information for this report.

Program Administrative Review. BEH conducts Program Administrative Reviews (PARs) to determine, through on-site visitation, that the practices, policies, and procedures of the states are consistent with federal regulations and with each state's APP. Each state is visited for a

review at least once every two years. A review consists of a 5-day visit by a team of four or more BEH staff members. The team visits the state education agency as well as an average of 15 local education agencies and state-operated programs throughout the state. After each visit, a report is written which describes the findings of the PAR team. When a state is found not to be in compliance in a particular area, the report specifies corrective actions that must be taken and establishes a timetable for those actions. The state must provide evidence that corrective actions have been taken. BEH staff members conduct follow-up verification visits to determine that required corrective actions have been implemented. BEH also works closely with states whenever possible in suggesting or providing any technical assistance in areas that are problematic. All of the 1978-79 monitoring visits have been conducted, and draft or final reports have been completed for 16 states. Data collected during visits to 281 local agencies or state-operated programs in these 16 states were used as a second source of information in preparing this report.

Complaint Management System. The BEH complaint management system was designed to respond to any charges that a handicapped child or a group of handicapped children are not receiving an education consistent with federal regulations and to problems stemming from a conflict between state policies or procedures and federal requirements for P.L. 94-142. A BEH complaint specialist, after making sure that all of the details regarding the complaint are available and determining that the alleged violation relates to federal provisions, works with state education agency personnel and all other concerned parties until a mutually acceptable resolution

is found. Since the complaint management system was installed in July 1978, 291 formal complaints have been received by BEH. These complaints were analyzed and used as a third information source for this report.

Child Count. The two P.L. 94-142 grants are awarded to the states on the basis of the number of handicapped children receiving special education and related services as reported by each state education agency.

For the first two school years (1976-77 and 1977-78) after P.L. 94-142 was passed, a count was taken twice, once on October 1 and once on February 1. The official count, which was used for determining each state's entitlement, was the average of the two. With the passage of the Education Amendments of 1978, P.L. 94-142 was changed to require only one count on December 1 of each year, thus reducing the administrative burden on local and state education agencies.

Each local education agency is required to count each handicapped child who is on the special education membership rolls on December 1. After each local education agency has submitted its count to the state education agency, the state agency aggregates all of the local counts and submits one state report to the Bureau of Education for the Handicapped. This form contains the count categorized by the 11 handicapping conditions and three age groupings as specified in the regulations. The chief state school officer must sign a certification that the count represents an accurate and unduplicated count of handicapped children receiving special education and related services in the state on December 1. Table 1 of this report contains the December 1, 1978, total child count

for each state, the count for the 3 through 5 age group, and the grant allocations under the two grant programs for FY 1980.

Additional Data Sources. In addition to the above sources, information for this report was obtained from reports provided under BEH contracts and grants, DHEW internal studies, and studies conducted by professional associations. A list of these additional sources is provided in Appendix A.

The information presented in this report is based upon data obtained by BEH since the preparation of the first Congressional report. The information from BEH's monitoring system was provided by the Field Services Branch and the State Policy Administrative Review Branch of the Division of Assistance to States. The responsibility for preparing the report was assigned to the Program Support Branch, Division of Assistance to States, headed by Martin Kaufman. Sections of the report were prepared by Paul Byrne, Joseph Gilmore, Nancy Safer, John Tringo, Roland Yoshida, as well as Martin Kaufman. The report was edited by Barbara Hobbs, and the layout was prepared by Doris Cargile. The report was typed by Linda Samuel and Janet Johnson.

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EXECUTIVE SUMMARY

This report, which was requested by the Committee on Appropriations of the House of Representatives, is a semiannual update on the implementation of the Education for All Handicapped Children Act. The report provides the most current information available on the implementation of the Act. The Introduction gives a general sense of the progress being made nationwide in implementing the Act. The Accomplishments and Issues section gives examples of accomplishments to date and issues remaining related to the major provisions of the Act. The Remaining Challenges section presents some of the activities the Bureau of Education for the Handicapped (BEH) is planning for the coming year to meet the challenges remaining to fully implement the Act. Finally, the BEH Administration of P.L. 94-142 section describes improvements BEH is planning to make in monitoring and managing the Act. Some of the key findings of the report, which were obtained primarily from BEH's monitoring system, follow.

INTRODUCTION

- It is estimated that almost 75% of the nation's handicapped school-age children are receiving special education and related services today compared to less than half as estimated by Congress at the time P.L. 94-142 was enacted.
- On the annual child count for this school year (1978-79), 48 of the 57 states and territories (84%) have reported an increase over last year in the number of handicapped children receiving special education and related services.

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- Since the passage of P.L. 94-142, over 230,000 new handicapped children have been reported to be receiving special education; it has been estimated that this has required the hiring or re-assignment of approximately 19,000 teachers.
 - The number of preschool children ages 3 through 5 receiving special education has increased by over 20,000 in the past 3 years, a growth rate of more than 10%.

ACCOMPLISHMENTS

- Every state education agency has developed new interagency agreements with other state agencies as diverse as Departments of Public Health, Mental Health, Social Services, and Corrections to assure that all handicapped children have available a free appropriate public education.
- Services such as physical and occupational therapy, adaptive physical education, and transportation have been made widely available at no cost to families. In addition, severe and profoundly handicapped children previously unserved are now being educated by our public schools.
- It is estimated that approximately 160,000 potentially handicapped children were evaluated last year as a result of child find activities.
- 75% of a sample of federal program coordinators in state education agencies (33 out of 44 responding) reported that the IEP process was easier in the second year following the October 1, 1977, implementation date.

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- Since the enactment of P.L. 94-142 in 1975, the number of previously institutionalized handicapped children being served by local education agencies has increased by almost 40%.
 - Since September 1977, approximately 40 states have changed their laws and/or regulations to meet the due process and protection in evaluation requirements of P.L. 94-142. The remaining states either already had comparable provisions or are in the process of changing their laws.
 - Currently 42 states have statewide manpower planning committees representing a 62% increase since 1976.
 - The Division of Personnel Preparation in BEH is estimating an increase of approximately 75% (or a total of 47,000) in the numbers of regular education teachers receiving inservice training this coming year as a result of BEH training grants.
 - All states currently have documented monitoring procedures in place representing an increase of 33% since 1977-78.

ISSUES

- Some state and local school personnel feel that the IEP requirements of P.L. 94-142 have resulted in a procedural and paper overkill. One reason for additional paperwork in some localities is state and local requirements which go beyond the federal requirements. In addition, some states allow large caseloads for resource room teachers and speech therapists, which means these staff members have to attend IEP meetings and do the paperwork for many students.

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- In rural areas, a full continuum of services to handicapped children is not always available, and thus children in these areas are not always placed in the least restrictive environment.
 - Many large school districts still do not have the capacity to conduct new pupil evaluations and reevaluations in a timely manner.
 - Parents are not always informed of their rights under P.L. 94-142 and often do not have the skills needed to participate effectively in planning their child's educational program.
 - There is some confusion about what services are required and what methods of delivery are allowable with regard to serving nonpublic school students.
 - Other public agencies have tended to withdraw services to handicapped children believing that the state education agency has sole responsibility for educating all handicapped children. Because of this tendency, an increased effort is needed to develop state and local interagency agreements which assure full use of federal resources for delivering special education and related services.
 - The monitoring of other public agencies by the state education agency to assure compliance with P.L. 94-142 continues to be a difficult administrative responsibility.
 - Increased inservice training programs are needed to train regular class teachers to work with handicapped children, to meet the

personnel needs of rural areas, and to prepare more teachers to instruct children with low-incidence handicapping conditions.

C A recent report by HEW's Inspector General stated that 3 out of 4 school personnel, parents, and students interviewed said there are unserved handicapped children in the schools and additional resources will be necessary to serve these children.

REMAINING CHALLENGES

- The Bureau of Education for the Handicapped will continue its initiative to develop and implement the federal, state, and local interagency agreements necessary to coordinate and maximize the use of federal monies for providing health, education, and social services to the handicapped.
- The Bureau will continue to provide technical assistance and target discretionary monies to increase current efforts to identify, locate, and evaluate all handicapped children.
- The Bureau will continue its parent initiative which is intended to help develop leadership and continuity in local parent organizations so that these organizations can effectively support active parent involvement in the special education pupil planning and programming process.
- The Bureau will continue its technical assistance efforts to identify and disseminate management techniques for designing efficient pupil appraisal systems capable of meeting the demands of our nation's large city school districts where the largest backlogs for evaluation have occurred.

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- The Bureau will continue to target and prioritize discretionary training monies in responding to the needs of state and local programs.

