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ABSTRACT

This transcript of a hearing on the reauthorization of the Individuals with Disabilities Education Act includes statements by representatives of Hofstra University (New York), Advocates for Children (New York), Self-Initiated Living Options (New York), the National Center on Educational Restructuring and Inclusion (New York), National Center on Education and Economy (District of Columbia), the National Family for the Advancement of Minorities with Disabilities (Michigan), and Education and Human Services Research of SRI International (California), along with statements of two Congressional Representatives (Major R. Owens and Cass Ballenger). Among issues addressed in the testimony are needs of the birth to age 5 population, over-representation of minorities in special education, postschool outcomes for special education students, arguments for and against full inclusion, the importance of individualization, and school-to-work transition. Additional prepared materials address these issues in more detail. (DB)

HEARING ON THE REAUTHORIZATION OF THE INDIVIDUALS WITH DISABILITIES ACT (IDEA)

HEARING

BEFORE THE

SUBCOMMITTEE ON SELECT EDUCATION AND CIVIL RIGHTS

OF THE

COMMITTEE ON EDUCATION AND LABOR HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRD CONGRESS

SECOND SESSION

HEARING HELD IN WASHINGTON, DC, MARCH 10, 1994

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HEARING ON THE REAUTHORIZATION OF THE INDIVIDUALS WITH DISABILITIES ACT (IDEA)

THURSDAY, MARCH 10, 1994

House of Representatives,
Subcommittee on Select Education
and Civil Rights,
Committee on Education and Labor,
Washington, DC.

The subcommittee met, pursuant to notice, at 10 a.m., Room 2261, Rayburn House Office Building, Hon. Major Owens, Chairman, presiding.

Members present: Representatives Owens, Scott, and Ballenger.

Staff present: Maria Cuprill, John McClain, Braden Goetz, Wanser Green, Morris Turner, Sally Lovejoy, Hans Meeder, and Chris Krese.

Chairman Owens. The hearing on the Subcommittee on Select Education and Civil Rights is now in session.

Every day, 5 million children attend special education programs which are often critically short of qualified teachers and support staff. As a result, we have failed to provide a quality education for this most vulnerable population of school children.

We have failed them when 50 percent drop out of high school; we have failed them when 84 percent with multiple disabilities and 75 percent of youth who are deaf, remain unemployed.

We have failed them when most who are employed earn less than $10,000 per year. We have failed them when less than 20 percent are fully engaged in community life. Judging from these dismal statistics, we must firmly conclude that we are facing a crisis in special education.

This crisis is further exacerbated by the overrepresentation of minority students in special education programs and highly restrictive special education placements. In 1990, as this subcommittee reauthorized IDEA, it found that "poor African-American children are 3.5 times more likely to be identified by their teacher as mentally retarded than their white counterparts."

African-American males, already endangered by an indifferent and hostile society, continue to be placed in special education programs, where they receive little or no preparation for a meaningful life as an adult.

In my own State of New York, although African-American students constitute only 19.8 percent of the general education population, they represent 34.1 percent of the segregated special education population. It is the intention of this subcommittee to stop school systems from using special education as a dumping ground for children they choose not to teach.

I would argue that children with disabilities in special education are seen as disposable and unimportant to the welfare of our society. They are not part of any equation which values their participation in the new global economy.

Hence, if we are to seriously consider their participation in our society, we must develop and adopt standards of excellence which embrace all of our children. Only then will we ensure that educational systems become accountable to them and their parents.

If we are to resolve the crisis in special education, we must hold educators accountable at Federal, State, and community levels to fulfill the goals of national school reform for all children.

We must endeavor to improve the quality of classroom teaching, increase the availability and quality of related services and instructional materials, and expand the continuum of special education services.

To do less is to fail the 5 million school children with disabilities, and ultimately, to fail the Nation at-large.

[The prepared statement of Hon. Major R. Owens follows:]

STATEMENT OF HON. MAJOR R. OWENS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Every day, 5 million children attend special education programs which are often critically short of qualified teachers and support staff. As a result, we have failed to provide a quality education for this most vulnerable population of school children. We have failed them when 50 percent drop out of high school; we have failed them when 84 percent with multiple disabilities and 75 percent of youth who are deaf, remain unemployed; we have failed them when most who are employed earn less than $10,000 per year; we have failed them when less than 20 percent are fully engaged in community life. Judging from these dismal statistics, we must firmly conclude that we are facing a crisis in special education.

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Chairman OWENS. I yield to Mr. Scott for an opening statement.

Mr. SCOTT. Thank you, Mr. Chairman.

It is a pleasure for me to join you this morning in an overview of the IDEA program.

IDEA is a vitally important program for my constituents, and also for the country as a whole to ensure that children and youth with disabilities receive the support that they need to fully develop to their potential to thrive in our educational system.

As we move forward on the reauthorization of the Elementary and Secondary Education Act, we must be mindful of the need to educate all of our children. We cannot afford to allow one child to go lacking.

Over the past few years, we have watched America slip behind in the world marketplace. Mr. Chairman, I share your commitment to ensuring that all of our citizens become contributors to the global economy and to America's competitiveness.

I commend you for your strong leadership in ensuring that this important program continues. Under your leadership, funding of the Infant and Toddlers Program has been increased by more than 300 percent, even after adjusting for inflation.

Increasingly, research is confirming the importance of focusing on the educational and developmental needs of our children as critical for preparing them to face life's challenges.

I look forward to hearing the testimony of the witnesses today and in subsequent hearings, as we move through the process of reauthorizing this fine program.

Mr. Chairman, you are aware that we have a full committee meeting going on, doing OSHA at this time, so I may be going in and out. But it is a pleasure to join you this morning.

Chairman Owens. Thank you, very much, Mr. Scott.I21I want all the witnesses to understand that we are into a hectic session this year. From now on, it is going to be quite hectic, and we would like your indulgence on any recesses we have to hold in order to accommodate some quorum calls on other committees, as well as some pending votes.

This is the first of a series of hearings on the reauthorization of the Individuals with Disabilities Education Act. I am pleased to note that we have invited to this first hearing some of our old friends and superstars.

I would like to begin with the first panel, consisting of Dr. Frank G. Bowe, Professor at Hofstra University, Hempstead, New York; John Sanford, Esquire, Chairperson of the National Family for the Advancement of Minorities with Disabilities, Lansing, Michigan; Dr. Mary Wagner, Program Manager, Education and Human Services Research, SRI International, Menlo Park, California.

Welcome. Your entire written testimony, of course, will be entered into the record.

You may proceed, Dr. Bowe.

STATEMENT OF FRANK G. BOWE, PROFESSOR, HOFSTRA UNIVERSITY, HEMPSTEAD, NEW YORK; JOHN SANFORD, ESQUIRE, CHAIRPERSON, NATIONAL FAMILY FOR THE ADVANCEMENT OF MINORITIES WITH DISABILITIES, LANSING, MICHIGAN; AND DR. MARY WAGNER, EDUCATION AND HUMAN SERVICES RESEARCH, SIR INTERNATIONAL, MENLO PARK, CALIFORNIA

Mr. BOWE. Mr. Chairman, thank you, sir.

Mr. Chairman, it's good to see you again. It's good to be back here. I think I most recently saw you at the Hofstra Law School.

I thought you might like to know that a friend of this committee, Mr. Greg Laua, the President of the Student Body Government at Gallaudet University during the Deaf President Now movement, will receive his law degree from Hofstra Law School.

Chairman OWENS. That is good news. That's great.

Mr. BOWE. Mr. Chairman, I have been asked to talk about three things, and I will. And, of course, I will answer any other questions that you may have.

I have been asked first to talk about how many young children, birth to five, inclusive, have disabilities, and how large you can expect that population to grow.

Second, I have been asked to talk about over-referral of minorities, K to 12, especially. And third, I have been asked to talk about the outcomes of special education, and what happens to adults with disabilities, after they leave school.

May I ask if you can't hear me and understand me, it's okay to let me know.

Let me begin on the birth to five population. The Department of Education is asking the States right now very few questions about the children, birth to age five, inclusive. And so we know very little about them.

The Department asks how many there are and their ages, but does not ask what kinds of disabilities they have, or whether they have developmental delays; whether they are at risk. It does not ask if they are white or black or other minorities. It does not ask if they are boys or girls, or about their socioeconomic status.

When I tried to put this together for a book I was doing on birth to five, I had to go back to the Census Bureau, where I've worked for many years, and look with them at another study they did, the same school years of 1991 and 1992.

They did a completely independent study, asking parents who had children under six about disabilities, about their conditions, about their socio-economic status, where the family lived, questions about race, ethnic group status. And that was extremely helpful.

The parents reported a total of 850,000 children under age six, as of January, 1992, having conditions resulting from health impairments, or what we call disabilities. That's far more than there were under preschool prior to that.

So we know that as of 1991, 1992, that school year, the population was far larger than was being served. That continues to be true today. My estimate is that the population potentially eligible for part aid in preschool could easily exceed one million children within the next five years.

Chairman OWENS. A million?

Mr. BOWE. One million children, right.

That is within five years, so there is substantial growth possibility remaining.

But that nowhere near reaches the potential population. There is considerable growth remaining. In fact, they are not even serving half of those who actually have a disability, let alone the children with delay, the children at-risk, which they are also allowed to serve.

So, therefore, I would very strongly urge the subcommittee to continue funding on the population basis that you are now funding, and continue very strongly urging the States to conduct a vigorous outreach for children, parent education, those kinds of efforts, to find those children in the population, and to serve them.

The parents have a tremendous need, particularly ethnic minority children for information about normal child development, so they understand when there is a potential problem, about the rights they have under this law, the services that are available, and also I think the absolutely tremendous effect that early stimulation and proper nutrition can make in preventing disabilities, and in helping children develop in those first six years of life.

The data that I did for the Census Bureau was very striking in socio-economic development and socio-economic status of the families. Three hundred thousand out of those 850,000 children were living in poverty. So there is absolutely no question that the low cost or no cost basis for Part H must be maintained. It is essential to the integrity of the program.

I'm turning now, with your permission, sir, to over-representation, kindergarten to 12th grade. There are a number of factors that we need to think about when we look at the over-representation of minorities in special education; also referred to as the over-referral of minorities from special to general education.

Mr. Chairman, you are very aware that disabilities are more common among minority group members than among whites and middle class families, so there is a larger number of children. We are not dealing simply with over-referral. There is actually a larger amount of disability in the population.

Having said that, over-referral is occurring and is continuing. There seem to be a number of factors involved. I think first, the amount of immigration into this country is absolutely so remarkable, and it is confronting schools in such dimensions that this is a very big part of the problem that we are dealing with.

We have on Long Island, for example, schools districts that were out of compliance with this law because they had young children coming from immigrant families. The families spoke different languages. The families came from other cultures, with other behavior patterns accepted as normal. Their children showed up at the public schools.

And you had white, middle-class teachers considering both the language and the cultural behavior to be different. Their response was to refer the children out into special education.

That was the wrong response, and they were out of compliance with the law. They were told to take some very simple steps that the Department of Education was already recommending. In one instance, they should simply ask the family what languages are spoken at home, how long the family has been in this country, simple questions like that.

That information would help them to see very quickly that what we are dealing with here is the problem of limited English proficiency. It's a problem of English as a second language. It is not a problem that the child has a disability.

Now this is not new; it's not striking. But it's a good case of information that the Department of Education has gotten, in its regulations, but there remains a tremendous need for them to communicate that to the schools, and for the schools to hear them.

We also have a continuing problem with culture-free testing. It's simply more of an ideal than a reality. Even after 20 years of trying to find culture-free testing, it remains a problem, and it will remain a problem.

I would be very careful, however, before I concluded that over-referral is a question of racial discrimination. I don't think the evidence supports that at this point.

Is there discrimination? Yes, there is. Is that the principal problem we're dealing with here? No, I don't think so.

I think we have to continue trying very hard to help teachers and administrators understand what steps they should be taking to deal with both bias in testing and with language and cultural problems in the family.

I think cultural sensitivity training or behavior training for teachers, so that they do not impose their own values on the children in the family, is going to be extremely important in restructuring this over-referral problem.

Third, I have been asked to talk about outcomes. What happens to people after they leave school? The picture is very grim.

We have something on the order of 30 percent of adults with a disability working. We have 77-some odd percent not working. Among black and Spanish, almost half are on some kind of government assistance—supplemental security income, social security, disability insurance, Medicaid, Medicare. No one among us can decide what's right about this.

When I was a very young man, my father, who was a manager at a plant, said to me, "If you want to see something change, measure it."

That's what we are seeing here. The Department of Education has been measuring the process of special education. It has been measuring whether the State agencies go through the process. It has been measuring whether the local school agencies go through the process, or whether the IAP processes are followed—the process of where children are educated.

The process has been measured, but the product is not being measured.

You do not see reports coming out of the Department on how children are doing in math; if you are studying science, how they are developing new achievement tests. You do not see reports coming out of the Department on how many go to college, how many work.

Product is not being measured. And, the States and the local school districts know this. So they focus on education.

We have had an entire national uproar since 1984, with quality in education, and State after State has passed new education laws. This Congress is moving towards Goals 2000; all of this reform process.

The State attitude on special education seems to be: "We are obeying Federal mandates. We are following the process we are told to follow; and, therefore, we are not going to reform special education; we are not going to change it.

This is the mandate laid down on us by Washington. We're obeying it." And that's why if you look at State reform—I have looked at General Education—they have not even tried to reform special education.

Achievement tests must be done, and must be reported. You must not allow the local districts to give achievement tests only to children without disabilities.

Children who have disabilities must be tested on achievement, along with all other children. The data must be recorded on all children in the school district. That is the only way you are going to get schools focusing on achievement.

I think the end reports coming out of the Department should talk about achievement, by subject manner, by disability categories, by any other relevant measure, so that the measures get sent, which my father talked about. We're measuring that, and we expect it to change.

We cannot just measure process. We must measure product. We have not been doing so. But we must do one other thing, Mr. Chairman. And you know that, because this subcommittee also authorizes the rehabilitation, and you may enter the Disabilities Act.

We have changed this country over the last 20 years. This is a different country than the one I grew up in. It's a far better country, a far more open country, a far more accessible country. Every time I come to this building, in every office I go into, the first thing that catches my eye is the TV set. Everywhere, in every office, where staff members are on the phone, the TV is tuned to C-Span. It is showing activity on the House floor.

Captions—every office is captioned. That way, they can talk on the phone, and they can pay attention to the action on the floor at the same time.

When we did the Captioning Bill, we never sought to help the work of the congressional staff members in the Rayburn House Office Building. But my point is that we have changed this country. In that way and many other ways, it's accessible now.