BEH ADMINISTRATION OF THE ACT

- Annual Program Plans will be streamlined and changed so that they can be submitted once every 3 years with annual updates. These changes are designed to reduce state and local paperwork.
- Program Administrative Reviews will increase in their precision and effectiveness during the coming year. There will be heavier reliance on statistical data reported by state and local education agencies to pinpoint both the topics and programs which should be more carefully examined during on-site visits. In addition, verification visits to assure the implementation of required corrective actions will be increased fourfold.
- A pilot program which will use the HEW Regional Offices to help resolve complaints is expected to increase the efficiency of the federal complaint management system.
- A formal Office of Civil Rights/BEH memorandum of understanding concerning policy development and clarification, complaint management, compliance reviews, data coordination, and technical assistance should assure increased federal effectiveness in implementing federal statutes for the handicapped.

INTRODUCTION

Prior to the passage of Public Law 94-142, Congress estimated that more than half of the handicapped children in the United States did not "receive appropriate educational services which would enable them to have full equality of opportunity." Since the enactment of P.L. 94-142 in 1975, public school enrollment in the United States has declined by 3.3%, or by almost 1.5 million children. During this same period, the number of handicapped children reported by state education agencies has increased by 6.23%; there are now 3.94 million handicapped children being reported by state education agencies under P.L. 94-142 and P.L. 89-313.*

Based on information received as a result of a study conducted by the National Association of State Directors of Special Education in Region V as well as data from 3 other states, the actual number of handicapped children being served is at least 10% higher and may be as much as 25% higher than the number reported on the December 1, 1978, child count because schools have continued to identify and serve handicapped children since that date. If this pattern holds across all states and territories, a conservative estimate would yield over 4 million handicapped children actually being served out of a total handicapped school-age population (5-17) estimated to be 5.8 million children. This would mean that almost 70%

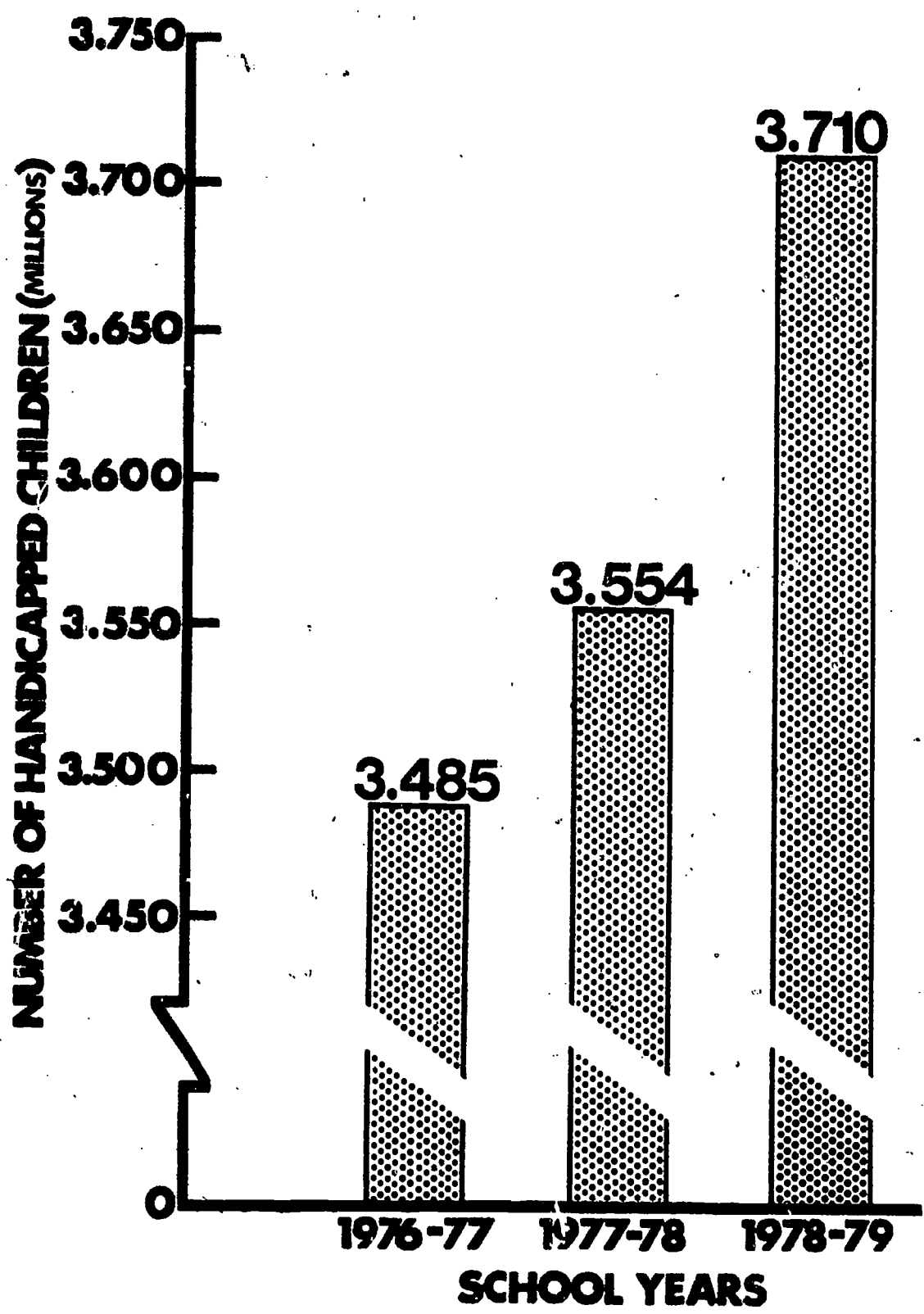
*Children counted under P.L. 89-313, which provides federal assistance for children in state-operated programs, are included here only to provide an overview of the total number of handicapped children being served. They are not included in the figures used in the rest of the report.

of the nation's handicapped school-age children are receiving an appropriate education under P.L. 94-142 today, compared to less than half at the time the act was passed.

Nationwide, the commitment and momentum toward full service is evidenced in a number of ways.

- From last school year (1977-78) to this school year (1978-79), 48 of the 57 states and territories (84.2%) have increased the number of children reported on their annual child count.
- During the past year, the number of states serving more than 9% of their school enrollment as handicapped has increased from 15 to 26.
- Growth rates in excess of 20% over the count taken in 1977-78 occurred in Mississippi (22.24%), Puerto Rico (32.68%), the District of Columbia (44.61%), the Virgin Islands (56.04%), and Vermont (82.57%).
- Four states added more than 10,000 children to their counts this year: North Carolina (10,926), Georgia (11,279), Indiana (11,362), and Ohio (14,862).
- The number of preschool children ages 3-5 receiving services nationwide has increased over 20,000 in the past 3 years, a growth rate of more than 10%.
- Since the 1976-77 school year, when the first P.L. 94-142 count was taken, over 225,000 new handicapped children have been reported to be receiving special education and related services (see Figure 1). It is estimated that providing services to this increased number of children has required either the hiring of or the reassignment of approximately 19,000 teachers.

FIGURE 1
NUMBER OF HANDICAPPED CHILDREN WITH IEPs RECEIVING SPECIAL EDUCATION AND REPORTED UNDER P.L. 94-142



This significant increase in the number of handicapped children receiving special education and related services has required a continuously increasing fiscal commitment by federal, state, and local agencies. The federal contribution for special education has risen from \$200 million in school year 1976-77 to \$564 million this year and \$804 million allocated for 1979-80. (See Table 1 for the distribution by state of the FY 1980 allocation for P.L. 94-142.) After 4 years of such increasing support, it is evident that great progress is being made toward providing an appropriate education to all handicapped children in this country. Increased financial commitment to the education of handicapped children is not only occurring at the federal level; it is also occurring at the state and local levels. Next school year, for example, when the total federal grant will be \$804 million, it is estimated that the total state and local expenditure for special education will be \$5.8 billion.

The increases in the number of children being served clearly illustrate the progress being made in providing all handicapped children a free appropriate public education. In the January 1979 report it was concluded that while many of the problems initially expected to impede progress in implementing P.L. 94-142 were being resolved, there were problems which remained. In the current report we will highlight the accomplishments occurring at the state and local level and explore some of the issues that still need to be resolved to fully implement critical components of the Education for All Handicapped Children Act.