We have teachers, we have counselors, we have pianists. We shield them from the school, acting as if none of this is happening. We've got to change that.

Thank you, sir.

[The prepared statement of Frank G. Bowe follows:]

HOFSTRA UNIVERSITY HEMPSTEAD, NEW YORK 11550-1090

Testimony before the
Subcommittee on Select Education and Civil Rights
Committee on Education and Labor
U.S. House of Representatives
2261 Rayburn House Office Building
March 10, 1994

Frank G. Bowe, Ph.D.
Professor, Hofstra University
Department of Counseling, Research,
Special Education and Rehabilitation
124 Hofstra University
Hempstead, NY 11550-1090

Good morning, and thank you, Mr. Chairman. It is a pleasure to testify again before this Subcommittee, as I have been doing now for 18 years. As you begin the process of reauthorizing the Individuals with Disabilities Education Act (IDEA), you have some questions, I understand, and I have been asked to address those.

First, no one really knows how many birth-to-five-inclusive infants, toddlers, and preschool-age children have disabilities and potentially are eligible for Part H and preschool Part B services. The information reported by the States and other jurisdictions to the U.S. Department of Education has been very limited. Among other things, the States are required neither to collect nor to report data on socioeconomic status (SES), racial or ethnic minority status, kinds of limitations or needs of young children. I have recently developed some data based on U.S. Bureau of the Census studies that may be of assistance to you.

Second, in the elementary and secondary school population, long-standing concerns about over-representation of members of ethnic and racial minority groups in special education programs continue despite the efforts made by this Subcommittee over the years to focus higher-priority attention on resolving such concerns.

Third, unacceptably large numbers of young people who both are members of ethnic or racial minority groups and are individuals with disabilities are out of the labor force, neither working nor actively seeking employment. Large proportions are on federal-state subsidy programs such as Supplemental Security Income (SSI). Of those who are in the labor force, substantial percentages are unemployed.

I will address each issue in turn.

DEMOGRAPHICS: BIRTH TO FIVE

First, how many children under age six potentially are eligible for IDEA services -- and what kinds of children are these, from what kinds of families? I was frustrated by my inability to answer these questions. I needed to know, for I was writing Birth to Five: Early Childhood Special Education, a textbook that Delmar Publishers will release early in 1995. Fortunately, the U.S. Bureau of the Census conducted a Survey of Income and Program Participation (SIPP) in late 1991 and early 1992 which answers many of my questions. A report of the survey was released in January 1994 (McNeil, J. *Americans with disabilities: 1991-1992. Data from the Survey of Income and Program Participation.* Current Population Reports, P70-33. Washington, DC: U.S. Department of Commerce, Bureau of the Census). Working with the report's author, John McNeil, I analyzed and interpreted data on birth-to-five-inclusive children with disabilities. What most pleased me is that the SIPP gathered information for the same school year (1991-1992) as it reported upon by the U.S. Department of Education's recently released Fifteenth Annual Report to Congress on Implementation of the Individuals with Disabilities Education Act hereafter, Fifteenth Annual Report). Thus, the Census Bureau's data offer us an independent source of information about young children with disabilities.

Mr. McNeil's report provides a full explanation of the SIPP methodology. Suffice it to say here that a random sample of families having children under age six was asked:

> 21a. Because of a physical, learning, or mental health condition, do any of . . .'s children under 6 years of age have any limitations at all in the usual kind of activities done by most children their age?

Follow-up question 21b asked which child(ren) had such limitations. Parents reporting one or more limitations were asked to choose from a list of conditions as the cause(s) of the children's limitations; they could report up to three.

> 22a. Have any of . . .'s children under the age of 6 received therapy or diagnostic services designed to meet their developmental needs?

Follow-up question 22b asked which child(ren) received services.

The SIPP was a self-report survey in which parents answered questions about their under-six children. The Census Bureau did not try to verify parent reports about childrens' disabilities. The SIPP had a smaller sample size (N = 30,000 households) than many Census efforts, which affects the stability of some cross-tabulations. The Census interviewers did, however, ask questions about race and ethnic group status, SES, rural v. urban residence, and related issues. In view of this Subcommittee's work in 1990 to emphasize those demographic factors, I thought these data would be of interest to the Subcommittee.

The Census Bureau estimated that 851,000 under-six children had "limitations . . .[due to] a physical, learning, or mental health condition." Of them, 254,000 were under 3 years of age (30%) and 597,000 were 3-5 years of age inclusive (70%). The infants and toddlers represented 2.2% of all birth-two inclusive children, the preschoolers 5.2% of all three-five year-olds. These numbers offer a possible universe of young children potentially eligible for services under the IDEA. Comparing them to the numbers in the *Fifteenth Annual Report*:

Table 1. Number of Under-six Children Reported to Have Disabilities (Census Bureau, SIPP Study) v. Number of Under-six Children Reported to Have Been Served under the IDEA and/or PL 89-313. School Year 1991-1992.

	Census Bureau	Fifteenth Annual
Total 0-2	254,000	171,000
% of all 0-2	2.2%	1.4%
Total 3-5	597,000	421,000
	5.2%	3.8%
Total Under 6	851,000	592,000

Sources: McNeil (1993), U.S. Department of Education (1993)

Table 1 shows that States were serving only some under-six children as of 1991-1992. In fact, the picture is even darker than is suggested there:

[1] The Census Bureau asked about limitations coming from medical conditions (e.g., disabilities); the States, however, may include in their numbers not only children with "established conditions" but also children with "developmental delays" and children who are "at risk" of such delays.

[2] The Department has warned (1992, 1993), and I agree, that State data on birth-to-two-inclusive children very probably are inflated (e.g., include duplications). Given that fact, the 171,000 total in the *Fifteenth Annual Report* is too high, as is the 1.4% proportion of resident birth-to-two-inclusive population.

Policy Recommendation: There is no need at this time to alter the funding formula under Part H. States are serving about 1% of birth-to-two-inclusive children, fewer than half the target population (2.2%). While I support services to at-risk children, my primary concern now is that young children with disabling conditions receive needed services. That will be more likely if the formula continues to award monies to States and other jurisdictions based on resident population than if the formula is changed to one awarding monies based on the number of children served.

Number Served

Now, let us look again at the Census Bureau's findings on under-six children. According to the SIPP, 72% of all infants and toddlers, and 83% of all preschoolers, with disabilities received "therapy or diagnostic services designed to meet their developmental needs." A total of 681,000 (of 851,000) under-six children received developmental services in 1991-1992. Table 2. below, compares the number-served data from both reports. Notice that more young children with disabilities received developmental services, from all sources, for their special needs in 1991-1992 than the States reported serving under the IDEA and Chapter 1/PL 89-313, the state-operated program that since has been folded into the IDEA. The data suggest that many thousands of young children were receiving services outside of the IDEA framework -- private services, not part of an IFSP or IEP. This implies that many parents remained unaware that such services were available to them, free or at very low cost, under Federal and State law.

Table 2. Number of Under-six Children Reported to Receive Disability-related Developmental Services From Any Source (Census Bureau, SIPP Study) v. Number of Under-six Children Reported to Receive Services under the IDEA and/or PL 89-313.
School Year 1991-1992.

	Census Bureau	Fifteenth Annual
Total 0-2	183,000	171,000
% of all 0-2	1.6%	1.4%
Total 3-5	498,000	421,000
	4.3%	3.8%
Total Under 6	681,000	592,000

Sources: McNeil (1993), U.S. Department of Education (1993)

Policy Recommendation: The child-find and other outreach and recruitment authorities in Parts B and H, and the discretionary efforts in Parts C and D very much need to be continued, and strengthened. The Early Education Program for Children with Disabilities (EEPCD) in section 623 of Part C, and the parent outreach programs in section 631 of Part D are particularly important.

Minority-Group-Members Served

In compliance with current law, States report to the U.S. Department of Education on an annual basis about the number of birth-two, and three-five, children served. The Department requires -- so the States supply -- very little additional information about the children. For these reasons, the Department's reports to date have contained few demographic details about under-six children.

Fortunately, the 1991-1992 SIPP asked questions about race (white, not of Hispanic origin; African American; American Indian, Eskimo, or Aleut; Asian or Pacific Islander) and about Hispanic origin. Persons of Hispanic origin may be of any race. In addition, questions directed at SES also were asked, including "tenure of housing unit" (owned or rental), residence (central city, metropolitan but not central city, rural), and health insurance (private, Medicare, Medicaid). Family income from all sources (earned and unearned) was expressed in terms of a "low income threshold" similar to the poverty level but expressed in terms of monthly income because data were collected in October, November and December of 1991 and in January of 1992. The low-income threshold at that time was approximately $14,000 per year for a family of four with two children.

The SIPP found that disability was reported among birth-two year-olds at a 2.15% rate among whites, a 2.48% rate among African Americans, and a 1.18% rate among persons of Hispanic origin (who may be of any race). Looking at three-five year-olds, the rates were, respectively: 5.45% (whites), 4.24% (African American), and 2.53% (Hispanic Americans). The relatively low rates among three-five year-old African Americans affected the overall under-six rates. Among Whites, 3.78% of birth-five year-olds are disabled, somewhat more than the 3.38% of African Americans in that age range. The 1.85% rate among Hispanic American birth-five year-olds is lower than either.

In my analyses of U.S. Census Bureau data on disability since 1970 (e.g., Bowe, 1985a,b), I have consistently found that disability is more common among African Americans than among persons of any other race. We now know that the same is true among birth-to-two-inclusive children. I suspect that the data on 3-5 year-olds are a reflection of the need for much greater outreach and recruitment among African American families. The relatively lower proportion of 3-5 year-olds who are African

American, that is, probably is a reflection of the relative difficulty African American families encounter in seeking and obtaining services. It is also possible that some African American children who had mild or moderate limitations were not identified as being disabled before entering school, perhaps because of inadequate parental information about developmental standards or perhaps because of relative difficulty in accessing medical care as compared to whites. (With respect to infants and toddlers, these problems may be less severe due to the fact that birth-two-inclusive children identified as having disabilities tend to be severely impaired.)

Figure 1 illustrates the racial group breakdown of children under age six in the Census Bureau's SIPP study. Of those children having a disability, almost 15% were African American. A much smaller, but rapidly growing 2% were Asian American. Persons of Hispanic origin may be of any race, so the figure does not break out their proportions in the under-six population of children with disabilities.

<u>Policy Recommendation</u>: The SIPP data strongly suggest that outreach to ethnic and racial minority group families, especially lower-SES families, is still urgently needed. To illustrate, in Chicago the Early Childhood Research and Intervention Program did not get many referrals from such families until it launched intensive outreach efforts designed to meet family needs (Brinker, Frazier, & Baxter, 1992). The new data also suggest that early intervention and preschool special education programs act to train program staff members and volunteers in diversity and in culturally sensitive behavior.

<u>Socioeconomic Status (SES)</u>

Of the 851,000 under-six children with disabilities, half (50%) lived in families with incomes under <u>or</u> near low-income thresholds. Using the Census Bureau's low-income threshold for a family of four with two children during the reference period (October 1991-January 1992), 35% of the birth-five children with disabilities had family incomes <u>under</u> the low-income threshold, and another 15% had family incomes <u>just over</u> it, that is, between 1.00 and 1.49 of that threshold, or up to $21,000 for a family of four. (The ratio 1.00 represented about $14,000; 1.49 was $21,000; 2.00 was $28,000; etc.) Families having young children with disabilities were more likely than were other families of young children to live in rental housing (52% v. 48%), to live in rural areas (29% v. 23%), and to receive government housing assistance (14% v. 8%). Figure 2 illustrates the SIPP findings on SES. In the figure, "Level 1" means family income at or below the low-income threshold; "Level 2" means incomes 1.0 to 1.49 of that threshold; "Level 3" means incomes 1.5 to 1.99 of the threshold, etc. A remarkable 300,000 of the 851,000 children identified as having disabilities lived in families having incomes under the threshold.

Policy Recommendation: It is urgent that the Part H and preschool Part B language on free (or at least low-cost) services both for families and for young children with disabilities be retained. Clearly, the population of young children and their families is largely one that is in need of such public assistance. The SIPP data suggest that tens of thousands of children with special needs were not served in 1991-1992. Most likely to be unserved or underserved were children from low-SES and/or minority families.

OVER-REFERRAL? SCHOOL-AGE CHILDREN AND YOUTH.

The 1991-1992 SIPP study by the U.S. Bureau of the Census found, as I have for many years, that disability is relatively more common among African Americans than among whites and that the rate among whites is, in turn, higher than that among persons of Hispanic origin (who may be of any race). I have long believed that these higher disability rates among African Americans reflect their relative SES, the difficulty they often encounter in accessing health care, and the relative under-education of African American heads of household as compared to white heads of household in general. Much disability results from illness or accidents, particularly when treatment is not effected immediately. As a general rule, African American families, especially those living in rural or inner-city neighborhoods, experience more difficulty than do middle-class families, many of whom are white, in accessing timely and high-quality medical care. It is important when we examine the prevalence of African American children and youth in special education not to make the assumption -- which many do -- that such over-representation is solely a function of over-referral into special education. There appears to be in fact a somewhat larger number of persons with disability, per capita, in the African American population than among whites or persons of Hispanic origin.

Having said that, the problem of over-referral remains a valid and important problem. The Fourteenth Annual Report from the Department, issued in 1992, includes data on race and ethnic origin developed by SRI in its longitudinal study for the Department. Let me say now that were it not for the work of Dr. Wagner and her colleagues at SRI, we would not know as much as we now do about the interactions between race and ethnic group status, on the one hand, and special education for adolescents, on the other. That is because the Department does not require States to report regularly on the ethnic and racial minority group membership of students served in special education. The SRI study suggested that some 30% of all 13-21 year-olds with the labels "mental retardation" and "serious emotional disturbance" were African-American. Such rates are so far out of proportion to what we would expect based on the population at large that we know that something other than race, ethnic group membership, and SES must be involved.

One reason for very high numbers of minority students in special education is immigration. As ever-greater numbers of persons immigrate into the United States, the public schools are confronting large numbers of children (and their parents) for whom English is not a first language and for whom what might be called middle-American values are not traditional values. In a distressing number of instances, teachers respond to these linguistic and behavior differences by referring children to special education. I have found this to be particularly true in States which provide far more State financial aid for special education than for English as a Second Language (ESL) or English for Speakers of Other Languages (ESOL) programs.

The SRI data reported in the Fourteenth Annual Report include figures showing that as many as 13% of all children with the label "speech or language impairments" were from Hispanic families and that a remarkable 26% of all children with the label "other health impairments" were children of Hispanic origin. Given that persons of Hispanic origin comprise just 10% of all Americans, and -- due to the relatively lower prevalence of disability in this group -- merely 6.8% of all Americans reported to have disabilities, according to the 1991-1992 SIPP study, such proportions are very high.

The problem of valid and reliable assessment and evaluation instrumentation which also is culturally unbiased also remains with us. Psychometricians have known for at least two decades that many tests are unfair when given to members of ethnic and/or racial minority groups. Despite many attempts over the years to develop culture-fair tests, the goal remains largely elusive.

Policy Recommendation: I believe the Subcommittee is well-advised to allow additional time for the priorities established at its behest in the 1990 legislation to take effect. The Department may be authorized to take additional steps through communication with SEAs and LEAs, policy letters, and the rule making process. In particular, States would benefit from Departmental guidance on how to classify (and thus instruct) children who have non-traditional linguistic and/or cultural characteristics. In New York, some school districts report difficulty in deciding when a child is in need of ESL/ESOL programming and when the child is, instead, learning disabled. Guidance already exists which could resolve many of these problems. For example, in Huntington, New York, steps as simple as asking parents what language(s) is/are spoken at home, and how long the family has lived in the United States, proved to be very helpful in reducing over-referral of persons of Hispanic origin to special education. With immigration rates continuing to be very high, SEAs and LEAs need Departmental guidance on when to consider children from immigrant families as eligible for special education services rather than Limited English Proficiency program services.

Certainly, the Department should emphasize preparation of bilingual special education and related services personnel. The field desperately needs bilingual professionals and paraprofessionals.

The Subcommittee may wish to consider telling the Department to collect information about race, ethnic status, and SES on children being served. As a university professor and as a researcher, I would like to know this kind of information on children of all ages, from birth through age 21. I am, however, sensitive to the fact that the States already feel burdened by the Department's data collection and reporting requirements. I am also aware that there are such significant data collection and reporting problems in LEAs and SEAs already, without adding new requirements, that the data the Department receives often are ambiguous. On balance, the wisest course may be to support special studies, to collect these additional data. The NLTS that Dr. Wagner will describe shows what such studies can do for us.

I do not believe that additional lawmaking is necessary at this time. Rather, I prefer to rely on administrative measures.

ADULTHOOD: CONSEQUENCES

In 1970, we did not have what is now the IDEA; we also did not have the Rehabilitation Act as we now know it, nor many other federal laws. Yet 500,000 more adult males with disabilities were in the labor force that year than in 1990 (Bowe, 1993). As someone who has worked with you on service legislation and on "empowering" civil rights laws, I find that astonishing. While changes in labor-market conditions play a part in this, so, too, does SSI, which was created in 1972 and begun in 1974. A revealing clue to this fact is this statistic: in 1990, more than half of all adults with disabilities said that their disabilities *prevented them from working*. Mr. Chairman, as recently as October 1992 you helped to enact amendments to the Rehabilitation Act that stated forthrightly that virtually every applicant for rehabilitation services was presumed to be employable. You did that because today's technologies and training programs can help the vast majority of Americans with disabilities to perform gainful work. Why, then, do millions say they cannot? I suspect that many have in mind the basic requirement for receiving SSI: they must show that they are unable to perform substantial gainful activity (SGA), that is, to work.

Dr. Wagner's studies showed that large numbers of young people with disabilities act as if they enjoyed no civil rights in employment. Many do not even take the high-school courses they need in order to prepare themselves for higher education or for the kinds of jobs today's labor market offers. I suspect that one reason they don't is that they know that SSI and Medicaid are available to them -- regardless of how they do in high school. SSI has changed the "culture" of disability.

One analysis I did for the President's Committee on Employment of People with Disabilities (Bowe, 1986) showed that among African American adults with a disability, 16 to 64 years of age, just 22% were in the labor force -- working or actively seeking work. A truly remarkable 49% were receiving SSI and/or Social Security Disability Insurance (SSDI) benefits. The remaining 29% of African American adults with disabilities received neither pay checks nor aid checks. The proportions among adults of Hispanic origin were almost as grim: 26% in the labor force, 43% on SSI and/or SSDI rolls, and 31% neither on payrolls nor on aid rolls.

Let us not misunderstand this. SSI provides income that remains insufficient even for a poverty-level lifestyle. I have great difficulty believing that millions of adults with disabilities actually prefer subsistence on SSI over gainful employment. Rather, I suspect that parents, teachers, counselors, and youth with disabilities themselves are not aware of the tremendous progress we have made in recent years to assure adults with disabilities an equal opportunity to live in communities, to pursue higher education, and to work in rewarding, well-paying jobs. Until we "empower" these people by helping them to learn about the rights of Americans with Disabilities, we cannot expect them to change their behavior. And unless and until the enforcement agencies in the Executive Branch (notably the EEOC, Justice, and other agencies given ADA and Rehabilitation Act title V enforcement responsibilities) vigorously and publicly enforce these rights, family members, educators and young people with disabilities themselves will remain dubious of our intent.

<u>Policy Recommendation</u>: I very much support a renewed emphasis in special education of quality, of excellence, and of attention to outcome measures. We cannot be satisfied by compliance and enforcement efforts by the Department which look almost exclusively at whether SEAs and LEAs have completed each of the procedural requirements in the IDEA. Rather, we must lift our sights to what kind of education, leading to what kinds of adult outcomes, we are providing. Now that "Goals 2000" and other important Federal education proposals are in conference and near enactment, it is urgent that Congress focus on the special needs of young Americans with disabilities. I anticipate that the Administration's proposal will include some interesting ideas on outcome measures. Those I know of at this time I support. But we cannot help young people with disabilities to rise above subsistence on SSI through such measures alone.

We must firmly enforce the ADA and the Rehabilitation Act's title V. We must widely publicize such enforcements among parents, teachers, counselors and young people alike so thet our seriousness of purpose cannot be questioned.

Mr. Chairman, and distinguished Members of the Subcommittee, I thank you for this opportunity to testify.

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Address: Frank Bowe, Department of Counseling, Research, Special Education, and Rehabilitation, 124 Hofstra University, Hempstead, NY 11550-1090.

Figure 1: Percents by Race, 0-5

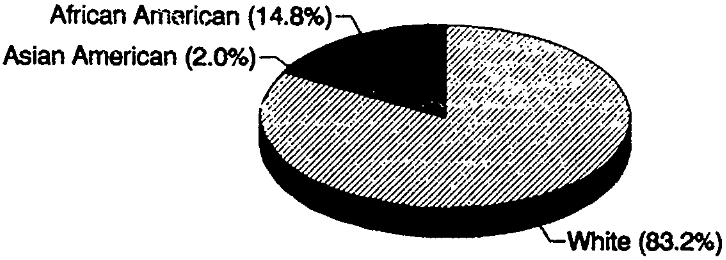
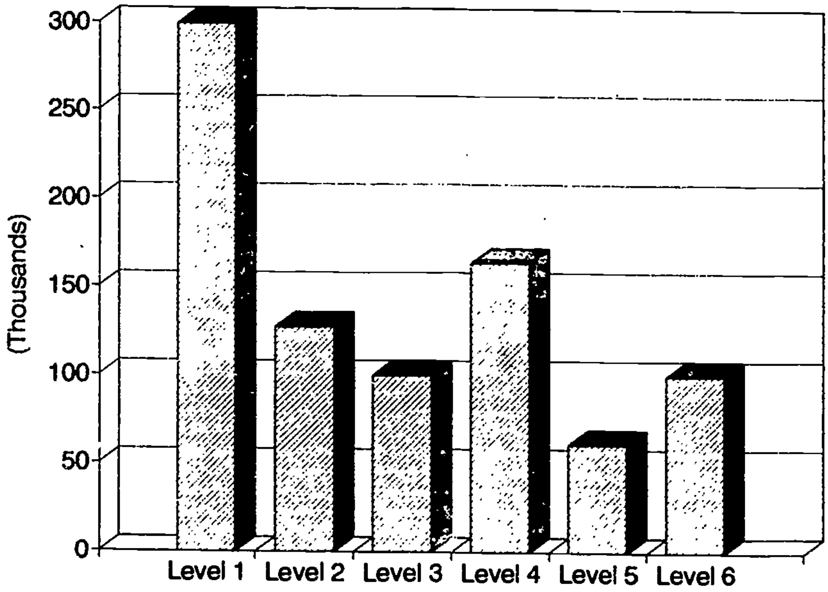


Figure 2: Family Income



Chairman OWENS. Thank you.

Mr. Sanford.

Mr. SANFORD. Chairman Owens and subcommittee members, I would like to thank you for inviting me to testify at this subcommittee hearing on the Reauthorization of The Individuals with Disabilities Education Act, commonly known as IDEA.

My name is John Sanford. I am a person with a disability, an attorney, a disability rights advocate, and the chairman of the newly formed National Family for the Advancement of Minorities with Disabilities.

If I could take just a moment to explain the concept of this newly formed organization we affectionately refer to as the "Family." The National Family for the Advancement of Minorities with Disabilities was founded on February 5 in Washington, DC, after a three-day dialogue amongst some 150 participants from various races, cultures, and ethnic groups, all representing various disabilities.

On those occasions where actual persons with disabilities were not represented, parents of persons with disabilities stood on their behalf. The result of this national summit of minorities with disabilities was the formation of not a coalition, but instead the recognition that we had to, as a family of minorities with disabilities, move forth on a national agenda that would enhance the growth and development of all our family members, minorities with disabilities throughout our Nation.

We are not a coalition, by definition; for by definition, a coalition is only a temporary alliance of a group of people to achieve a particular purpose. By seeing ourselves as a family by definition, we are a group of people derived from a common stock; that common stock being that we have a disability, and in the past, we have been discriminated against based upon both our disability, our race, color and creed, and our traditional place of so-called socioeconomic status.

It is from this context that I wish to speak to you today concerning the over-representation of minority groups in special education, with particular emphasis on the African-American male, and the under-representation of minorities in positions of decisionmaking.

This is not the only crucial issue the Family must face, but it is the issue of my testimony today.

I do not think that it would be an understatement to say that special education, as we know it today, is in a state of crisis. As stated in a report to the President and Congress by the National Council on Disability, students with disabilities are generally at risk. Minority students with disabilities are at particular risk.

The original intent of The Education For All Handicapped Children Act, commonly known as Public Law 94–142, was to provide students with disabilities a more appropriate educational opportunity by providing educational programs and resources tailored to them, to meet their individual educational needs, with an emphasis upon providing this educational experience in the least restrictive environment possible.

As time has passed, it is my belief that the original intent to provide students with disabilities a comparable educational experience of those students without disabilities has been lost. Instead, in too many places in our country, special education has become the convenient dumping ground and warehouse for those teachers and administrators to place hard-to-manage or problem students.

Way too often, placement of individuals into a special education curriculum is based upon a bad diagnosis of being mentally retarded or learning disabled. Once these labels have been attached to a minority child in the general education curriculum, they will become banished forever in that other educational system referred to as special education.

Children are labeled, not by the general education curriculum, but by specialists, employed by the school to assess and evaluate the so-called functional academic capacities, for the purpose of determining services needed for remediation. Far too often, and sadly, this means placement, rather than service.

The general education teacher referral, is specially assessed, labeled and recommended for placement and service. Once labeled, all too often, the burden is placed on the children, who must earn the right to return to their regular classroom, rather than it being placed on the teacher or the school, to demonstrate why remedial services cannot be performed when appropriate supports are needed in the regular classroom.

Let me point out the critical issue of bias in testing; particularly the diagnosis of judgmental disabilities, like BMR or LD or LED. Statistics show that although African Americans still comprise 16 percent of all students served in special education, they represent 40 percent of all students serving the diagnosis of EMR or TMIR.

Although large numbers of students served in special education are those with quick learning disabilities, much less are stigmatizing a white middle-class diagnosis. Less than 16 percent of all Afro-American students nationwide have this as their diagnosis.

Too often, Afro-American males fall victim to this misclassification and misplacement within the special education curriculum.

A very good friend of mine, Dr. Billy Hawkins, who is the Associate Dean of Education at Ferris State University in Big Rapids, is a prime example of a young black male who, for 15 years, teachers thought was retarded.

Had it not been for the new principal who observed his leadership skills as the captain of the football team during the game, and made him question that Billy was in special education, and that Billy's placement may have been incorrect, Dr. Billy Hawkins would not be the Associate Dean of Ferris State University right now.

Another issue that was highlighted to me in the Billy Hawkins story is whether his mother had the information and the support she needed to really question the system. It is particularly curious that one has its foundation based on pa: ent information, participation and consent, and all too often, poor and minority parents, in particular, are completely in the dark about why their children are being placed in special education.

And they don't know their right to challenge the system, and about anything from diagnosis to placement, to service of their children.

Also striking is the lack of advocacy out there in the minority community, when the law has made specific provision for those types of supports.

Let me say, the growing over-representation of minorities in special education can also be attributed to the under-representation of minorities in real positions of decisionmaking in the educational arena. In order for the educational process to be meaningful for traditional minorities, the educational system must be culturally sensitive.

We must develop an educational system that no longer relies upon cultural bias in testing and placing of students. There has to be a clear recognition that because a student may take a different approach to a problem, that doesn't necessarily mean that their approach is incorrect, but instead it may be an indication of a different cultural approach to solving a problem, and different learning styles.

Minority students, both with and without disabilities, need very strong and positive role models to emulate. Minorities in positions of real decisionmaking authority can play crucial roles in leveling the playing field for minority students, both with and without disabilities.

In addition, minority persons in positions of decisionmaking, can act as a catalyst to ensure that relevant resources are followed to those hidden pockets of minority communities that our educational system now claims it cannot even reach. Minorities in positions of the real decisionmaking must include parents, who are the real first role models for their children, empowering parents, to raise support and awareness.

Expansion of the neighborhood community-based initiative to facilitate developing parent support, information, and education needs to be encouraged. Also, adults who are minorities with disabilities are important role models. We can't forget people who have disabilities, needing their input and role models to students with disabilities.

During our discussion during the summit, on the topic of IDEA, the Family had a recurring theme that continued to be brought up, time and time again, and it was this.

It is our feeling that in order to really get to the issues concerning the over-representation of minorities in special education, and the under-representation in the decisionmaking process, that the mere reauthorization of IDEA was not enough.

There had to be an overall change in the educational process in this country, a change that would reflect a special education program that only acts to support the general education program.

In other words, no student with or without disability, minority or not, would be taken out of what we now think of as general education, and that the support that a special education program can provide to a student should be provided to that student within the context of a general education program.