**TABLE 1
NUMBER OF HANDICAPPED CHILDREN SERVED
AND FY 1980 ALLOCATION UNDER
P.L. 94-142, BY STATE**

State	Part B Grants		Preschool Incentive Grants	
	Children Served* (Ages 3-21)	Allocation	Children Served* (Ages 3-5)	Allocation
NATIONAL TOTAL	3,709,639	\$804,000,000	215,621	\$17,500,000
Alabama	68,420	\$ 14,638,340	1,643	\$ 133,344
Alaska	6,995	1,496,568	374	30,354
Arizona	44,313	9,480,689	0	0
Arkansas	36,508	7,810,823	1,802	146,249
California	330,021	70,607,420	22,560	1,830,948
Colorado	43,049	9,210,259	2,113	171,489
Connecticut	58,932	12,608,399	2,949	239,338
Delaware	11,164	2,388,518	465	37,739
District of Columbia	4,156	889,169	654	53,078
Florida	121,368	25,966,473	5,314	431,279
Georgia	95,196	20,397,400	5,046	410,827
Hawaii	10,063	2,152,961	195	15,826
Idaho	16,995	3,636,051	585	47,478
Illinois	215,679	46,144,147	17,900	1,452,747
Indiana	90,442	19,349,909	3,389	275,048
Iowa	55,559	11,886,752	5,046	409,529
Kansas	35,605	7,617,628	2,543	206,387
Kentucky	60,375	12,917,126	2,058	167,025
Louisiana	87,392	18,697,367	5,973	484,763
Maine	22,729	4,862,830	1,184	96,092
Maryland	84,421	18,061,726	4,879	395,975
Massachusetts	126,820	27,132,919	5,611	455,383
Michigan	144,516	30,918,947	12,844	1,042,407
Minnesota	77,944	17,675,983	6,767	549,203
Mississippi	37,875	8,103,290	1,130	91,710
Missouri	96,104	20,561,284	6,856	556,426
Montana	12,017	2,571,016	1,204	97,716
Nebraska	30,664	6,560,510	2,321	188,370
Nevada	10,624	2,272,986	402	32,626
New Hampshire	9,409	2,013,039	241	19,559
New Jersey	144,424	30,899,264	6,164	500,264
New Mexico	18,694	3,999,549	449	36,440
New York	189,827	40,613,157	5,057	410,421
North Carolina	102,413	21,911,083	5,651	458,630
North Dakota	9,262	1,981,589	603	48,939
Ohio	177,779	38,035,508	5,980	485,331
Oklahoma	55,874	11,954,145	4,225	342,897
Oregon	37,014	7,919,081	1,653	134,156
Pennsylvania	171,609	36,715,448	8,422	683,522
Rhode Island	13,454	2,878,460	854	69,310
South Carolina	68,502	14,655,884	4,028	326,909
South Dakota	8,915	1,907,349	986	80,023
Tennessee	107,287	22,953,867	7,464	605,771
Texas	257,576	55,107,938	19,694	1,598,346
Utah	34,157	7,307,831	1,750	142,028
Vermont	9,879	2,113,595	807	65,495
Virginia	83,841	17,937,636	6,714	544,902
Washington	49,040	10,492,023	1,965	159,478
West Virginia	30,297	6,481,991	1,293	104,939
Wisconsin	57,813	12,368,991	5,198	421,865
Wyoming	8,726	1,866,913	527	42,771
American Samoa	240	498,032	20	1,623
Bur. of Indian Affairs	4,550	7,960,396	116	9,414
Guam	2,248	1,384,125	85	6,899
Northern Marianas	65	182,600	11	0
Puerto Rico	18,452	3,947,773	1,754	142,353
Trust Territory	1,480	1,414,369	103	8,359
Virgin Islands	866	880,874	0	0

*These children were served during school year 1978-79.

The report is organized into three major sections.

- The Accomplishments and Issues section presents examples of progress being made in implementing the major requirements of P.L. 94-142 and significant issues remaining in achieving the goals of the Act.
- The Remaining Challenges section presents the major challenges facing the Bureau of Education for the Handicapped (BEH) in implementing the Act this coming year and the activities BEH will initiate in response to these challenges.
- The BEH Administration of P.L. 94-142 section presents the major management changes BEH plans to implement to strengthen the federal administration of the Act.

ACCOMPLISHMENTS AND ISSUES

This section is organized into the following 10 subsections related to the major provisions of the Act:

1. Right to an Education.
2. Child Identification, Location, and Evaluation
3. Individualized Education Programs
4. Least Restrictive Environment
5. Protection in Evaluation Procedures
6. Due Process Procedures
7. Participation of Private School Children
8. State Education Agency Responsibility for All Education Programs
9. Comprehensive System of Personnel Development
10. State Education Agency Monitoring

These provisions comprise the primary focus of BEH's monitoring process. Collectively they provide a framework for presenting the nation's progress in implementing the Education for All Handicapped Children Act. Within each subsection, the specific activities and practices that are occurring at the state and local level as part of the movement toward full implementation of the Act will be discussed as well as certain issues which still need to be resolved. In several instances, examples are provided of practices which do not fully meet the requirements of the law. When such practices or procedures exist, BEH requires certain corrective actions to remedy the situation. Depending on the nature of the par-

ticular practice or procedure in question, BEH requires some or all of the following:

1. The state education agency must demonstrate that it has reiterated the federal and state requirements covering the area in question to all of its local education agencies having responsibility for educating handicapped children.
2. If the state's regulations need to be amended to be consistent with the state annual program plan and federal law, the state education agency will be required to document that such amendments have been made.
3. The state education agency must demonstrate that corrective actions have been implemented in sites where problems are found.
4. The state education agency must demonstrate to BEH that its monitoring procedures adequately address the requirements in question.
5. The state education agency must provide all documentation of corrective actions within a specified timeline.

For the sake of brevity, within this report specific corrective actions may be omitted when an implementation problem is discussed, with the understanding that the above outlined procedure is followed in each instance.

In addition to requiring the above corrective actions, in instances where a problem is considered to be both persistent and severe, BEH provides technical assistance in order to facilitate full implementation.

RIGHT TO AN EDUCATION

P.L. 94-142 requires state education agencies to establish and implement policies and procedures to ensure that all handicapped children within the state have available to them a free appropriate public education which includes special education and related services to meet their unique needs' (§ 121a.121).* The policies and procedures guaranteeing that all handicapped children have a right to full educational opportunity apply to all public agencies in the state and require that priority in the use of federal money be given to serving those children who have not previously been served and to those who have the most severe handicaps.

ACCOMPLISHMENTS

The following description of practices illustrates the progress state and local education agencies have made to date in developing and implementing a right to education policy.

- A state's first step in guaranteeing all handicapped children a free appropriate public education is to adopt policies assuring that all handicapped children have available full educational opportunities. Since the enactment of P.L. 94-142, approximately 25% of the states have promulgated legislation to achieve this goal. The remaining states have all developed new administrative rules to assure that all handicapped children have a right to an education.

*These section numbers and all such notations which follow refer to the federal regulations for P.L. 94-142, published in the Federal Register (42 FR 42473), August 23, 1977.

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- Though most local education agencies provided services to handicapped children prior to the implementation of P.L. 94-142, the comprehensiveness of these services has dramatically improved. In addition, the annual program plans (APPs) indicate that every state education agency has developed new interagency agreements with other state agencies such as Departments of Public Health, Mental Health, Social Services, and Corrections to assure that all handicapped children have available a free appropriate public education.
 - The right to education requirement of P.L. 94-142 has resulted in the provision of many new services to handicapped children which were previously unavailable to them or available only if paid for by their families. Services such as physical therapy and occupational therapy, which some handicapped children need in order to benefit from special education, are now available. For example, Connecticut identified 3,100 students requiring physical or occupational therapy and, to serve these students, hired 40 full-time-equivalent therapists at a cost of \$600,000. Similar expansion of services has been reported by Pennsylvania and Mississippi. Prior to P.L. 94-142 such services were unevenly available in these states and often only at a cost to the family.
 - Transportation, which in many states was unavailable or available only at a cost to the family prior to P.L. 94-142, has now been made available at no cost to parents, enhancing program accessibility for many handicapped children. For example, Houston, Texas, purchased 30 wheelchair vans at a cost of \$375,000 to

make school programs available to previously unserved handicapped children. In Louisiana, because of the increase in the number of severely handicapped students attending school in the past 4 years, the costs related to providing bus attendants have increased tenfold. Similar examples were reported to exist in Georgia, Mississippi, Montana, Virginia, and West Virginia.

- Preschool services have been made available as a result of P.L. 94-142 in several states; in Wisconsin, for example, 43 classes have increased to 248, which now serve 2,500 children. The national growth rate in preschool services has been 10%, even though only 15 states mandate full service to the entire 3 through 5 age group.
- One method by which changes in administrative procedures and new services have occurred has been litigation brought by parent and advocacy organizations based on P.L. 94-142 and accompanying state legislation. For example, in Campochiaro v. Califano parents in Connecticut successfully sued state and federal defendants to require due process hearing procedures consistent with the mandates of P.L. 94-142. In Armstrong v. Kline parents in Pennsylvania sued the state to obtain 12-month education services for their children under the mandate of the law that all handicapped children have a right to an appropriate education. This case was also decided in favor of the parents.
- In the past 3 years, attempts to provide services to all handicapped children have not only been extended to children in the

traditional state-operated programs for the mentally retarded, the emotionally disturbed, and the hearing and visually impaired but also to handicapped youth in correctional facilities. In Wisconsin, 179 youth who need special education services have been identified in correctional institutions; teachers have been provided and programs initiated for these youth. In an effort to provide even "locked up" handicapped youth a free appropriate public education, Louisiana has designated its correctional facilities to be a special education district.

- States have expanded services to groups of children who were previously excluded from public education. For example, in Illinois, trainable mentally retarded children are being served in the public schools for the first time; in Connecticut, services are now being provided for the severely handicapped; and in Alabama, services are being provided for both trainable mentally retarded and for severely handicapped children.