In other words, the only way to eradicate the problem that I have enumerated here is to completely merge both general education and special education into one entire educational system. Until this bold step is taken, the inequity, the bias, in both systems, will still remain.

We can no longer have an educational program that is based on labels being placed upon students. We can no longer have an educational program where we have to characterize a student before we provide the student adequate supports.

The practice of creating programs first and then placing students to meet their needs must cease. The only alternative for a strong and productive educational process is one where the dollars follow the student. The dollars must follow the student.

It is a process whereby all students rely on what we now think of as general education. If a student has a special need, that special need is met through the special education component, but that service is provided to the student in the general education setting.

It is only through taking these types of bold steps, radically changing what we now perceive as special education, and unifying a broken system on both sides of the fence, can we meet the needs, for students with and without disabilities, minority or not.

The Family's effort in the area of special education legislation is to ensure the process that is educationally appropriate and provides minority students with the necessary resources; a process that is not culturally biased and meets the respective community needs.

In closing, the Family strongly urges this subcommittee to look at the reauthorization of IDEA through nontraditional glasses, and to begin to address the merger of the two systems, general education and special education, into one system that will address the needs of all students.

Again, Chairman Owens, I thank you and the members.

[The prepared statement of John T. Sanford follows:]

STATEMENT OF JOHN T. SANFORD, CHAIRPERSON, NATIONAL FAMILY FOR THE ADVANCEMENT OF MINORITIES WITH DISABILITIES, LANSING, MICHIGAN

I would like to thank you for inviting me to testify at this subcommittee hearing on the reauthorization of The Individuals with Disabilities Education Act; commonly known as IDEA. My name is John Sanford. I am a person with a disability, an attorney, a disability rights advocate, and the chairman of the newly formed National Family for the Advancement of Minorities with Disabilities. If I could take just a moment to explain the concept of this newly formed organization we affectionately refer to as the Family. The National Family for the Advancement of Minorities with Disabilities was founded on February 5 in Washington, DC, after a three-day dialogue amongst some 150 participants from various races, cultures, and ethnic groups, all representing various disabilities. On those occasions where actual persons with disabilities were not represented, parents of persons with disabilities stood in their behalf. The result of this national summit of minorities with disabilities was the formation of not a coalition, but instead the recognition that we had to, as a family of minorities with disabilities, move forth on a national agenda that would enhance the growth and development of all our family members, minorities with disabilities throughout our Nation. We are not a coalition, for by definition, a coalition is only a temporary alliance of a group of people to achieve a specific purpose. By seeing ourselves as a family by definition, we are a group of people derived from a common stock. That common stock being that we have a disability, and in the past, have been discriminated against based upon both our disability, our race, color and creed. It is from this context that I wish to speak to you today concerning the over-representation of minority groups in special education, particularly the African-American male, and the under-representation of minorities in positions of decisionmaking.

I do not think that it would be an understatement to say that special education, as we know it today, is in a state of crisis. As stated in a report to the President and Congress by the National Council on Disability, students with disabilities generally are at risk. Minority students with disabilities are at particular risk. The original intent of The Education For All Handicapped Children Act, Public Law 94–

142, was to provide students with disabilities a more appropriate educational opportunity by providing educational programs and resources tailored to them, to their individual educational needs. With an emphasis upon providing this educational experience in the least restrictive environment possible. As time has passed, it is my belief that the original intent to provide students with disabilities a comparable educational experience of those students without disabilities has been lost. Instead, in too many places in our country special education has become the convenient dumping ground and warehouse for those teachers and administrators to place hard-to-manage or problem students. Way too often, placement of these individuals into a special education curriculum is based upon a bad diagnosis of being mentally retarded or learning disabled. Once these labels are attached to a minority child in the general education curriculum, they will become banished forever in that other educational system referred to as special education.

Far too often, the African-American males fall victim to this misclassification and misplacement within the special education curriculum. A very good friend of mine, Dr. Billy Hawkins, who is the Associate Dean of Education at Ferris State University in Big Rapids, is a prime example of a young black male who, for 15 years, teachers thought was retarded. Had it not been for a new principal who observed his leadership skills as the captain of the football team during the game which made him question that Billy was in special education, and that Billy's placement may have been incorrect. Dr. Billy Hawkins would not be the Associate Dean of Ferris State University today.

The growing over-representation of minorities in special education can also be attributed to the under-representation of minorities in real positions of decisionmaking in the educational arena. In order for the educational process to be meaningful for traditional minorities, that educational system must be culturally sensitive. We must develop an educational system that no longer relies upon cultural bias in testing and placing of students. but there has to be a clear recognition that because a student may take a different approach to a problem, doesn't necessarily mean that their approach is incorrect, but instead it may be an indication of a different cultural approach to solving a problem.

Minority students, both with and without disabilities, need very strong and positive role models to emulate. Minorities in positions of real decisionmaking authority can play a crucial role in leveling the playing field for minority students, both with and without disabilities. In addition, minority persons in positions of decisionmaking, can act as a catalyst to ensure that relevant resources are followed to those hidden pockets of minority communities that our educational system now claims it cannot reach. During our discussion on the topic of IDEA during the the Family's national summit, there was a recurring theme that continued to be brought up, time and time again.

It is our feeling that in order to really get to the issues concerning the over-representation of minorities in special education, and the under-representation in the decisionmaking process, that the mere reauthorization of IDEA was not enough. There had to be an overall change in the educational process in this country. A change that would reflect a special education program that only acted as a support to a general education program. In other words, no student with or without disability, minority or not, would be taken out of what we now think of as general education, that the support that a special education program can provide to a student should be provided to that student within the context of a general education program. In other words, the only way to eradicate the problem that I have enumerated here today is to completely merge both general education and special education into one entire educational system. Until this bold step is taken, the inequity, the bias, in both systems, will still remain. We can no longer have an educational program that is based on labels being placed upon students. We can no longer have an educational program where we have to characterize a student before we can provide the student adequate support.

The practice of creating programs first then in placing the student to meet their needs must cease. The only alternative for a strong and productive educational process is a process where the dollars follow the student. It is a process whereby all students rely on what we now think of as general education and if they had a special need, that special need is met through the special education component, but that service is provided to the student in the general education setting. It is only through taking these types of bold steps and radically changing what we now perceive as special education, and unifying a broken system on both sides of the fence, both in general education and special education, making it one system to meet the needs of all students with and without disabilities, minority or not. The Family's effort in the area of special education legislation is to ensure an educational process that *is* educationally appropriate and provides necessary resources to minority students that is not culturally biased and meets the respective community needs.

The Family strongly urges this subcommittee to look at the reauthorization of IDEA through nontraditional glasses, and to begin to address the merger of a two system, general education and special education, into one system that will address the needs of all students. Again, Chairman Owens, I thank you for the opportunity to address this honorable subcommittee and its members.

Chairman OWENS. Thank you.

Dr. Wagner.

Ms. WAGNER. I'm happy to be here.

I represent the National Longitudinal Transition Study, which is the biggest investment that has ever been made in research in special education. It grew out of a congressional mandate in the amendments of 1983, where Congress recognized what Mr. Bowe has said, that we were short on information on product.

Not even did we have very good information on process, but we had very little on product. What we know now about kids with disabilities when they leave school, we know from the longitudinal study. It's the only national database we have.

Many of the numbers you used in your opening statement, Mr. Owens, came from this study. It's over now. We finished on the 15th of January.

If we are going to know any more about what happens to kids, either in elementary school or secondary school, or later, we need to start again, looking at what we do with them when we have them, and then what happens to them when they leave.

Congress took the lead in this, in the beginning, in mandating the original study, and I had suggested that we consider a similar kind of step now. Now that we are through with NLTS, we know what we are going to know. I'd like to highlight some of what we found about the outcomes for students with disabilities.

I provided some written testimony that is long on numbers, and I'm going to leave out most of the numbers, in my verbal comments, and just kind of highlight what I think they show.

The first point that has struck me over, and over, and over, since 1985, when we started this study, is that kids are different, one from another.

We think when we put a disability label on a child that we have captured what it is that is important about that child, and we have 13 different categories now, and we know they are different.

We know a visual impairment is not mental retardation, and we know that multiple impairments are not learning disabilities. There's a lot more diversity there than those categories capture.

The kids are more different, one from another, than they are from kids who don't have any disabilities. It is amazing to me that we can sit and talk seriously about policy that applies to all students when those students are so different, one from another; when their needs, their abilities, their functional abilities, are so different, one from another.

There can be no one right answer for this population of kids. There isn't any silver bullet. One placement, one program, can't work for kids with disabilities. They are simply too different.

There has to be diversity. There have to be options in programs because there is diversity of kids. It's the bottom line. There is no single answer.

It amazes me when we are talking, arguing, over offering more parental choice in the general education reform movement, that there are people who will argue for less parental choice for parents of students with disabilities. It does not make sense to me that we are making those two statements at the same time.

There has to be a continuum of services and a continuum of placements or education cannot be appropriate for kids with disabilities. Individualization must continue to be the centerpiece of legislation for kids with disabilities.

I'd like to talk about who the kids are and talk about what happens to them.

My second point about kids with disabilities is that largely they have cognitive disabilities. We are not talking about kids in wheelchairs, largely. We are talking about kids who have difficulty learning, often because of mental retardation.

Fifty-seven percent of kids at the secondary level in special education have learning disabilities. It means they can't learn the way lots of other kids learn. They need a special way of being taught. More than 25 percent of kids have mental retardation. That's not just kids labeled mentally retarded.

There are 8 or 9 percent of kids in every other category who are also mentally retarded. These are kids who have cognitive difficulties. They don't learn at the level of kids in regular classrooms. The average IQ of kids at the secondary level in special education is 79.

These are cognitive issues. They are things about learning. It is not simply incorporating kids who have physical or sensory disabilities in classrooms.

The reality of that goes head to head with our efforts in general education reform to raise academic standards. We talk about world class standards in core subject areas, and we are talking about kids with the average IQ of 79.

Where do reality and rhetoric meet? Where does the general education reform movement accommodate the fact that there are lots of kids in high schools who can't make it in 10th grade biology?

We talk about full inclusion. Let's think about 10th grade biology when we talk about full inclusion. We are talking about kids with disabilities who need functional curricula. They don't need 10th grade biology.

Kids grow up, they go to high school, they are not just third graders who haven't learned to read yet. They're not just second graders who play with manipulatives. They go to high school and they go to biology class, and they don't make it there.

The other thing we know about kids with disabilities is that they are failing in large numbers. The dropout statistics that we quote from the transition study show that more than 30 percent—and up to 38 percent of kids—who have left high school, have done so by dropping out.

There are people, later in panels today, who will say that is a sign of failure of the special education system. That is a misinterpretation of the data from our study.

The reality is that most kids in high school, who have disabilities, spend most of their time already in regular education. Very few spend much of their time in special education classes in high school.

There are not very many special education classes any more in high school. They're already included. They are included in regular academic classes. They're included in regular vocational classes. They fail in those regular academic classes in large numbers.

Two thirds of kids with disabilities, who ever made it to high school, fail classes when they get there. Forty-five percent of them fail the ninth grade. They fail right out of the gate because regular education classrooms, the way they are set up in this country today, are inhospitable environments for kids who have trouble learning.

Tenth grade biology doesn't work for a kid with an IQ of 79. We need to quit talking about placement and start talking about what will help a kid succeed in a regular classroom. They are not succeeding now. It is not because of failure of special education that they are not succeeding; it's because of the failure of education that they are not succeeding. What happens when you don't succeed in high school, and you fail a class? You don't get credit in that class. Remember credits? In general education reform, we have talked of raising credit requirements. Now kids have to take three years of math instead of two, and they have to take four years of English, because it is a credit system.

Reform has yet to touch high schools in this country. We have reformed a lot of elementary schools. We are reforming middle schools. We have done little to reform high schools.

When you fail a class, you don't get credit. You have to take it again. You fail it again. It's the same class; you didn't make it the first time, you fail it again. You get to be 18 years old and you get 10 credits to your name after spending all those years in high school. That's the profile of the average dropout with disabilities. They actually stay in school until they are 18 years old, just like you did, and just like I did.

And by that time, because they failed so many classes in regular education academics, they have 10 credits. That's less than half of what they need to graduate. So they leave. All their peers are leaving. Other 18-year-olds are graduating. They are never going to graduate because they failed regular education academic classes.

So when we talk about full inclusion, we need to talk about reality, not about ideology. Kids don't do well in regular education at the high school level the way we have it structured today.

We need to talk about what it will take to make them succeed there: training for general education teachers, support services in the regular classroom, and curricular options for functional curricula.

For the vast majority of kids with disabilities, when you ask them for their post-school goal; what they want to do when they leave, they say, "Get a job." They don't say, "go to college." What is 10th grade biology going to do for that student who wants to get a job?

And yet we are restricting more and more curricular options for kids in high school by increasing the academic course requirements for them. We are raising the pole on the hurdle for kids without offering them other kinds of options.

That flies in the face of the full inclusion movement which wants all kids treated the same. But, in fact, these are kids whose goals are employment, by and large, and in fact have very few options. If they are going to graduate with a real diploma, they have very few options to pursue a program that will take them toward their goal.

It's important that we deal with this issue of failure in high school because we know that graduates do better. Frank Bowe is right; the outcomes for kids when they leave school are fairly grim. There is a lot of diversity, but they are fairly grim.

By and large, these kids get jobs at rates below kids in the general population. They do not go on to postsecondary education of any kind—not vocation training, not junior colleges, not colleges—at nearly the rate the general population of kids do. We know that graduates do all of those things better than non-graduates.

If you want to do one thing that will help improve outcomes for kids when they leave school, it's help them to succeed while they are there, so that, in fact, they walk out of there with the credentials and the training they need to have half a chance in the employment market, half a chance at going on to a junior college. School failure is the crux of the problem for school dropouts. Regular education classes are where kids with disabilities fail.

I am not arguing for excluding kids from regular education classrooms. I think in this ideological debate we've got, you are either for me or against me kind of attitude; and I disagree with that.

Those of us who question the idea of full inclusion don't want exclusion. What we want are more options. I think it is important that we help kids succeed in school. Failure gets nobody anywhere. We need to look at the regular education environment and ask, what will it take to get kids to succeed there?

Finally, we know what we know now about what happens to kids with disabilities when they leave school because of the transition study. I want to reiterate the importance of having data like that, so that you can make public policy decisions based on evidence, not anecdotes, and not ideology. It's too important to guess at. We need good hard information.

Again, we don't want to sit here five years from now and be quoting the same numbers that I am quoting today. We need new information; we need it on younger kids. The NLTS talks only about high school. It talks only about the early post-school years.