ISSUES

Many state education agencies have reported fiscal constraints as a barrier to providing all handicapped children a free appropriate public education. States feel federal financial and technical assistance is imperative.

- Although local education agencies have adopted right to education policy statements, they are having problems in implementing these policies. It is significant that 13 of 16 states monitored this year were cited for problems related to providing all handi-

capped children a free appropriate public education. The implementation problems identified included instances of children either being unserved or underserved. A recent report by HEW's Inspector General entitled Service Delivery Assessment: Education for the Handicapped found that 3 out of 4 teachers, administrators, parents, and students, more than 1,000 persons in all, said there are unserved handicapped children in the schools. Many of these problems appear to result from what the report characterized as "trade-off decisions" made by local administrators to compensate for a lack of resources. The economic austerity facing education in general, and special education in particular, will only be heightened by state tax limitation initiatives such as those in Idaho and California and by the use of expenditure lids such as those imposed in Nebraska. Given this trend of tightening restrictions on state and local financing for education, the political and economic willingness and ability of state legislatures to increase current fiscal commitments to fully serve all handicapped children is questionable.

- The implementation of the right to education policy faces its stiffest challenges in the immediate future. The two most important areas of concern are provision of services to preschool children and to 18 through 21 year old youth. Many studies have shown the importance and long-term value of early interven-

tion in diagnosing and treating exceptional children. Consequently, BEH considers increased service to preschool children to be critical. The provision of services to 18 through 21 year old youth is vital to help these youngsters make the transition from school to a productive life at work and in the community. It is significant that less than one-third of the states now mandate service to 3 through 5 year olds; only 4 states mandate service to children birth through 2. More encouragingly, two-thirds of the states mandate service to the 18 through 21 age group. States with legislation mandating services to children in these age groups serve a greater proportion of these children than do states without such legislation. The proportion of preschool-age children served in states with legislation mandating service to preschool children is 59% greater than the proportion served in states without such legislation. For 18 through 21 year olds, the proportion is 39% greater. However, since not all states mandate service to these age groups and since the federal government does not have the authority to require this service, it becomes clear that federal incentives and technical assistance are needed in order to promote such service. Accordingly, BEH through the use of preschool Incentive Grants and through its initiative to develop federal, state, and local interagency agreements is attempting to facilitate the development of full educational opportunities for these groups of frequently unserved handicapped children.

CHILD IDENTIFICATION, LOCATION, AND EVALUATION

P.L. 94-142 requires that each state implement ongoing procedures for identifying, locating, and evaluating all handicapped children in need of special education and related services (§ 121a.128). The effectiveness of these procedures is critical to assuring the implementation of the right to education policy.

ACCOMPLISHMENTS

The following description of state and local efforts to identify, locate, and evaluate all handicapped children illustrates the national commitment to meeting the challenges of P.L. 94-142.

- Based on Program Administrative Review (PAR) questionnaires completed by 654 local education agencies, representing over 50% of the school enrollment in 16 states, it is estimated that approximately 160,000 potentially handicapped children were evaluated as a result of child find activities. Further, almost 80% of these children identified as potentially requiring services were found to be eligible for special education and were provided services.
- Over three-fourths of the states have initiated toll free numbers to respond to inquiries and provide information to callers regarding the rights of handicapped children and the availability of special education and related services. In many states, such as New York, the information service is available on a 24-hour basis and uses multilingual operators.

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- Many states, such as Maryland, require each local education agency to submit annually an operational plan describing the procedures they will use to identify, locate, and evaluate all handicapped children. In Kentucky, each local education agency has designated a school person and a parent to lead the local child find initiatives.
 - In every state, television, radio, and newspapers have been employed to raise community and family awareness of special education services. For example, in Michigan, 800 TV and radio spots are aired yearly. In Ohio, where media campaigns were estimated to reach 80% of the state population, 2,700 out-of-school children were located and were provided services.
 - In Arkansas, a grass-roots procedure using a mobile diagnostic unit was implemented by the state education agency to evaluate severely handicapped and out-of-school children in rural areas. In Utah, a statewide door-to-door canvassing of each household was conducted to identify handicapped children.
 - In several states, parent groups have aided state education agencies in their efforts to find and serve all handicapped children. For example, the Massachusetts Federation for Children with Special Needs in cooperation with the Massachusetts state education agency instituted a media campaign which resulted in 600 handicapped children being identified and served. In addition, the Massachusetts Federation has provided information concerning the rights of handicapped children to more than 10,000 parents through various types of parent group meetings.

Child identification, location, and evaluation efforts to date have been successful in providing new education opportunities to handicapped children previously excluded from schools. However, even though 8.35% of the school enrollment is receiving special education and related services, data collected by BEH support the Inspector General's statement that there still are a "significant number of handicapped children who are eligible for and need special education service, but are not in the program." In particular the Inspector General's report suggested that three populations--preschoolers, older teenagers, and handicapped children in the regular classrooms--continue to need services.

- The Inspector General's report states that "the rate of identification has everything to do with what the evaluator knows the school will be able to do for the child." The report acknowledges that the most significant impediments to serving all handicapped children are a lack of resources and the unavailability of programs.
- The Inspector General in discussing the integration of human service resources states that "schools are largely isolated from other service providers in the community." Realizing that the identification of handicapped children will require coordinative efforts among all human service agencies, BEH has vigorously pursued the development of interagency agreements at the state level. The next challenge is to affect the adoption of such agreements at the local level.

The APPs illustrate significant progress states have made toward locating and serving all handicapped children. The challenge facing BEH is to continue to provide sufficient incentives and support to local education agencies to enable them to continue their efforts in this area.

INDIVIDUALIZED EDUCATION PROGRAMS

P.L. 94-142 requires that each handicapped child receiving special education and related services have an Individualized Education Program (IEP) (§ 121.340-121a.349). The IEP is to be developed, and reviewed at least annually, by the child's parents, the child's teacher, a representative of the local education agency, and where appropriate, the child. The IEP document is to include the child's present level of educational performance, a statement of annual goals and short-term objectives, the specific educational services to be provided, the extent to which the child will participate in the regular educational program, the dates for initiation and anticipated termination of services, and appropriate objective criteria for determining whether instructional objectives are being achieved.

ACCOMPLISHMENTS

The following is a description of the efforts states have made in implementing this requirement of the law.

- During this year's PARs, state policies regarding IEPs were found to be consistent with federal regulations in all but one state.
- During the PARs, all IEPs were found to be in place in nearly all programs (269 out of 281 programs).
- Information provided to the Division of Assistance to States (DAS) by 44 of the state education agencies' federal program coordinators, indicated that the IEP process was easier in the second year following the October 1, 1977, implementation date

(33 of the coordinators reported that the process was easier, 4 reported that it was no easier, and 7 didn't know). Many coordinators attributed this to experience with the process. They also mentioned that having done IEPs once, many teachers found them useful as a management tool in planning instruction and felt more positive about the process.

ISSUES

Though significant progress, as illustrated above, clearly demonstrates the national effort to implement the IEP requirements, several problems remain.

- Although IEPs are in place in most local education agencies and state-operated programs, there still are some sites where not all IEPs have been written. Out of 281 sites visited during this year's PARs, there were 12 sites across 7 states where some children did not have IEPs in their folders. In addition, some IEPs examined in some of the sites did not contain all of the required elements or were not developed in accordance with federal regulations. Examples of the types of problems encountered are as follows:

- short-term objectives were written after placement;
- children were placed before the IEP was developed;
- objective criteria for measuring progress were missing;
- dates for initiation and expected duration of services were missing;

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- services listed, particularly related services, were based only on those available;
 - not all required participants were present; and
 - annual and short-term goals and objectives were inadequate.
- The somewhat uneven implementation of the technical requirements of the IEP provisions is further illustrated by what some school personnel feel is a procedural and paper overkill. A review of 59 IEPs by DAS staff found several instances where IEP procedures and plans went beyond the requirements of P.L. 94-142. In some instances this was because of state or local requirements. For example:

- IEP forms were found which required a justification of the IEP, a listing of parental concerns, the child's learning style, long-term goals and instructional objectives (in addition to annual goals and short-term objectives), specific teaching materials (such as flash cards), and specific teaching procedures.
- In some states, both a total service plan and an implementation plan are required.
- Some states require more meetings than are required by P.L. 94-142.

Where such practices were a result of misinterpretation of the law, the Bureau has clarified federal requirements.

- A survey forwarded to BEH by the Teachers Association in Prince George's County, Maryland, suggests that even a reasonable IEP

process endorsed by teachers as good practice becomes difficult when teachers have large numbers of students. In particular, resource room teachers and speech therapists may have large caseloads. The state federal program coordinators were asked what the maximum caseloads were in their states for these specialists. Of the 34 states which reported maximum caseloads for resource room teachers, 15 reported more than 20 students per teacher, 9 others reported more than 25, and 1 reported as many as 60. For speech therapists, 22 states allowed more than 50 students, 11 others more than 60, and 2 states 100 or more. This is clearly a large number of IEP meetings and much associated paperwork.