We don't know very much at a national level about kids in elementary school. How do they ever get in special education? How do they get out? Some kids actually do get out. It is not a one-way street.

We need more hard information like that and you need to ask for it, if the money is going to be there, to get it in the future. Thank you.

[The prepared statement of Mary Wagner follows:]

National
Longitudinal
Transition
Study

Testimony before the House Subcommittee on Select Education and Civil Rights

by Dr. Mary Wagner,
Program Manager, Education and Human Services Research
and Project Director, National Longitudinal Transition Study of Special Education Students
SRI International, Menlo Park, CA.
March 3, 1994

Thank you for the opportunity to summarize findings from the National Longitudinal Transition Study of Special Education Students and the issues they raise that are pertinent to reauthorization of IDEA. This 6-year study of more than 8,000 young people with disabilities nationwide, funded by the Office of Special Education Programs, has been the largest investment in research ever made in the field of special education, and it can tell us much about the experiences of students with disabilities in their transition from secondary school to their early adult years. As Congress looks at ways to strengthen IDEA so that it helps support improved outcomes for young people with disabilities, data from the NLTS can both suggest future directions and provide a benchmark against which to measure future progress.

Although the NLTS addresses many transition issues, summarized in a supplementary report I have provided for the Subcommittee, my remarks focus on 3 issues. I will describe:

- Who the students are who are in special education in secondary school. High school students with disabilities are an extremely diverse group. Many have multiple risk factors that challenge their ability to succeed in school and in adult life, factors that need to be accounted for in program and service decisions.
- The secondary school programs of students with disabilities and how they influence students' school performance. We need to know what helps and what hurts the performance of students with disabilities in school so that policy can support effective educational approaches.
- How well young people with disabilities fare in their early adult years and what contributes to a more successful transition. The final test of effective education is a productive adult life. The NLTS has told us much about which young people achieve this goal and what has helped them to do so.

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Characteristics of Secondary School Students with Disabilities

- *High school students with disabilities are an extremely diverse group.* We currently classify students with disabilities into 13 categories that are meant to be shorthand descriptors of disabilities that differ from each other radically in nature and severity. The experiences and needs of a student with an orthopedic impairment differ markedly from those of a student with moderate mental retardation. But category labels mask extreme variability between students with the same basic type of disability. For example, among students classified as visually impaired, 1 in 5 had IQs below 75, and just as many had IQs above 110. Public policy must continue to support a range of educational approaches, placement options, and other support services to accommodate students' diversity if they are to succeed in school and early adulthood.

- *The majority of secondary school students with disabilities have cognitive learning problems.* More than half were classified as learning disabled, and almost one-fourth were classified as having mental retardation as their primary disability. Physical and sensory impairments were low-incidence disabilities. However, at least 1 in 8 students in each disability category also had mental retardation as a secondary disability. The average IQ of secondary school students with disabilities overall was 79. These cognitive impairments pose significant learning challenges at the secondary school level, where content mastery is a critical aspect of curriculum and performance and where reform efforts are focused on raising academic standards still further. We need to acknowledge the potential conflict between general education reform efforts aimed at achieving world class standards in core content areas and a recognition of the cognitive limitations of many students with disabilities. Further, the prevalence of cognitive disabilities raises questions about the circumstances under which inclusion in a regular education high school class like biology can be made to work for students with cognitive deficits and about the nature of the supports for teachers and students that would be required for students to succeed in such environments if, in fact, full inclusion is the policy of choice.

- *Youth with disabilities differ from their peers in the general population in ways other than having a disability,* ways that have implications for the outcomes they achieve. They were more likely than typical students to be male, poor, African American, and from single-parent households. For example:

  - In 1986, about 4 in 10 students in the general population came from households with annual incomes of less than $25,000, compared with 68% of secondary school students with disabilities. About 22% of typical students had heads of households that were high school dropouts, compared with 41% of secondary school students with disabilities.

  - In the general population of students, 12% were African American. Almost twice as many secondary school students with disabilities were African American. This pattern occurs about equally in all disability categories.

  - At the time they were secondary school students, one-fourth of youth in the general population were living in single-parent households; 37% of youth with disabilities had a single parent.

The fact that these characteristics were found about equally among all disability groups, not just the "judgmental categories," such as learning disabilities and mental retardation, suggests that it probably is not widespread discrimination that results in the over-representation of minorities and poor students in special education. Rather, poverty itself is more likely to be the contributing factor to a higher incidence of all kinds of disabilities among poor and minority students.

The student needs posed by poverty and/or family stresses often are not accounted for in program decisions for students with disabilities, which may reflect attention to educational needs and disability-related needs only. Poverty is known to involve a constellation of health, social, and family functioning problems that also must be addressed if students with disabilities are to succeed. A more holistic view of children and families is needed, a view common in the early intervention arena and often lost in the school environment. OSEP's current priority to explore approaches to making schools the hub of integrated services for children and families is a promising first step in encouraging a broader look at the general wellness of children with disabilities. More support for this approach is needed.

Secondary School Performance and Programs of Students with Disabilities

- *More than 90% of students with disabilities attended regular secondary schools.* However, more than one-third of youth who had visual impairments or multiple handicaps attended special schools. Among students who were classified as deaf, almost two-thirds were enrolled in special schools as were virtually all students who were deaf/blind. Most special school students attended schools that served all grades or were ungraded, and that were smaller than regular secondary schools. Special school students were more likely than regular school students with the same kinds of disabilities to have participated in vocational courses and to have received personal counseling or therapy, occupational therapy or life skills training, or physical therapy/mobility training from or through their schools. Because of their greater intensity of service and unique social and cultural environments that are preferred by some students and families, special schools remain an important placement option for some students.
- *Many students with disabilities had markedly poor secondary school performance.* For example, although students with disabilities as a group missed an average of 13 days of school per year, 1 in 5 were absent 20 or more days per year. Students with disabilities in regular schools who earned grades had a GPA of 2.3 over the 4 years of secondary school, below the 2.6 GPA for the general population. Almost two-thirds of students with disabilities who stayed in school for 4 years failed at least one course in their high school careers. Poor performing students were disproportionately those classified as seriously emotionally disturbed or learning disabled, two of the largest categories of students. Course failure tended to occur early in secondary school, with 43% of students failing one or more courses during 9th grade, compared with 23% during 12th grade. Performance improvements over the grade levels were in part due to the dropping out of less successful students, leaving a more successful cohort of students in each succeeding year.
- *A disproportionate share of students with disabilities dropped out of school.* Overall, about 38% of students with disabilities who left school did so by dropping out (8% in middle school, 30% in high school), a higher rate than for students in the general population. Only about two-thirds of school leavers graduated, and 3% left school because they exceeded the maximum age limit for attendance. Among dropouts who had ever attended high

school, their average age at the point they left school was 18. Clearly, many dropouts persevered in school until their age peers graduated. However, dropouts had accumulated an average of only 10 credits, despite their several years in high school. Part of this low accumulation of credits resulted from the high course failure rate among dropouts. Dropout rates were particularly high for youth with emotional disturbances, the students who also failed the most courses. Almost half of these students who had ever attended high school left school by dropping out. Dropout rates were close to 30% for students with learning disabilities, mental retardation, or other health impairments, but were below 15% for most other categories of students.

- *School performance was influenced by characteristics of students and their families.* Dropout rates were lower for white students than minorities and for wealthier students compared with those in poverty. However, students whose parents were more involved in their education had significantly better school performance, regardless of their ethnic background or income. Parent involvement is critical to the school success of students with disabilities; parents need encouragement and instruction in how to be effective supporters of and advocates for their children. Further, choices parents and students make about activities outside of school also influence school performance significantly. Students who saw friends outside of school often had significantly higher absenteeism, a higher probability of failing, and higher dropout rates than students who saw friends less often outside of school. However, students who affiliated with their schools socially by belonging to school groups were more successful in school. The importance of the link between students' academic and social lives must be stressed with students and parents.
- *School performance also was influenced by aspects of the school programs of students with disabilities.* Academic coursework dominated students' programs in regular secondary schools. Overall, students with disabilities in regular schools earned an average of 12 academic credits over 4 grade levels, more than half of their 22 credits. Grades were lower for students with disabilities in academic than in other classes, demonstrating the obstacles to success that such classes posed for many students with disabilities. Students with disabilities took fewer academic courses each year in high school, reflecting the fact that the majority had an employment goal for after high school, not a goal of further education, and they opted out of academic courses when they could. Very few students with disabilities enrolled in courses often described as "college prep," such as foreign language and advanced math, which are important prerequisites for postsecondary education. The move in recent years to increase academic course requirements for graduation is at odds with the reality of the employment goals of many students with disabilities and their relatively poor performance in academic classes. Current reform efforts may be reducing the relevance of the high school curriculum for many students with disabilities as well as reducing their chances of success in school.

  The marked exception to the nonacademic preferences and abilities we note for the majority is found among students with hearing and visual impairments. These students took academic classes and pursued postsecondary education at virtually the same rate as students in the general population. Again, the diversity of student abilities and goals calls for flexibility in course choices, not uniform approaches to curriculum or placement.
- *Most students with disabilities took some vocational education in regular high schools.* Two-thirds of students with disabilities took at least one vocational course in 9th grade, and by 12th grade, 89% of students were taking a vocational education class. Students with disabilities earned about 5 credits in vocational education on average, more than the 4

credits earned by typical students, suggesting that access to vocational education is not a pervasive obstacle for students with disabilities.

However, many students may not be experiencing the kind of vocational education that helps them most. Only about one-third of students with disabilities took a concentration of vocational classes (four or more courses in a single skill area), and only 1 in 4 students participated in work experience programs, despite the fact that this kind of vocational concentration and work experience contributed significantly to improved school performance and reduced dropout rates for students with disabilities. Current school-to-work policy initiatives that emphasize work experience and a coordinated curriculum of skills instruction hold real promise for many students with disabilities. Yet, access to effective vocational education is not equally distributed among genders or ethnic groups. Although young women with disabilities were as likely as young men to take vocational education in general, they were significantly less likely to take occupational training in the early grades and to take a concentration of courses in a particular skill area. Similarly, African American students were less likely to take occupational vocational education early in their high school careers and to take a concentration of courses than were white students. We may have solved the problem of access in vocational education, but questions of quality and equity appear to remain.

- *Inclusion in regular education was a reality for most students with disabilities in regular secondary schools.* As a group, students with disabilities spent 70% of their class time in regular education classes, ranging from 87% for visually impaired students to 32% for multiply handicapped students. Only 3% of students with disabilities spent all of their time in special education classes; 21% were fully included in regular education classes for all of their coursework. Further, substantial differences in the amount of time in regular education were found even for students with the same disability classification, suggesting placement decisions were reflecting individual circumstances, not simply categorical labels. For example, 20% of students with learning disabilities spent all of their class time in regular education courses; nearly the same percentage spent less than half their time there.

  However, some of the factors reflected in placement decisions were unrelated to disability. Poor students spent less time in regular education classes than their wealthier peers, statistically controlling for other differences between them. Students from some geogrphic regions (e.g., MidAtlantic, North Central) spent substantially less time in regular education courses than students living in other areas. Legislative and regulatory efforts need to ensure that placement decisions reflect educational considerations and family preferences for individual children, not the vagaries of regional histories, parental competence to influence the decisionmaking process, or discrimination.

- *Regular education classrooms were an environment of failure for many students with disabilities.* Students had poorer grades in regular education than in special education classes (GPA of 2.3 vs. 2.5). More than half of students with disabilities (58%) who took regular education classes failed one or more of them over four grade levels compared with a 15% failure rate for students who took special education classes. Controlling for other differences between them, students who spent more of their time in regular education academic classes were significantly more likely to receive failing grades than students who spent less time there. Failing courses was a powerful predictor of students dropping out of school. Placement decisions for students with disabilities need to recognize that regular education high school classrooms are not hospitable environments for many students with learning problems; the extensive efforts nationally to reform them is testimony to their shortcomings. Placing students with disabilities in them without an accompanying commitment to provide the flexibility and support needed for them to succeed there is tantamount to sacrificing children to ideology.

- *The majority of students with disabilities in regular high schools received some type of support service(s) from or through their schools.* Overall, students with hearing impairments and multiple handicaps received the most services and students with milder disabilities received the fewest support services. However, only a minority of students were provided any particular service. Even among students with disabilities for which a particular service would be most relevant (e.g., speech therapy for those with speech impairments), only a minority received that service from or through their schools. For example, over the four grade levels of high school, physical therapy was provided to between 31% and 42% of students with physical disabilities, and personal counseling was provided to between 34% and 39% of students with emotional disturbances. These kinds of support services can make the difference between failure and success for many students with disabilities.
- *Transition planning was done for a large majority of students,* although in 1990, transition planning was a fairly informal process. Virtually all regular secondary schools attended by students with disabilities set goals for those students for outcomes beyond graduation. However, fewer students actually had transition plans (78% of 12th-graders), and fewer still had written plans (44% of 12th-graders). School personnel generally were included in planning, but service providers were not. Colleges and postsecondary vocational training programs each were contacted for about one-third of 12th-graders with disabilities. Additional service needs were less likely to be addressed. For example, mental health agencies were contacted for only 7% of youth with disabilities; none of those with serious emotional disturbances had contacts made with mental health agencies on their behalf by their schools. School personnel know how to plan with each other and they know how to contact postsecondary schools to support students transitions. They are less comfortable or apt to relate to service providers from noneducational organizations or with employers. Amendments to IDEA that require transition planning are on the right track, but schools need encouragement and incentives to make transition planning a truly collaborative process that effectively involves parents, students, and professionals outside the schools.

Postschool Outcomes of Young People with Disabilities

- *Completing high school.* Dropouts with disabilities rarely completed secondary school, either by returning to high school or by earning a GED. Three to 5 years after dropping out, only 11% of dropouts with disabilities had earned a GED or high school diploma; 5% were still enrolled. Even if all those still enrolled completed the program, more than 30% of youth with disabilities out of school 3 to 5 years still would be without a high school diploma, almost twice the rate of youth in the general population. We need to understand more about the obstacles to school completion for dropouts with disabilities.
- *Postsecondary education.* Few students with disabilities went on to postsecondary education. Although there were increases over time in the rates at which youth with disabilities enrolled in postsecondary school, enrollment rates still lagged substantially behind those of youth in the general population. Among youth who had been out of high school up to 2 years, 14% had enrolled in postsecondary school; 27% had done so 3 years later. Comparable rates for the general population of youth were 53% and 68%. College

attendance was particularly low. Enrollment rates were lowest for youth with learning disabilities and mental retardation; youth with sensory impairments enrolled at rates similar to typical youth. The higher dropout rate of youth with disabilities than youth in the general population does not explain their lower rate of postsecondary school enrollment. Even among graduates, enrollment rates were significantly lower (37%).

- *Employment.* There were strong gains in employment over time, so that 57% of youth with disabilities were competitively employed when they had been out of school 3 to 5 years. Significant increases for youth with disabilities were noted in the proportion of youth working full time and in those earning more than $6 per hour. Two-thirds of full-time workers with disabilities and more than one-third of part-time workers received medical insurance or paid vacation.

  Despite improvement in the employment picture over time for youth with disabilities, their employment rate was still much lower than that for the general population of youth. Further, gains were experienced largely by youth with learning, speech, or emotional disabilities, who were employed at rates equal to the general population; employment trends for most other disability categories were low and flat. Even among those that were employed full-time, the median wage of $5.72 per hour added up to an annual income of less than $12,000, guaranteed poverty for a young family. Finally, the low rate at which young people with disabilities accessed postsecondary education and training causes serious concern about their long-term labor market competitiveness and financial independence. As youth without disabilities, who attended college in large numbers, enter the workforce, a gap in employment outcomes between those with and without disabilities can be expected to increase.

- *Residential independence.* Youth with disabilities showed a significant increase in independent living after high school; 37% lived independently 3 to 5 years after leaving school. However, this rate was substantially below the rate of youth as a whole (60%). Independent living was more common among employed youth and those earning higher wages, as well as among females, because women were more likely to be married. The rate of youth living in supervised settings (including group homes, institutions for those with disabilities, and residential schools that were not colleges) was stable over time, about 4% of youth with disabilities. Rates were highest for youth with multiple impairments, including those who were deaf/blind; about one-third lived in supervised settings.

- *The social domain.* The rate at which youth belonged to groups and saw friends declined over time, although social isolation was rare; only 5% of youth saw friends less than weekly, did not belong to any community groups, and were not married or engaged. This rate was 25% for youth with multiple impairments. Overall, youth with disabilities were married or living with someone of the opposite sex when they had been out of high school 3 to 5 years at about the same rate as typical youth. However, young women with disabilities were significantly more likely than their nondisabled peers to be mothers (41%), particularly single mothers (20%). More than half of female dropouts with disabilities were mothers (54%). About one-third of single mothers with disabilities lived alone with their children without other adult support. This high rate of motherhood and single motherhood among young women with disabilities has been a surprise to many in the special education field; few programs exist to educate young people with disabilities about sexuality issues or to support young women with disabilities as mothers. Their disability, frequent poverty, and early motherhood threatens to establish or continue intergenerational poverty and disability unless there is active intervention to reduce early pregnancy and to provide skills for effective parenting and for financial independence for young mothers with disabilities.

- *Criminal justice system involvement.* Arrest rates were high and rose sharply for young people with disabilities after high school. Overall, 19% of youth with disabilities out of high school up to 2 years had been arrested at some time; 3 years later the rate was 30%; it was 56% among high school dropouts with disabilities. Arrests occurred primarily to youth with serious emotional disturbances, among whom 58% had been arrested; the arrest rate was 73% among dropouts with emotional disturbances. Arrest rates also were about 30% for youth with learning disabilities 3 years after high school but were below 20% for almost all other disability categories and were below 10% for youth with orthopedic and other health impairments and youth who were deaf/blind. The rate at which youth resided in correctional facilities increased from fewer than 1% of youth out of school up to 2 years to almost 3% 3 years later. Again, rates were highest for youth with serious emotional disturbances, 10% were incarcerated or lived in drug treatment centers, shelters for the homeless, or similar settings. Clearly the treatments and services provided to young people with serious emotional disturbances have been insufficient to enable many of them to find productive, socially acceptable places in adult society. Because their problems are not only or even primarily educational, it is unreasonable to think that educational programs alone can improve this situation. Expanded and coordinated mental health and social functioning treatments are needed for young people with serious emotional disturbances both in schools and in their communities. We are paying a very high social cost for failing to address the needs of these young people effectively.

- *Adult services.* Parents reported that 30% of out-of-school youth with disabilities did not need adult services. Among others, vocational assistance was the most commonly reported need. Among the 60% reported to need this service, only about one-third were getting it. Categories of youth with the highest reported need often were the least likely to be receiving services. For example, of the 70% of youth with emotional disabilities who were reported to need vocational help, only 28% were receiving it. In contrast, of the 56% of youth with speech impairments who were reported to need vocational assistance, 39% were receiving it. African American youth and dropouts in need of help also were less likely to receive it than others. This pattern of high need being met by low receipt was fairly common across the kinds of services investigated.

  Few parents reported that services were being sought for youth who needed them but were not receiving them. For most services, fewer than 15% of those with unmet needs were seeking services to meet those needs. It is unclear whether the relatively low rate of seeking services for youth with unmet needs resulted from lack of knowledge as to how to go about getting help, discouragement in having tried unsuccessfully to find help, or other explanations. However, we do know that youth with more severe disabilities were more likely to have someone seeking services for them, as were youth with better-educated heads of households, who may have been better informed regarding how to access the adult service system.

- *Completing high school is an important predictor of postschool success.* Graduates with disabilities bested their peers who dropped out or aged out in the number employed, increase in employment, number working full-time, growth in wages, and those earning more than $6.00 per hour. They also were significantly more likely to enroll in postsecondary education or training, thereby continuing to build their base of marketable skills and improving their prospects for future financial independence. One sure path to improving the postschool outcomes of young people with disabilities is to improve their secondary school experiences in ways that encourage them to complete high school.

- *Other aspects of school programs also influence postschool outcomes.* Controlling for other differences between them, outcomes in some domains were better for youth with disabilities who, while they were in school, had taken vocational education, spent more time in regular education classes, and belonged to school or community groups. Particular outcomes also were better for youth who had a transition plan in high school that specified an outcome as a goal (e.g., employment)
- *Parents also influence transition success.* Controlling for other differences between them, young people with disabilities were significantly more likely to enroll in a postsecondary academic program at a 2-year or 4-year college if they had parents who were involved in their education in high school and who expected them to go on to further education after high school. Similarly, residential independence was significantly more likely to be achieved by youth whose parents were active supporters and who had high expectations for their achievement.

These findings suggest that the path to success for young people with disabilities is complex. Some youth succeed in the employment arena, others pursue postsecondary education at high rates, others have difficulty establishing themselves productively in any domain. Understanding what helps youth succeed also is complex. Vocational education helps the employment prospects of youth with learning disabilities, for example, but contributes little to the prospects of youth with hearing impairments. Regular education classrooms are the setting for significantly increased school failure, but for those who succeed they seem to contribute to more positive postschool outcomes. Complex situations do not lend themselves to simple policy pronouncements. IDEA must continue to support thoughtful approaches to educational programming as well as to encourage special education to coordinate more actively with general education and with health, mental health, employment, and social service programs that can meet the complex needs of young people with disabilities.

We know these things now about young people with disabilities because in 1983, Congress had enough foresight to include in the amendments to PL 94-142 a mandate that OSEP measure the experiences and outcomes of young people with disabilities in transition. The NLTS has demonstrated the value of good research in support of good public policy. But the study is over now. These are all the data we are going to have unless further research of this kind is initiated soon. Congress can again exercise its leadership in this area by including in IDEA direction for continued assessment of the experiences and outcomes of children with disabilities. The special education field needs solid information on the national level on which to base its debate and its decisions regarding policies and programs to improve the outcomes of children and youth with disabilities.

Chairman OWENS. Thank you. We've heard from three very stimulating witnesses. How do we set you upon each other?

[Laughter.]

Chairman OWENS. Mr. Bowe, the statements made by Ms. Wagner reinforce, I think, what you were saying: the whole question of measuring our efforts in education concentrate on what is being taught, rather than where it is being taught.

We also need to deal with how it is being taught in order to get to the heart of the problem as presented by Ms. Wagner. Given a rather poor school test performance of students in regular classrooms, should emphasis be placed on restructuring special education programs, so that we can aggressively support efforts to help those who are in regular classrooms and require this special service?

Or is there some other way we should respond to the challenge of having more students in regular classrooms, especially in difficulties similar to the ones that Ms. Wagner pointed out, where in high school the pattern is that they fail in regular classrooms?

Mr. BOWE. Mr. Chairman, I would respond to that question, by stating again, that we need to get away from process corrections, like procedures and placement corrections. Like where children are being taught is the only focus or interest of the United States Government.

If you look at the annual report from the Department, going back to the eighth and ninth annual reports many years ago, you will find page after page, table after table, telling you exactly where all the children are each year. The focus on placement has been an absolutely extraordinary focus for so many years; where are the children, in the least restrictive environments.

And the States have all got the message that the name of this game is to place children in regular settings, and then the people in Washington will be happy.

What Ms. Wagner is trying to tell you is that you've got to place the emphasis on what is being done, what steps are the children taking, how well are they doing, and try to deemphasize this whole fixation with where they are receiving the services.

Now you asked me earlier, Mr. Chairman, the question of school restructuring. That is a very broad question. That is a big question. How schools are going to be restructured is by no means a settled matter.

I would just want to echo what Ms. Wagner said, that the interest here is not one in exclusion. No one is arguing for exclusion. The argument we are trying to emphasize with you is that placement is much less important than individualized services, appropriate services.

So whatever you do in restructuring, you must carry from this law an absolute imperative; number one, whatever is done, is individualized for that student; and number two, whatever is done, has an absolute minimum standard of appropriateness under this law.

Chairman OWENS. Do any one of you have any examples of exceptional and outstanding instruction taking place in situations where the quality of education being received by students with disabilities is above average/exceptional?

Do we have any great success stories, or examples, or models at this point? Is there a biology class anywhere in this county where students with disabilities might pass because of the techniques being used, because of the approach?

Or is there a school where they've got a biology course which may be adapted so that it gives students meaningful information and at the same time doesn't put them through a gauntlet?

Ms. WAGNER. We read newspaper articles all the time. There was one in the New York Times several months ago where they emphasized an inclusive program. I was interviewed for that article. I commented on it.

They are almost always elementary schools that we are talking about. They are almost always classes where skills and the ability to teach a variety of skill levels is the emphasis in the program.

It's largely where the social aspects of inclusion are key; where the emphasis in the classroom is that diversity is critical. Starting to expose kids to kids who are not like them is important to do early because this culture will never be accepting if kids don't have that kind of exposure. It's an elementary school focus and probably entirely appropriate.

My daughter's elementary school is going through that, too. There is no more EMH class in that school. Those kids are being fully included and it's working fine. The curricular focus at high school is different. It's very difficult to find programs at that level where full inclusion is the norm.

There are outstanding high school programs with functional and vocational curricular for kids with disabilities. The Transition Institute at the University of Illinois shepherds some of those programs and gets the project directors together all the time.

They are not largely academic programs. They are largely programs that understand that lots of kids with disabilities need functional curricula and vocational training.

It is not true of every kid with disabilities. Visually impaired kids and hearing impaired kids go on to college at the same rate as other kids that have no disabilities. It's why any statement about all kids can't be correct.

Those kids, in fact, do fine in 10th grade biology and advanced math and go to college; and they should, if that's the individual program and the goal that they set. It's not true of a kid with a learning disability, necessarily, or a kid with mental retardation, probably. So a curriculum that recognizes their individual goals is crucial.

Let me also reemphasize Mr. Sanford's point, about the role of parents in all of this. We've done some very sophisticated statistical models that try to figure out what helps a kid succeed where you create this concept of statistical twins.

What if a kid were identical in disability, and gender, and household income, and ethnic background, and everything else that you can measure about him, except the kitchen sink; what if you made him just the same; and then you started tweaking only one thing at a time. What tweaking can you do that seems to boost their probability of success? Parent expectations, and parent involvement in education, came out over and over again, no matter what outcome we looked at, as a significant powerful contributor to a kid's success.

Parents are important here. Parents are kids' first teachers. They start, from the beginning, setting expectations for a kid to do well.

We don't need to look at this business of kids with disabilities, as if schools were singlehandedly responsible here. Parents and families have a lot to do with it. And a lot of parents don't know how to advocate for their children. They don't know how to approach the school system.

Parent involvement—the aspect of parent education, and parent involvement in this, can't be ignored. The more we can do to get that constant support at the family, the more the schools will be able to succeed at the part of the job that is theirs.

Chairman OWENS. Mr. Sanford, do you have any ideas about parent involvement as a problem, in general? In fact, after eight years of trying, I've succeeded in getting an amendment to the Elementary/Secondary Education Act which requires that no less than 1 percent of all Chapter 1 funds received by an LEA must be spent on parent involvement and parent participation activities.

Everybody says that it is very important to participate, but for eight years, nobody was willing to do something concrete to ensure that we can measure, as Mr. Bowe said, some degree of whether funds are being spent for that purpose.

We don't measure quality in that situation, but we can guarantee that it's going to be happening to some degree if we say that a percent of the budget has to be spent that way.

For minority parents, related to problems with their children who have disabilities, do you have any proposals as to how we can increase the participation in order to get the kind of pressure necessary to bring about the revolution you advocate; because you advocate a little revolution here?

Mr. SANFORD. I didn't know I was really advocating revolution, per se, but I do think that there are a number of ways in which we can begin to be in contact with minority parents within the community.

In working with some of the school systems in Michigan, we have found that many of them have been afraid to really work with some of the community groups, some of the churches and some of the outlets within the community, where people may not be educated traditionally.

I think that one of the crucial things that has to be done from an educational standpoint is that you have to look at some of the nontraditional ways of contacting parents and letting parents know that there are opportunities.

More information needs to be provided to and solicited from parents. Many parents are not encouraged. The school system has to really do, if you will, a real concentrated outreach effort within the minority community, using many of the agencies and services that are located right in the community itself.

One of the other factors that we have found, is that when you use someone like ministers within the minority community, particularly in the Afro-American community, we have been able to get to more parents.

Chairman OWENS. Well, what should we do in this legislation? From where we sit, what kinds of bureaucratic things can we do? What kinds of things, in the law, can we do to help push the process?

Mr. SANFORD. Well, I think that you have got to put a greater charge upon the school system to develop specific training programs aimed at working with minority parents within those particular communities.

Chairman OWENS. We should require, in more detail, that school systems provide opportunities for students with disabilities to learn. As Mr. Bowe mentioned, in our offices here in Congress, we have captured televised programs with captions. In most schools they don't have television sets, period. As a teaching aid, these are commonplace kinds of things.

Mr. SANFORD. It becomes a question of resources, many times, in the minority community. I think that one of the things that has to be mandated is that the resources be available. For example there is a problem with accessing technologies.