- Relatively few parent complaints concerning IEPs have been received by BEH (only 33 complaints related to IEPs out of a total of 291 complaints). Of these, only 2 have dealt with a lack of parent participation in the development of the IEP. Nevertheless, PARs have raised some concerns related to parent participation. Sites were found in 8 states where parent participation or attempts to involve the parents were inadequately documented. In 7 states (some being the same states as above) sites were found where, although parents had signed the IEP, it was not clear that they had been given adequate opportunities to actively participate in the development of the IEP. It may be necessary not only to assure that state and local practices are consistent with federal regulations but also to find mechanisms for promoting active parent participation in the IEP process.

LEAST RESTRICTIVE ENVIRONMENT

P.L. 94-142 requires each public agency to ensure, to the maximum extent appropriate, that handicapped children, including children in public and private institutions or other care facilities, are educated with children who are not handicapped (§ 121a.550-121a.556). Further, each public agency must ensure that a continuum of alternative placements is available to meet the needs of handicapped children for special education and related services.

ACCOMPLISHMENTS

The following examples provide descriptions of state and local efforts across the nation to educate handicapped children in the least restrictive environment (LRE).

- The 1979 annual program plans indicate that in the previous year:
 - Most handicapped children (68%) were educated in regular classes.
 - An additional 25% were educated in separate classes but in regular school buildings.
 - Generally, across the nation, there is evidence that a continuum of placement alternatives exists.
- During recent PAR visits, it was found that state LRE policies were consistent with federal regulations in all but 2 states.
- The continued progress of states to deinstitutionalize handicapped children is evidenced in the average daily attendance reports for October 1, 1978, submitted by each state education agency in accordance with P.L. 89-313. Since the enactment of

P.L. 94-142 in 1975, the number of previously institutionalized handicapped children being served by local education agencies has increased by almost 40%. The October 1978 reports indicate that 33,539 previously institutionalized children are currently receiving services in local programs.

ISSUES

- Although data summed across the nation show a range of placement alternatives available for children with each handicapping condition, a full continuum of placement options for each handicapped child may not exist in every state and local program.

(a) The variability across states in the percentage of students with each handicapping condition served in the various settings suggests that in some locations a full continuum of alternatives may not exist for students with some handicapping conditions and that some students may not be placed in the least restrictive environment. For example, data from the 1979 state annual program plans show that in 1977-78:

- In 7 states, less than 5% of the mentally retarded students were served in regular classes; whereas in 5 other states, more than 65% were served in regular classes.
- In 11 states, more than 80% of the visually handicapped students were educated in regular classes; in 6 states less than 35% were educated in regular classes; and in 7 states, more than 40% were educated in separate schools.

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- In 9 states, more than 70% of the emotionally disturbed students were served in regular classes; but in 13 states, less than 25% of these students were in regular classes (in one state no emotionally disturbed students were in regular classes).
 - Similar discrepancies in placement options were found for each of the other handicapping conditions.
- (b) PARs have confirmed that in some programs a full range of placement alternatives do not exist for all handicapped students and that all handicapped students are not currently placed in the least restrictive environment. Even though state LRE policies were found to be consistent with federal requirements in all but 2 states, programs in 6 states were cited in PAR reports because of a lack of alternatives for some types of handicapped students. Generally, the problem was that there were no alternatives which provided contact with nonhandicapped students. This was particularly true for deaf, blind, and orthopedically impaired students.
- Further, during PARs it was found that in some states, practices did not meet the federal requirement that placements be made on an individual basis to reflect the child's educational needs. For example, 4 states were cited for determining placements for some programs on a categorical rather than an individual basis. Similarly, 4 states were cited because a child's placement did not conform to information provided in his or her IEP.

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- Although annual program plan and PAR data raise some issues regarding the implementation of LRE, only 19 parents have complained to BEH regarding LRE.
 - In the 1979 annual program plans, states indicated that the following were some of the barriers to implementing a continuum of available placement alternatives for all handicapped children: lack of trained personnel, inadequate facilities, transportation problems, and insufficient fiscal resources.

To achieve full implementation of the LRE requirements, BEH will need to pay particular attention to service delivery issues in rural areas. Lack of personnel, of related services, and of comprehensive programming for children with low-incidence handicapping conditions often result in rural children being placed in overly restrictive environments. Although cooperative service arrangements could mitigate these problems, they are often impractical because children needing similar services live at great distances from each other. The cost of transportation alone is prohibitive. To overcome these problems, innovations will be needed in the recruitment and training of personnel. In addition, human service linkages utilizing the most modern technological interfaces will need to be developed.

PROTECTION IN EVALUATION PROCEDURES

P.L. 94-142 requires that a multidisciplinary team use several criteria for judging whether a student qualifies for special education. The judgment must be based upon results from valid instruments which consider the language and cultural background of the student being evaluated (§ 121a.530-121a.534). Also, special procedures must be followed when evaluating a student who may be learning disabled (§ 121a.540-121a.543).^{*} These provisions are intended to reduce the possibility that a student may be misclassified because of an inappropriate evaluation.

ACCOMPLISHMENTS

The following description of practices illustrates the efforts being made by state and local education agencies in implementing the regulations for nondiscriminatory evaluation.

- Since September 1977, 40 states have changed their laws and/or regulations to meet the P.L. 94-142 requirements, and 1 state is in the process of changing its laws. Nine states already had comparable provisions in effect.
- During this year's PARs, only 3 out of 16 states were found to have laws and/or regulations which were inconsistent with the P.L. 94-142 requirements. For these states, specific corrective actions have been prescribed.
- At most of the sites visited during this year's PARs, evaluations of potentially handicapped children were being conducted by multidisciplinary committees. In addition, most local education

^{*}The procedures for evaluating specific learning disabilities were published in the Federal Register (42 FR 65081), December 29, 1977.

agencies were using more than one criterion for deciding eligibility for special education programs.

- Some states, such as Minnesota, have established statewide working committees to develop appropriate testing procedures for non-English-speaking children and for children with learning disabilities.

- During FY 1979 the Regional Resource Centers conducted 15 workshops on nondiscriminatory assessment. These workshops trained over 265 teachers and 25 special education supervisors and administrators.

ISSUES

Although all states either have, or are in the process of developing, laws and/or regulations consistent with P.L. 94-142, practice at the local level requires some improvement.

- Four of the 16 states visited during this year's PARS were not completing re-evaluations of their students within 3 years. A likely explanation for this delay is that schools do not have the staff to complete both initial evaluations for special education and the required re-evaluations.
- Some states have backlogs of students requiring evaluation for special education. For example, a recent court case stated that New York City had a waiting list of 14,000. Several other states also have waiting lists but of a lesser magnitude. BEH has used discretionary monies to provide technical assistance to states

in resolving such implementation barriers. In addition, a project to identify procedures which are successful in conducting pupil evaluations will be funded during the coming year.

- Evaluating students in their native language was a problem in some states. Although several states had appropriate bilingual instruments and staffs, it was found during the PARs that some states have such a large non-English-speaking population that not all children are evaluated in a timely fashion. Similarly, there are very few personnel available to evaluate children who speak languages such as Chinese, Vietnamese, and Portuguese.
- Another area requiring clarification and improvement is the evaluation of learning disabled children. It was noted that several local districts in 6 of the states monitored were not aware of all of the provisions of the learning disability regulations; for example, the provisions requiring that multiple instruments be used for evaluating students and that only qualified personnel conduct such evaluations were sometimes overlooked. Furthermore, in some local districts, there was no evidence in individual children's folders that data had been collected on the children's classroom behavior. BEH has required that these states more thoroughly disseminate information concerning these provisions.

DUE PROCESS PROCEDURES

The due process requirements of P.L. 94-142 are intended to decrease the number of arbitrary decisions and misjudgments in special education placements (§ 121a.500-121a.514). These procedures ensure that the concerns of the parents, the child, and the school are considered before a placement decision is made. One requirement states that parents must be fully informed in their native language of all information relevant to making an evaluation, placement, or programming decision. If the parents and the school disagree about a decision and cannot resolve the disagreement informally, either the parents or the school may request a due process hearing. An impartial third party is then assigned to weigh evidence presented by each side and to make a final determination which must be implemented unless an appeal is filed.

ACCOMPLISHMENTS

The following description of practices illustrates the commitment and progress state and local agencies have made toward implementing due process procedures.

- Since September 1977, 41 states have changed their laws and regulations to meet the P.L. 94-142 requirements, and 4 states are in the process of reviewing their laws. Five states already had comparable provisions in effect.
- During this year's PARs, only 3 out of 16 states were found to have laws and/or regulations which were inconsistent with P.L. 94-142 requirements. BEH has required appropriate changes in these states.

- The number of impartial hearings has increased from 78 during FY 1977 to 177 during FY 1978 in the states visited during this year's PARs. This represents an increase of 129% in the number of formal dispute settlements sought by parents and schools.
- Some states, such as Massachusetts, have created special units to handle the increasing number of impartial hearings.
- Several states, such as Illinois, Indiana, and Louisiana, have conducted state-wide training of hearing officers and school district personnel.
- To meet the P.L. 94-142 requirement that parents be notified in their native language of any change in their child's identification, evaluation, or placement, Delaware, for example, has used migrant workers to serve as interpreters for Hispanic individuals. Also, members of the American Association of University Women at the University of Delaware are available to assist local districts in translating notices into 50 languages.

ISSUES

Although the above description clearly illustrates the effort state and local education agencies are making to guarantee the due process rights of handicapped children, several issues remain.

- Although due process hearings have been held in most states, some states are just beginning to implement this provision of the law. BEH and the Office for Civil Rights are jointly funding a project which is attempting to catalog extant technical

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- assistance materials that can be used to help train hearing officers, parents, school personnel, and advocates to prepare cases, to present them, and to make appropriate decisions.
- Improvement is still needed in notifying parents in their native language of any change in their child's identification, evaluation, or placement. It was determined from the PARs that in most states where there is one predominant foreign language, administrators are able to adequately provide translated notices. However, providing translated notices even in these states becomes difficult when there is a significant number of individuals using a foreign language; school districts do not have a sufficient number of trained personnel to translate large numbers of notices.
 - Although states such as Delaware have suggested ways of handling many different foreign languages in a state, it is still difficult to make such resources available to local districts in geographically large states. More personnel and new ideas for utilizing limited personnel are needed to meet local district needs.
 - Finally, it was found during the PARs that some local districts must improve their procedures for securing parental consent for initial special education evaluation and placement. In many cases, local districts were not aware that consent was required for both actions. In these cases, BEH has required more intensive statewide dissemination of the prior notice requirements.

PARTICIPATION OF PRIVATE SCHOOL CHILDREN

P.L. 94-142 requires that state and local education agencies provide private school handicapped children with an opportunity to participate in special education and related services consistent with the number of those children and their needs (§ 121a.450-121a.460). As used in this instance, private school handicapped children means handicapped children enrolled in private schools or facilities other than those placed or referred by public agencies. The regulations require that the local education agency make special education and related services funded by Part B available to these private school children without taking any responsibility for the cost of the private school placement.

ACCOMPLISHMENTS

- Information gathered during the PARs this year indicates that most state and local education agencies have in place policies and procedures consistent with federal regulations.
- Only 4 local school districts in 2 states were cited during this year's PAR visits for not making special education services available to private school handicapped children.

ISSUES

Although states do have adequate policies in place for assuring the availability of Part B services to private school children, there remains wide variability in the manner in which these policies are implemented.

- Private school officials at the national level, particularly the U.S. Catholic Conference, have stated that in many districts

public schools are not providing needed services to private school students.

- It has been estimated that providing Part B services to all private school handicapped children will increase the number of children receiving services by as much as 200,000 over the next few years.
- Some states have constitutional restrictions on the types of service that public school staff can provide to private school students.

In most states there is much confusion among state and local school personnel as to whether and how services can be provided to nonpublic school students. Some of this confusion may relate to a series of Supreme Court decisions dealing with state aid to private schools. In Meek v. Pittenger in 1975, only loan of textbooks to private schools was permitted, but in Wolman v. Walter, a 1977 case, permissible services were expanded to include certain diagnostic, therapeutic, and other services as long as they were not provided on the private school premises. Just recently, the Supreme Court has agreed to hear yet another case dealing with state aid to nonpublic schools (Committee for Public Education v. Regan). The Supreme Court decision in this case will provide further clarification concerning the breadth of services that can be provided to private school children. In the meantime, BEH is working with the Office of Education General Counsel to develop a policy statement which should dispel much of the confusion concerning OE policies on this issue and which will hopefully result in more consistency of services from district to district as well as from state to state.

STATE EDUCATION AGENCY RESPONSIBILITY FOR ALL PROGRAMS

P.L. 94-142 requires the state education agency to be responsible for, and to provide general supervision of, all educational programs for handicapped children within a state (§ 121a.600). This requirement was intended to assure that in each state there is a central point of responsibility and accountability for the education of handicapped children. Because of state legislative, organizational, and administrative histories, implementing this provision has been a major challenge.

ACCOMPLISHMENTS

The following description of state policies and procedures provides evidence of the efforts states have made to comply with this section of the law.

- Twelve of 16 states monitored by BEH during FY 1979 had adequate state policies concerning state education agency responsibility for all programs, and 10 of these states were effectively implementing these policies.
- Almost all states were meeting this requirement by developing interagency agreements. More than 150 formal interagency agreements have been negotiated by state education agencies in the past 2 years. These agreements vary from short, formal agreements at the agency level to more complete and informal agreements which are specific to particular children at the local level.
- BEH staff observations indicate that factors facilitating interagency cooperation include leadership and commitment, effective communication, legislative support, participatory planning, and

good working relationships at the service delivery level. Linkage committees and funded interagency projects are examples of effective methods used to improve interagency agreements.

ISSUES

The requirement that the state education agency must be the single agent responsible for all programs for handicapped children continues to be one of the most difficult to fully implement. The problems encountered have included legislative prohibitions, administrative jealousies, difficulties in delineating and defining funding and service criteria, and failure to adopt state policy at the local level.

- One of the most serious concerns resulting from the single-agency responsibility requirement of P.L. 94-142 has been the withdrawal of services by other public agencies with the excuse that the state education agency is the responsible agent. For example, Houston, Texas, estimates that \$1 million in new expenditures will be required to provide physical and occupational therapy not only to 1,400 new children but also to 300 children who were previously receiving services from other agencies. In Georgia, centers for the severely retarded were previously funded by the Department of Human Resources under Title XX of the Social Security Act. Since the passage of P.L. 94-142, some regional offices of the Department of Human Resources have insisted that the responsibility for school-age children rests solely with the state education agency, and have refused to provide services for school-age children. This has considerably increased the

fiscal burden for local education agencies. DEH together with the Office for Civil Rights has funded a study by the Council of Chief State Schools Officers to examine this issue and to provide recommendations for resolving it.

COMPREHENSIVE SYSTEM OF PERSONNEL DEVELOPMENT

P.L. 94-142 calls for each state's annual program plan to describe the state's programs and procedures for developing and implementing a comprehensive system of personnel development (CSPD) (§ 121a.380-121a.387). The CSPD planning process is critical for determining personnel needs and ensuring that all personnel are appropriately and adequately trained. The regulations call for the state education agency to ensure broad-based participation of other agencies and institutions in the planning and delivery of statewide preservice and inservice training. Needs assessments are required to determine the number of personnel and the types of training needed. Given that P.L. 94-142 requires all handicapped children to be placed in the least restrictive environment and that 68% of all handicapped children being served are in regular classes, it is critical that inservice and preservice training be provided to regular class teachers. It is also critical that teachers be trained to serve the most severely handicapped children since the law places the highest priority on serving this population and this is a new endeavor for many state and local education agencies.

ACCOMPLISHMENTS

The following information is provided to describe efforts being made across the nation to effect a CSPD planning process and to provide needed inservice and preservice training opportunities.

- In a 1978 study supported by ZEH, Schofer and Duncan found that 42 states had statewide manpower planning committees for special education. This represents an increase of 62% in the number of

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- states with actively functioning committees since a 1976 study.
- The Schofer Duncan study indicated that statewide manpower planning committees have become more broadly based, allowing for wider participation in the development of the state's CSPD plan. The study found that the state planning committees were comprised of the following types of personnel: state education agency personnel, personnel from institutions of higher education, public school personnel, parents of handicapped children, and representatives of the advisory committee on P.L. 94-142. Participation by each of these types of persons has increased an average of 30% since the 1976 study.
 - Inservice training programs for regular educators have increased in number and in the precision of the training delivered. For example, projects funded by the BEH Division of Personnel Preparation (DPP) will provide inservice training to approximately 20,000 more regular education teachers next year than this (approximately 47,000 will be provided training next year compared to 26,700 this year).
 - The National Inservice Network has been instituted to facilitate the successful implementation of 150 inservice projects funded by DPP and to link interested inservice providers, including state education agencies, with projects which meet their needs.
 - Hispanic, Native American, and Black personnel have been trained in greater numbers than ever before. For example, DPP has funded 40 projects to train various personnel to educate bilingual/bi-

cultural handicapped populations. From FY 1979 to FY 1980, there was an increase of 27% in funds awarded for special education and manpower development programs for Native Americans, and a 21% increase in the number of historically Black institutions of higher education awarded grants for special education and manpower development.

ISSUES

States have demonstrated significant advances in personnel training at both the preservice and inservice levels, but problems remain in providing a sufficient number of appropriately and adequately trained personnel to meet the full intent of the law.

- Annual program plans from the states indicate that a lack of inservice training, particularly for teachers of children with low-incidence handicapping conditions, continues to limit the ability of state and local agencies to offer a full continuum of alternatives to all handicapped students, especially in rural areas.
- Data from the Wisconsin APP and a study conducted by the Idaho state education agency indicate an attrition rate among special education personnel in rural areas well in excess of an expected 6% rate. It has yet to be determined whether changes in administrative assignments and procedures could prevent this rapid turnover or whether new recruitment initiatives will be needed to attract new teachers for the handicapped.