Within the school system there is a real effort in terms of working with rehabilitation, trying to get resources available to adapt the technology for students, not only to be used within the school system itself, but many of the students may need the technological devices for use with their homework.

Chairman OWENS. Are any of you familiar with the administration's transition to work proposals?

The general concern of this administration is for students who are not necessarily going to college. In fact, they have really been neglected by the Federal Government.

And the intent now is to develop programs which are inclusive of that group, which has more students than the group that goes to college. Ms. Wagner, do you have a comment?

Ms. WAGNER. I was asked to comment on an early draft of the School-To-Work Opportunities Act. So I have seen at least an earlier version of that.

Chairman OWENS. Would you share some of your comments with us?

Ms. WAGNER. I think it is right on in many ways, to recognize the fact that at the secondary level, employment is a goal for many students. We often emphasize the college-bound, and programs for the college-bound. And it's time that we realized our economic position as a country depends on workers, and well-trained workers.

So I think that some of the elements from the vocational side, are very strong. We have been able to show in the same statistical models where you hold things constant, or try to, that post-school employment outcomes for kids with disabilities are much improved for kids who took a concentration of vocational training in high school.

A concentration means more than four semesters, at least, in the same content area. So if you wanted to pursue a particular area, if you took a concentrated training in that area, your chances of getting a job, and of getting a higher paying job are vastly improved. Work experience programs in high school have the same positive effect——

Chairman OWENS. There is likely to be a positive fallout——

Ms. WAGNER. [continuing] for employment outcome.

Chairman OWENS. There is likely to be a positive fallout for students with disabilities?

Ms. WAGNER. For students with disabilities there was a positive contribution of work experience and of a concentration of vocational training, particularly from mildly impaired kids. The biggest bang came for the LD kids, kids with mild mental retardation, and mild emotional disturbances. The biggest gain was for those kids.

They are also the kids that are most likely to have an employment goal. They are also the kids most likely to fail in regular education classrooms. So where we provide them with a vocational track that is well thought out, they actually do succeed there. And it improves their vocational prospects in the future.

The thing that worries me about the legislation is the emphasis on high academic standards as well. Where again, we have kids for whom high academic standards are our sticking point.

And I fear that the emphasis on that will, in fact, make this another program that excludes kids that have cognitive and learning difficulties; because they won't be able to succeed, you know, if you raise the bar.

If the kids can't jump the bar now, and you raise the bar without doing something very intentional about improving their skills to leap over the bar, then all you've done is create a higher opportunity for failure. So I think the vocational side of that is right on the money.

I'm worried about how to marry up the academic focus so that the kids can actually succeed at both. And I don't know that that has been carefully thought out.

Chairman OWENS. Thank you very much, all three of you. Mr. Scott?

Mr. SCOTT. Thank you, Mr. Chairman. I have been following this, and it's fairly new to me. I want to express my appreciation for your hard work in this area.

I just have a couple questions. Ms. Wagner, how much did this study cost?

Ms. WAGNER. It ended up being six years in length. It was a $5 million investment—a $5½ million investment. The $5 million came from the Office of Special Education, and a half million dollars came from the Rehabilitation Services Administration.

Mr. SCOTT. If additional study were authorized, you could continue the same study?

Ms. WAGNER. This study shouldn't be continued. I think this study has——

Mr. SCOTT. Is this the one cohort that went through the system?

Ms. WAGNER. It was. It was of kids who were 15 to 21 in 1985, and we followed them for all the years after that. So we captured their secondary school experience and up to five years post-school. And we have a good handle on that.

Another study needs to start with younger children. A lot of our unanswered questions are about what happens to kids. How do kids get into special education? It happens mostly in elementary school and we know very little about that, or about what goes on in those classrooms.

The Chapter 1 Longitudinal Study which is being done now, is an example of a project that actually takes cohorts at different points in time and follows them all together. And that's a promising design here, because then, if done properly, you can link them up as if you had followed the same kid for 20 years. And then you know much more than we were able to find out based on the length of time we studied.

So a continuation of this study is not warranted, I don't believe. But something like it needs to be thought about very seriously.

Mr. SCOTT. You mentioned parental expectations as a very high indicator. What about teacher expectations?

Ms. WAGNER. We didn't look at that issue.

Mr. SCOTT. Did not?

Ms. WAGNER. No.

Mr. SCOTT. Thank you, Mr. Chairman.

Chairman OWENS. I want to thank all three of you for very stimulating testimony. If we have any further questions, we will be in touch with you in the next 10 days.

If you have any further comments, we'd appreciate receiving them in the next 10 days. Thank you very much.

The next panel consists of Diana Autin, the Managing Attorney, Advocates for Children, New York, New York; Dorothy Wendel, Esquire, Board of Directors, Self-Initiated Living Options, Medford, New York; Dr. Alan Gartner, Dean for Research, The Graduate School and University Center, The City University of New York, New York; and he is accompanied by Dr. Dorothy Kerzner Lipsky, Director, National Center on Educational Restructuring and Inclusion; and Ms. Vicki Phillips, Chief of Staff, National Alliance for Restructuring Education, National Center on Education and Economy, Washington, DC.

Please be seated. We have copies of your written testimony which will be entered into the record in its entirety. You may use this time to highlight any items that you wish to highlight.

We will begin with Diana Autin.

STATEMENTS OF DIANA AUTIN, ESQUIRE, MANAGING ATTORNEY, ADVOCATES FOR CHILDREN, NEW YORK, NEW YORK; DOROTHY WENDEL, ESQUIRE, BOARD OF DIRECTORS, SELF-INITIATED LIVING OPTIONS, MEDFORD, NEW YORK; ALAN GARTNER, DEAN FOR RESEARCH, THE GRADUATE SCHOOL AND UNIVERSITY CENTER, NEW YORK, NEW YORK; DOROTHY KERZNER LIPSKY, DIRECTOR, NATIONAL CENTER ON EDUCATIONAL RESTRUCTURING AND INCLUSION, NEW YORK, NEW YORK; AND VICKI PHILLIPS, CHIEF OF STAFF, NATIONAL ALLIANCE FOR RESTRUCTURING EDUCATION, NATIONAL CENTER ON EDUCATION AND ECONOMY, WASHINGTON, DC

Ms. AUTIN. I'm Diana Autin, I'm the adoptive parent of several children from varying racial and cultural backgrounds; and also the managing attorney at Advocates for Children, a nonprofit organization with 23 years experience helping children, primarily children of color, and from low income families, obtain appropriate general and special educational services in New York City public schools, through direct representation, parent training, and policy research and negotiation.

We also coordinate a citywide coalition, the Ideals Coalition, working for inclusive desegregated quality education for all students.

My testimony today is based on our report, "Segregated and Second Rate: Special Education in New York." I sent copies along with my testimony last week.

Like many other States, New York has been found out of compliance with the least restrictive environment requirement of Federal law by the United States Department of Education. Sixty-five percent of New York City's children with disabilities are placed in segregated settings.

Contrary to the testimony of a previous speaker, New York City serves most of the high school students who survive a segregated elementary school system in segregated high school classes and they don't succeed there either. Nationally, children of color are significantly over-represented in the most restrictive special education placements. Even in New York City, students in self-contained special education classes are disproportionately African American or Latino; while white students are much more likely to receive related services in mainstream settings. This racial disparity is increasing.

The low rate of decertification, only about 5 percent, compounds the segregation. The wide disparity between the academic performance of general and special education students, the extraordinarily low graduation rates, and the high dropout rates for special education students, point to the failure of these restrictive settings to improve or promote student performance.

Education research demonstrates that, unlike children in segregated settings, children with disabling conditions who participate in appropriately supported general education classes, profit from the experience, both academically and socially.

Just as importantly, the inclusion of students with disabling conditions cultivate social awareness and sensitivity in general education students, and better prepares all students for life in a diverse society.

Also importantly, general and special education specialists could share expertise, collaborate on strategy, and design and implement comprehensive learning strategies, for students both with and without disabilities, if we move more toward a system of effective supported inclusion. Despite the benefits, there are many systemic barriers to quality supported inclusive education in New York and across the country. Many States' special education reimbursement formulas promote the segregation of disabled students by offering low reimbursement rates for mainstream placements. Perhaps such funding formulas should be prohibited by Federal law.

Another major barrier is the unwillingness or inability of the State education departments across the country and the U.S. Department of Education to provide effective leadership and take forceful corrective action when technical assistance fails to overcome deficiencies.

Based on our experience, there are other barriers that prevent appropriate quality service delivery, prereferral, their insufficient, preventive, and remedial services for children at risk of failure, who are trying to learn in deteriorating buildings in devastated communities. Even well meaning teachers throw up their hands in despair and refer non-disabled children to special education to make them eligible for support services.

With regard to referral, the racial, cultural, and linguistic mismatch between teachers and the children that they serve contributes to the disproportionate referral of children of color and limited-English proficient children for evaluation.

And there is no quality control on the evaluation process. Once children are referred, the vast majority are ultimately labeled. In New York City, 90 percent of the time, if the child is referred, they end up being designated as requiring special education services.

I'm sorry, but my experience as a public school parent leads me to believe that teachers aren't right 90 percent of the time in these situations.

The use of standardized tests that haven't been translated or normed for language minority populations, which we all know have an adverse impact on children of color and poor children, result in a disturbingly high proportion of limited-English proficient and African-American students being labeled and recommended for very restrictive settings immediately upon entry into the special education system. The recommendations made pursuant to evaluations often fail to adequately incorporate the results of assessments. Frequently, IEP teams set forth vague and narrowly focused goals rarely including decertification or inclusion.

Far too often in our experience, and we serve 2,500 children a year in direct representation, it results in the adoption of the same goals and objectives that were not accomplished the previous year. Clinicians and IEP teams are often unaware that they have a legal obligation to recommend the least restrictive appropriate environment for children. Once in special education, ineffective instruction leads to the academic regression of many students; sometimes due to a thumbing down of curriculum, sometimes to an almost total lack of academic instruction, particularly for children with emotional disabilities or even mild mental retardation. Other contributing factors include a lack of substantive expectations by teachers, which I think should have been included in the study; outdated, inappropriate instructional materials; and poor quality IEPs that fail to provide teachers with appropriate instructional strategies to utilize a child's strengths to overcome the effects of the disability.

We don't see a lot about children's strengths in evaluations or on IEPs, and they're supposed to use the child's strengths to help them overcome the effects of their disability.

Inexperienced teachers are ill-prepared by their training to deal with the wide range of cultural, linguistic, racial, ethnic, and socioeconomic backgrounds, or the varying learning styles of the children in their classrooms, whether or not those children have disabilities.

The systemic disregard for the role and rights of parents is also disturbing. Far too often, we speak with parents who are unaware that they have consented to their child's evaluation or placement in special education; or who have signed, under the threat of being charged with educational neglect.

Once their child is in special education, most parents are afforded little, if any, opportunity to influence the development or effective implementation of IEP goals and objectives.

While parents training and counseling necessary for students to benefit from services are allowable under IDEA, they are never included on student IEPs.

Chairman OWENS. Excuse me one minute, I think that is the second bell, and we will have to recess for 10 minutes.

[Recess.]

Chairman OWENS. I think we will have no further interruptions, so we shall proceed with Ms. Autin.

Ms. AUTIN. Thank you. Often, it is only with the threat of impartial hearings and possible attorneys fees that parental rights to full participation in the process are respected.

To overcome these barriers and lay the necessary foundation for all children to learn in more inclusive classrooms, Advocates for Children urges adoption of the 10 entitlements proposed in the National Coalition of Advocates for Students, *The Good Common School: Making the Vision Work for All Children* set forth in my written testimony.

Merely allowing local teachers and administrators to make educational decisions about children will not necessarily result in improved outcomes for children with disabilities or children of color. For these are the same teachers and administrators who now inappropriately refer children to special education and fail to meet their needs in mainstream settings.

We must also recruit bilingual professionals and professionals of color, and prepare all educators to meet the challenges of diverse classrooms and implement staff development programs that address issues of cultural sensitivity, prejudice reduction, and varied instructional teaching styles.

We must also ensure that the Federal law is implemented more effectively with a greater focus on substance and outcomes. As advocates, we know with dismay that four years after the Department of Education's 1989 monitoring visit, New York State and City have failed to implement, and the department has failed to forcefully enforce, the mandated corrective action plan.

We see every day the appalling impact that the current system has on children and question why no substantive reform has occurred, despite so many clear violations and apparent agreement on the steps that must be taken.

Do the Federal, State, and city bureaucracy lack the political will necessary to change New York's segregated and second rate special education system? Must we watch another generation of vulnerable children endure diminished self-esteemed compromise academic achievement?

The crisis in special education that we are experiencing is a crisis of leadership. The Department of Education must take swift action to ensure that every child with a disability is guaranteed effective educational services in the least restrictive appropriate environment.

Specific recommendations for action are outlined in my written testimony. We urge you, Congress, to closely oversee the monitoring and enforcement activities of the Department of Education, which is the last bastion of hope for parents against noncompliant school districts.

With regard to other possible legislative changes, we oppose proposals to eliminate tenancy placement rights, weaken the protection set out in Honig v. Doe, or dilute the right of parents to obtain attorneys fees for impartial hearings, particularly given our first hand experience with recalcitrant districts, who refuse to implement the law until the request for a hearing is made.

In conclusion, it is crucial to the future of our Nation that we reverse the trend toward isolating children from their peers. Isolation and segregation rarely constitute effective educational strategies.

The promise of the Individuals with Disabilities Education Act is unmatched in the history of Federal education legislation—a free, appropriate, public education in the least restrictive environment with the full participation of parents.

Sadly, that promise is too often broken. As advocates for children, in both general and special education, we are in a unique position. We believe that many of the protections embodied in IDEA are critical to assuring the right of all children to learn.

We oppose school reformers who suggest the elimination of the parental protections and services that are mandated for children with disabilities.

Instead, we urge that this basic right—a free, appropriate, public education in the least restrictive environment with the full participation of parents—be viewed as a role model for the education of all children.

And additionally, all Federal education programs, including Chapter 1 and Head Start and IDEA, should be fully funded. It is only in this way that the full promise of IDEA will be realized.

[The prepared statement of Diana Autin follows:]

DIANA MTK AUTIN, ESQ.
MANAGING ATTORNEY
ADVOCATES FOR CHILDREN OF NEW YORK, INC.

TESTIMONY

Advocates for Children of New York, Inc. is pleased to have this opportunity to present testimony addressing the questions about special education raised in this public hearing before the U.S. House of Representatives Committee on Education and Labor Subcommittee on Select Education and Civil Rights.