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- Certification for special education personnel continues to be a pressing need. Data from the National Center for Education Statistics' Survey of Recent College Graduates in 1975 show that approximately one-third of the teachers employed yearly by local school districts to teach the handicapped have not been trained as special educators.

BEH, in attempting to meet the needs of state and local agencies for qualified personnel, has increased the number of teachers receiving inservice training by approximately 75%. However, the need for inservice training for special education personnel as well as for regular education teachers continues to be critical.

STATE EDUCATION AGENCY MONITORING

P.L. 94-142 requires the state education agency to monitor the implementation of the state plan to ensure that the provisions of the Act are met (§ 121a.601). This requirement is considered integral to the implementation of P.L. 94-142. It is the primary accountability mechanism through which each state education agency ensures that all public agencies within the state are complying with the Act. This requirement has been one of the most difficult for the state education agencies to implement.

ACCOMPLISHMENTS

The following is a description of the momentum states have achieved in exercising an expanding regulatory role.

- Information provided by 40 state education agencies shows that:
 - 45% have increased the number of personnel assigned to monitoring activities.
 - An average of 11 staff members per state education agency spend a significant portion of their time carrying out monitoring duties. The range was from 1 to 40.
 - 38% have increased the number of personnel on a typical site visit. The median number of personnel on a site visit team was between 4 and 5, with a range of from 1 to 30.
 - 48% have monitored more local education agencies this year than last. Almost all of the state education agencies indicated that they visit approximately one-third of their local education agencies annually.

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- 43% monitored a greater number of other public agencies this year than last.
 - 18% monitored more private agencies this year than last.
 - 90% conducted follow-up or corrective action visits in 1978-79, compared to 45% in 1977-78.
 - 100% had monitoring documentation in place in 1978-79, an increase of 33% over 1977-78. In addition, 30% said they had improved or modified their procedures and documentation.
- From the APPs, it was determined that almost all states had established complaint procedures, although the number of complaints reported varied from 0 to over 100. A few states reported using complaints as a factor in selecting sites to be monitored.
 - States reported some negative and mixed effects of monitoring on state/local relationships but the majority of states considered state education agency monitoring to be useful in evaluating the local special education programs, in expanding services to handicapped children, and in facilitating communications between the state and local education agencies.

ISSUES

Though marked changes have occurred in the implementation of state education agency monitoring practices, several issues need to be addressed before this critical accountability mechanism will be fully operational.

- In FY 1978 and FY 1979, most of the states monitored by BEH were cited for noncompliance in monitoring local education agencies

(27 out of 31 states in FY 1978 and 13 out of 16 in FY 1979).

There was, however, a qualitative improvement noted in monitoring procedures and implementation from 1978 to 1979.

- Information received from the states as well as from the PARs indicates that there is a shortage of personnel and other resources needed by the states in order to visit each program every 3 years.
- State and local education agencies report difficulties in separating the monitoring function of the state education agency from the follow-up and technical assistance functions. To improve relationships with local agencies, many states have separate staffs for each of these functions. However, such separation creates additional demands for funds and personnel.
- During the PARs it was found that the monitoring of other public agencies lagged behind the monitoring of local education agencies because of jurisdictional problems and the need for further interagency agreements. The Idaho state law, for example, prohibits one public agency from monitoring another. This problem was being solved by the use of interagency agreements.

REMAINING CHALLENGES

The information contained in this update supports the generalization that our nation's schools have made dramatic progress toward providing a free appropriate public education to all handicapped children. States have clearly adopted policies and procedures which guarantee the rights of handicapped children and make available full educational opportunities. The challenges facing federal, state, and local legislators and administrators as well as parents and advocates stem from the need to move from the adoption and announcement of policies and procedures to the full implementation of these policies and procedures through programmatic practices. These remaining challenges and BEH's planned responses are discussed in this section.

RIGHT TO AN EDUCATION

The Bureau will continue to employ incentives and promote the full utilization of resources toward serving all handicapped children. During the coming year, BEH plans to:

- Provide states with \$17.5 million in preschool Incentive Grants authorized under Section 619 of P.L. 94-142 to stimulate services for preschool handicapped children ages 3 through 5. In addition to their entitlement under Section 611 of Part B states will receive approximately \$80 for each handicapped child aged 3 through 5 reported under P.L. 94-142 to be spent on promoting services for this age group.
- Provide \$20 million to support the development and demonstration of experimental approaches to programming for newborn to 6 year old handicapped children and their families, including:
 - support for state implementation grants to promote statewide planning,
 - support for 3-year demonstration projects,
 - support for 2 technical assistance contractors to help demonstration and outreach projects achieve their goals, and
 - support for outreach projects to disseminate practices of model demonstration programs.
- Provide \$2.4 million in assistance to postsecondary institutions and other appropriate nonprofit education agencies to facilitate accessibility and support service delivery to handicapped persons enrolled in those institutions.

- Provide \$500,000 for model demonstration programs serving handicapped youth 18 through 21 years old.
- Conduct a survey of services currently being provided 18 through 21 year old handicapped youth.
- Conduct a survey to determine why handicapped children leave school and what practices improve school retention.
- Implement an initiative with the Early Periodic Screening and Diagnostic Training (EPSDT) component of the Health Care Financing Administration to improve the delivery of EPSDT services through the schools. It is planned that 10 local education agencies (one in each HEW region) will be certified as providers or referral agencies.
- Develop models in 6 states for collaborative delivery of health/education services. Projects will be jointly funded by BEH and the Public Health Service. Examples of services include rural delivery of health services to schools in Hawaii and coordinated health services provided by the Crippled Children's Bureau in Connecticut.
- Define the relationship of the National Institute of Mental Health (NIMH), including the Community Mental Health Programs, to the Education for All Handicapped Children Act.
- Continue work with Title XX, Administration for Public Services to clarify the relationship of Title XX to the Education for All Handicapped Children Act.
- Continue support of the Direction Service Center Program which

is demonstrating the use of ACTION, Foster Grandparents Volunteers to serve handicapped children in schools.

- With the Office of Education's vocational education programs and the Rehabilitation Services Administration's vocational rehabilitation programs, begin a major initiative to encourage states to review, revise, and/or develop new cooperative agreements.

Although BEH is providing incentives such as state formula grants, demonstration and research grants, and technical assistance, without state mandated legislation the local education agency often assumes the major portion of the cost of educating handicapped children. The challenge remaining is to use federal monies so that they encourage state and local agencies to make the fiscal and programmatic commitments needed to serve all handicapped children.

CHILD IDENTIFICATION, LOCATION, AND EVALUATION

BEH will continue to encourage state and local agencies to make fiscal and programmatic commitments which will increase current efforts to identify, locate, and evaluate all handicapped children. During the coming year BEH plans to:

- Continue the current child serve initiative with state and local administrators, parent and advocate organizations, and professional associations emphasizing the rights of handicapped children and the need to guarantee the provision of full educational

opportunities for all children needing special education and related services.

- Conduct regional technical assistance workshops to disseminate information concerning successful child find practices to state and local agencies.
- Through the 13 regional resource centers, provide technical assistance in child find and evaluation practices to state and local agencies.
- Continue to emphasize the review of child identification, location, and evaluation practices during the analysis of annual program plans and during program administrative reviews.

For the most part, school personnel are no longer faced with the problem of a large number of out-of-school handicapped children. The current challenge is to provide services to children aged 0-2, 3-5, and 18-21; children served by public agencies other than the state education agency such as the Department of Corrections; and handicapped children currently having difficulty in regular classrooms.

INDIVIDUALIZED EDUCATION PROGRAMS

BEH plans to promote the development of procedures and sufficient support structures to assure that parents are able to effectively participate in the development of their child's educational program. BEH will:

- Continue the funding of 5 local parent information centers and a national information clearinghouse which train parents to par-

participate in the development of their child's special education programs.

- Continue the funding of 27 directional centers which assist parents in matching their child's special education needs with available services.
- Begin a training initiative during the coming year to stimulate home/school training programs which will improve the quality of parent participation in the special education pupil planning and programming process.
- Continue stressing parent participation during program administrative reviews to assure that local education agencies exercise maximum efforts to involve parents in the special education planning and programming process.

A concerted effort is needed to develop leadership and continuity in local parent organizations enabling these organizations to more effectively promote parent involvement in the pupil planning and programming process.

LEAST RESTRICTIVE ENVIRONMENT

A major challenge facing BEH is to develop models for meeting the least restrictive environment (LRE) requirements in rural areas. BEH is planning to:

- Fund a study of alternative service delivery options for handicapped children living in rural areas.

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- Develop more refined criteria for assessing compliance with LRE requirements in rural areas.
 - Fund new demonstration projects for service delivery to handicapped children living in rural areas.
 - Provide technical assistance to state and local agencies regarding rural service delivery models through the regional resource center network.

BEH will encourage the development of technology and delivery systems to link rural service providers with the expertise and training often available only in metropolitan centers. Success in promoting full compliance with the LRE requirements is likely to be dependent on the development and establishment of such linkages and the willingness of states to invest in this effort.

PROTECTION IN EVALUATION PROCEDURES

BEH will assist states in reducing the number of children waiting for assessments by designing appraisal management systems capable of meeting the demands of our nation's large city school districts. This coming year BEH will:

- Support the New York City Board of Education in developing pupil assessment and programming procedures to eliminate an evaluation backlog which at one point reached 14,000.
- With the Office for Civil Rights, disseminate the appraisal management system designed by the Boston Public Schools to eliminate evaluation backlogs.

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- Conduct a national survey to describe current assessment procedures and non-discriminatory testing practices as a basis for determining the current state of the art.
 - Analyze current state practices regarding assessment timelines to determine whether regulatory changes specifying a time period for assessment are required.

BEH is optimistic about meeting the challenge of reducing evaluation backlogs. To the extent that the problems can be solved by administrative intervention, the projected activities could significantly reduce the magnitude of this current problem.

DUE PROCESS PROCEDURES

BEH is developing procedures for aiding parents and schools in mediating potential disputes before adversarial relationships develop.

Plans for the coming year include:

- With the Office for Civil Rights, fund a project which will:
 - disseminate information to parents and school personnel concerning successful procedures for home/school communication;
 - improve the knowledge and skills of parents, school personnel, mediators, and hearing officers which are needed for conducting dispute settlements.
- Work cooperatively with the Office of Human Development to inform their Protection and Advocacy Centers about the requirements of P.L. 94-142 and about the types of support the Centers could provide parents to help them protect the rights of their handicapped children.

The challenge facing BEH is to inform the states and parent organizations about exemplary due process practices used in other states which might improve their own practices. Because some states are experiencing due process hearings for the first time, states have markedly different levels of awareness concerning how effective their due process procedures will be in practice.

PARTICIPATION OF PRIVATE SCHOOL CHILDREN

BEH will assist state and local education agencies in developing their ability to meet the special education and related service needs of handicapped children attending private schools. BEH intends to:

- Disseminate a policy paper clarifying federal requirements for providing services to handicapped children in private schools.
- During program administrative reviews, more closely examine the special education and related services provided to children in private schools.

To date, there has not been a large demand for services to handicapped children in private schools. If the demand for services increases, as expected, at a steady but moderate rate, it should be possible for local education agencies to accommodate these new children.

STATE EDUCATION AGENCY RESPONSIBILITY FOR ALL PROGRAMS

BEH will continue to promote the implementation of state level interagency agreements at the local service delivery level. BEH intends to:

- Conduct technical assistance workshops for state and local education agency personnel to disseminate strategies which have been successful in implementing interagency agreements.
- Disseminate the findings of the Chief State School Officer's study analyzing successful strategies for meeting this requirement of P.L. 94-142.

There should be marked progress during the coming year in local interagency cooperation with health, vocational rehabilitation, and vocational education programs given the foundations built during the past year at the state level.

COMPREHENSIVE SYSTEM OF PERSONNEL DEVELOPMENT

BEH will increase its efforts to train personnel for providing special education and related service both to meet the needs of rapidly expanding programs and to increase the number and types of personnel in rural areas. During the coming year, BEH intends to:

- Commit \$26.9 million for inservice training.
- Improve the dissemination and coordination of inservice training materials and formats. This initiative includes providing grants to national teachers associations and technical assistance pro-

viders to work together in developing a national plan for responding to the inservice needs of teachers.

- Use findings from surveys of rural delivery systems to design inservice training materials and alternative procedures for training personnel in rural areas; support the development of inservice training materials specifically designed for inner-city schools.
- Support a technical assistance effort to disseminate to career and vocational education training programs the implications of federal and state interagency agreements between special education, vocational education, and vocational rehabilitation agencies for implementing services at the local level.
- Promote the involvement of parents and other community members in the education process by disseminating results of a model program developed during the past year.
- Establish stronger criteria for reviewing new and continuation personnel preparation grants in order to assure that the grantee is addressing major personnel needs within the state. This greater emphasis on CSPD plans will help target dollars to areas of greatest need.

The rapid growth of special education programs, high teacher attrition rates, and the large number of untrained teachers currently providing special education, coupled with the complexity of the issues in making trained personnel available in rural areas, indicates a slow but steady progress in personnel development. The improvement of CSPD

efforts provides an increasingly strong mechanism for targeting and prioritizing federal dollars to meet the most pressing personnel needs in a more localized and therefore more relevant manner.

STATE EDUCATION AGENCY MONITORING

BEH will continue to assist state education agencies in developing monitoring procedures which will ensure that all other public agencies are complying with the requirements of P.L. 94-142. During the coming year BEH will:

- Place increased emphasis during PARs on state education agency monitoring of other public and private agencies.
- Develop technical assistance material describing successful monitoring practices which include review of other public agency programs.
- Through the regional resource centers, provide technical assistance to state education agencies regarding monitoring of other public agencies.

BEH efforts to date have focused attention on developing interagency agreements as a prerequisite to state education agency monitoring of other public agencies. These agreements have been developed in most states. Though some agreements are still needed, the remaining challenge is to develop the abilities of state education agencies to fully monitor other public agencies.

BEH ADMINISTRATION OF P.L. 94-142

Based upon 3 years of experience in administering P.L. 94-142 BEH plans to initiate several management changes during the next year. The purposes of these changes are to (1) minimize the paper burden on state and local education agencies; (2) increase the precision and effectiveness of BEH monitoring activities, (3) improve federal responsiveness to state and local needs and complaints, and (4) increase federal coordination of services to handicapped children and their families.

The primary mechanisms for administering P.L. 94-142 as explained in the Preface of this report include annual program plans, program administrative reviews, and a complaint management system. BEH plans to make improvements in each of these administrative procedures during the coming year. In addition, BEH will continue to improve federal coordination of programs to achieve the maximum efficiency of federal resources.

ANNUAL PROGRAM PLANS

Consistent with amendments made to the General Education Provisions Act included in the Education Amendments of 1978 (P.L. 95-561) and BEH's efforts to minimize the amount of paperwork for state and local education agencies, the annual program plan will be changed to a 3-year application with annual updates. This not only will reduce administrative overhead at the state and local levels but also will permit federal employees to spend less time examining written assurances and more time overseeing the actual implementation of programs. Thus, in the spring of 1980, states will for the first time submit 3-year applications for their FY '81 monies.

PROGRAM ADMINISTRATIVE REVIEWS

The Bureau, in an attempt to increase the precision and effectiveness of its monitoring activities, plans to strengthen several components of the process. During the coming year increased effort will be made to use statistical data reported by state and local education agencies to screen and pinpoint both topics and programs that should be more carefully examined during program administrative reviews.

In addition, the Bureau intends to increase on-site verification visits to assure that required corrective actions have been taken. Now that the law requires states to have fully converted their legislative and administrative policies into procedural and programmatic practices, states will need more than written evidence to assure BEH that corrective actions have been implemented. Consequently, BEH anticipates increasing

its on-site verification visits fourfold in order to assure full compliance with the P.L. 94-142 mandates.

COMPLAINT MANAGEMENT SYSTEM

In an attempt to increase the efficiency of the complaint management system, BEH will train HEW regional office staff members to work with their respective state education agencies to resolve parent complaints.

INTERAGENCY COORDINATION

The January 1979 report to Congress described BEH's initiative to resolve apparently conflicting statutory requirements among federal agencies which serve the handicapped and to coordinate the delivery of services and program funds. Since that report, several new agreements have been reached.

- The Health Care Financing Administration and the Office of Education developed an agreement which has clarified issues concerning coverage of habilitation versus educational and related services in institutions for the mentally retarded.
- The Rehabilitation Services Administration, the Bureau of Occupational and Adult Education, and the Bureau of Education for the Handicapped have further clarified the federal policy in respect to collaborative planning for delivery of special education and vocational rehabilitation services. In addition the three agencies have disseminated a process model to their respective

state agencies for developing and implementing such planning agreements.

- During the coming year, in addition to the interagency initiatives directed at state and local agencies described above, BEH will sign a memorandum of agreement with the Office for Civil Rights (OCR). This agreement between OCR and BEH provides for coordination of federal activities related to the implementation of Section 504 of the Vocational Rehabilitation Act of 1973 and P.L. 94-142. The agreement will include understandings related to coordinating policy development and clarification, complaint resolution, compliance reviews, data collection and technical assistance activities. It is anticipated that the coordination of these two agencies will strengthen the federal role in guaranteeing the rights of handicapped individuals and the provision of full educational opportunities by our nation's schools.

Finally, BEH plans to conduct several national input forums in a continuing effort to provide state and local legislators, administrators, professional associations, consumers, and advocates with an opportunity to shape future federal policy and practices related to the education of handicapped children. The coming year presents BEH with its greatest challenges as 1980 marks the date for full implementation of all requirements of P.L. 94-142.

APPENDIX A

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