For twenty-three years, Advocates for Children has assisted parents and children to obtain appropriate educational services in New York City public schools. We represent 2,500 clients and train 4,000 parents and professionals each year to advocate on behalf of their own children. We also identify systemic problems; research the causes of those problems; and engage in public policy negotiations to overcome them. AFC has consistently urged the school system to better address the needs of children in general education, avoid inappropriate placements in special education, and provide high quality special services for children who need them. Our most recent report, <u>Segregated and Second-Rate: 'Special' Education in New York</u>, is based on our significant experience representing parents and children in individual special education cases, as well as our status as co-counsel for plaintiffs in the <u>Jose P. v. Sobol</u> class action litigation. The report identifies the extent, causes, and devastating impacts of segregation in second-rate special education programs in New York and explains the rationale for inclusion. It also describes effective strategies for change, and presents specific recommendations to move toward a more inclusive, successful special education system. My testimony briefly summarizes the report's findings and recommendations.

In 1991, almost 2.2 billion dollars was spent to maintain New York City's special education system. Sadly, many of the over 130,000 students in need of special education services received a second-rate education that failed to prepare them for future life.

Segregated Settings

Despite federal and state legislation requiring that students with educationally disabling conditions be educated in the <u>least restrictive environment</u> (LRE) appropriate to their needs, New York City and State trail the nation in the provision of services in mainstream settings. Over 13% of all New York City students receive special education services as compared to 10% nationwide. 65% of these students are placed in segregated settings. The United States Department of Education has found New York State out of compliance with the LRE requirement, a status potentially jeopardizing receipt of federal aid.

In educating disabled students, New York City and State have failed to preserve the basic principle that all children have the right to learn together. All too often, disabled children end up in separate buildings and/or classrooms because schools lack more integrated programs, the schools provide intensive services only in restrictive settings, or administrators simply find segregated placement convenient.

P.S. 721 in New York City, visited by Department of Education monitors in 1989, exemplifies the failure of public schools throughout New York to provide social and academic interaction between disabled and non-disabled students.

Although P.S. 721 stands only blocks away from a general education school building, it furnishes no opportunities for the students in its Specialized Instructional Environment V (SIE V) program to interact with nondisabled peers.

This special education service category is designed to prepare students for semi-competitive employment. In explaining the lack of social integration and, thus, the school's reasons for ignoring the federal mandate set forth in Section 300.227, teachers responded that disabled students would not be accepted by nondisabled students, don't have good verbal skills, are easily frustrated, would need the assistance of paraprofessionals, and would "just be isolated." These statements were made freely, in apparent disregard of the fact that they revealed noncompliance.

This and other information contained in Segregated and Second-Rate indicates that New York City over-refers and over-recommends children to a segregated special education system that fails to provide adequate academic instruction to enable children to return to less restrictive settings, be decertified from special education or even to graduate.

Oversegregation of Children of Color

Our study reveals that children of color are significantly over-represented in the most restrictive special education placements throughout the city and the state. Thus, in heterogeneous areas of the state, the over-representation of children of color in restrictive special education placements suggests a racial re-segregation of public schools.

In New York City, where the student population is 73% African-American and Latino, 84% of students in "self-contained" special education classes are African-American or Latino. On the other hand, White students, who are 20% of the City school population, represent 37% of the students receiving related services only. White students are much more likely to receive related services in the mainstream than African-American or Latino students.

This racial disparity is increasing: from 1985 to 1990, the number of Latino and African-American males in special education programs in New York City jumped 11% and 5%, respectively, while the number of White males decreased by 14%.

Second-Rate Education

The low rate of decertification from special education compounds the segregation. Only about 5% of New York City's special education students achieve decertification and return to general education. Thus, New York City not only places a disproportionate number of students in segregated special education settings, but leaves them there.

Statistics also show the wide disparity between the academic performance of general and special education students. The extraordinarily low graduation rates and high dropout rates for special education students in New York City point to the failure of restrictive settings to improve or promote student performance. In fact, fewer than 5% of New York City's approximately 135,000 special needs students graduate on time; only about 24% ever graduate. The rest drop out, age out, or simply disappear.

Gains of Supported Inclusion

Academic Gains

Education research demonstrates that, unlike children in segregated settings, children with disabling conditions who participate in appropriately supported general education classes profit from the experience. A comprehensive analysis done in 1987 by Gartner and Lipsky of fifty studies of the academic achievement of children with disabling conditions showed that the mean academic performance of the integrated group was in the 80th percentile, while segregated students with similar types and severity of disabilities scored in the 50th percentile. A more recent study by Wang and Reynolds found that integrated students academically outperformed segregated students by an average of six months. Among students with severe disabilities, integrated students attained more of the objectives set forth in their Individualized Education Programs (IEPs).

Social Gains

These academic gains, while impressive, are only part of the picture. Research investigating the social development of children with disabilities clearly establishes that inclusion in general education stimulates social development, while segregation retards it. Numerous studies of students ranging from moderately to profoundly disabled have found positive gains in self-esteem, behavior, emotional adjustment, and ability to cope with negative social circumstances. Integrated children also improved in their ability to accept help from others.

Just as importantly, the integration of students with disabling conditions cultivates social awareness and sensitivity in mainstream general education students at the same time that it increases the social competence of disabled students. In creating classrooms which realistically reflect the world outside the school walls, integrated programs better prepare all students for life in a diverse society.

Further, upon entering the world beyond school, students with disabilities benefit tremendously from the social competence and knowledge acquired in integrated programs -information and skills that are essential for productive employment.

Administrative Gains

Effective inclusion promises other constructive changes in education systems.

* General and special educators could share their expertise, collaborate on strategy, and design and implement comprehensive learning strategies for students with and without disabilities, including students at-risk of academic failure.

* Special educators and clinicians could spend less time determining classification and eligibility of students for special education programs and more time actually instructing them.

* Funds could be utilized more efficiently. If schools fully include students with disabling conditions in general education classrooms, they can better utilize resources and

programs which they often duplicate in special and general education classrooms.

Administrative Obstacles to Quality, Supported Inclusive Education

Despite these benefits, there are many systemic barriers to quality, supported inclusive education in New York and across the country.

New York State Barriers

New York State statutes and regulations contribute to schools' and districts' over-segregation of disabled children into failing special education programs.

One major barrier is the State's special education funding formula which offers low reimbursement rates for integrated placements, a narrow continuum of services for special education within the general education classroom, and too few program options between levels of service. In presenting districts with few viable options for including students with disabling conditions, New York's reimbursement formula in effect promotes their segregation.

The formula fails to take into account the actual costs of placements. While "push-in" services in mainstream classes may cost as much as a more segregated program, the reimbursement is significantly less. Thus, school districts have little incentive to devise and implement integrated programs.

No federal statute or regulation necessitates New York's limited funding formula; on the other hand, neither is such a formula prohibited. Perhaps it should be.

Another major State barrier is the unwillingness or inability of the State Education Department to take forceful corrective action when "technical assistance" fails to overcome deficiencies.

New York City Board of Education Barriers

New York City Board of Education policies and procedures likewise thwart efforts to develop innovative inclusive programs. For example, the Chancellor's mainstreaming circular makes the mainstreaming of special education students unnecessarily burdensome, provides insufficient consultation time, and severely restricts these opportunities on the basis of factors other than a consideration of whether the child can benefit from mainstreaming.

In fact, the percentage of mildly and moderately disabled students in self-contained classes who were mainstreamed for academic subjects actually decreased last year.

The continuing failure of New York City public schools to implement consultant teacher services throughout the city further frustrates integration. This is the only State continuum service designed to maintain a child in the regular classroom fulltime, yet only a handful of students - all represented by Advocates for Children - receive this service.

District and School Barriers

Based on our experience, there are several district and/or school-based fundamental barriers to appropriate special education referral, evaluation and services in New York City public schools.

Pre-Referral

There are insufficient preventive and remedial services for at-risk children learning in deteriorating buildings in devastated communities. School buildings are in catastrophic shape; children are "taught" in classes of 38 or more per teacher; up-to-date instructional materials and equipment are in short supply; Chapter 1 remedial services are not available for all eligible children; and the least experienced, untrained teachers are concentrated in the neediest schools. Even well-meaning teachers throw up their hands in despair and refer non-disabled children to special education to make them eligible for support services.

In addition, school staff rarely engage in any comprehensive attempt to provide remediation or pre-referral services to children. We seldom see evidence in children's records of informal reviews of classwork; results of interviews with students and/or parents; structured observations of students in the classroom; or any concerted attempts to assist children prior to referral.

Referral

The student population in New York City public schools is 80% African-American, Latino or Asian, and 15% limited English proficient. The teaching staff is 75% white. Unfortunately, many of these teachers and other staff have not received sufficient training and ongoing professional development in culturally-sensitive evaluation and teaching techniques. Many of the criteria commonly used by teachers to identify children with "learning disabilities" are symptomatic of children learning a second language or undergoing cultural transformation. Thus, it's not surprising that teachers cannot eliminate racial, cultural, and linguistic differences as factors in a child's poor performance in school but instead disproportionately refer children of color for evaluation as educationally disabled.

Evaluation

There is no quality control on the evaluation process. 90% of all referred children are evaluated; 85% of all referred children in New York City are determined to be educationally disabled. Once children are referred, most are disabled.

Just as disturbingly, the labels placed on these children fall in very suspicious categories. African-American children are far more likely to be classified as "emotionally disturbed" or "mentally retarded." Limited English proficient children, on the other hand, are far more likely to be classified as "learning disabled" or "speech impaired."

The anecdotal experience of our advocates suggests several contributing factors. School principals and teachers appear to unduly influence the School-Based Support Teams (SBSTs) which evaluate and assess children referred for special education. Since each SBST's psychologist, social worker, and education evaluator have close working relationships with teachers and principals, they heavily weigh the comments and informal (and often uninformed) assessments of these school staff in their evaluations.

In fact, we have had conversations with clinicians who admit that they classify African-American children with behavior problems as "emotionally disturbed" simply to get them out of the general education classroom.

This undue influence, combined with the use of inappropriate assessment instruments and techniques, results in too many children not receiving fair, impartial evaluations. Standardized tests, which have been determined to have an adverse impact on children of color, play too great a role in the assessment process. The use of standardized tests that have not been translated or normed for language minority populations, and the cultural/racial/linguistic mismatch between evaluators and the children they evaluate, result in a disturbingly high proportion of limited English proficient students being recommended for very restrictive settings immediately upon entry into the special education system. Insufficient bilingual services in general education often lead clinicians to classify limited English proficient children as "learning disabled" because that is the only way to get them bilingual instruction in their school or district.

In general, the unfamiliarity of teachers and clinicians with the cultural behaviors and norms of immigrant children and children from varied ethnic, racial, cultural, and linguistic backgrounds can have an inappropriate effect on evaluation and assessment results.

Recommendations

The recommendations made pursuant to evaluations are insufficient to address children's needs. Committees on Special Education and SBSTs often fail to take responsibility for developing and ensuring the implementation of comprehensive, yet flexible, IEP goals. In establishing students' IEP goals, CSEs fail to adequately consider the results of assessments. Frequently, CSEs set forth vague and narrowly-focused goals, rarely including decertification or inclusion.

Furthermore, when parents request changes or improvements in their child's placement or services, the CSE which designed the child's IEP often claims that it lacks the authority to change the IEP without the school's approval. When parents approach the school, the school refers them back to the CSE. This refusal to accept accountability deprives children of appropriate services.

The short-term objectives set forth in IEPs often bear little relationship to the long-range goals. In addition, in many instances, children would be able to master the short-term objectives and never reach the long-range goals. Far too often, annual reviews result in the adoption of the same goals and objectives that were not accomplished the previous year.

Finally, clinicians on IEP teams are often unaware that they have a legal obligation to recommend the least restrictive appropriate environment for children. Instead they believe that they cannot order inclusive placements because the services do not exist.

Ineffective Instruction

Our review of thousands of student records reveals a startling fact: many students actually regress academically after placement in special education classes. This is sometimes due to a "dumbing down" of the curriculum into meaningless bite-sized pieces, and in other instances to an almost total lack of academic instruction (particularly for children with emotional disabilities or mental retardation).

Other contributing factors include a lack of substantive expectations by teachers; outdated, inappropriate instructional materials; poor quality IEPs that fail to provide teachers with appropriate instructional strategies to utilize a child's strengths to overcome the effects of her/his disability; and inexperienced teachers ill-prepared to deal with the wide range of cultural, linguistic, racial/ethnic, and socio-economic backgrounds, or the varying learning styles, of the children in their classrooms.

Teachers' abilities to respond effectively to the academic and social needs of their students, and particularly their students with disabilities, are strongly influenced by the quality of their training and the range of their experience before and after entering the profession. Many teachers - especially those who teach students from different language and cultural backgrounds - find their training has left them ill-equipped for urban classrooms.

Teachers tend to teach as they were taught. Teachers from one generation to the next continue to believe that "teaching is telling." Teacher behavior remains characterized by teacher-dominated instruction, low-level questioning, limited teacher/student and student/student interaction, and an emphasis on the acquisition of basic skills. Teachers seldom challenge their students, especially their disabled students, by demanding that they defend their ideas, justify their answers, and explain their reasons. Yet these are the methods that develop the higher-order skills our society requires.

The shortage of appropriately licensed teachers exacerbates the situation. Thousands of children in New York City are taught by teachers who are not properly credentialed, i.e., who have never taken any education courses or had any teaching experience. These unqualified teachers are concentrated in the "least attractive" schools serving the children most in need of effective teachers.

Teachers, administrators, clinicians, and related service providers of color, and/or with bilingual expertise, are in extremely short supply. This reality points to a critical need to increase the attractiveness of education as a career; to improve our recruitment efforts for bilingual professionals and professionals of color, including expansion of paraprofessional career ladder programs; and to prepare all new educators, regardless of color, to meet the challenges of diverse classrooms. Equally important, staff development programs must address the issues and concerns teachers and others face in diverse classrooms, including cultural sensitivity and prejudice reduction training.

Appropriately prepared, committed teachers, and appropriate supports in the classroom, are essential for quality education.

Disregard for the Role and Rights of Parents

Far too often, we speak with parents who are unaware that they have consented to their child's evaluation and/or placement in special education. It is obvious that they have not given "informed" consent. Rather, they have been asked to "sign this and we can figure out how to help your child," or "sign this and we can get your child help in a small class with lots of services."

Other parents have signed under the threat of being charged with educational neglect. One principal proudly told a reporter recently that she never had to request an impartial hearing to get a child evaluated. Instead, she used other means at her disposal, including threats of referral to the Child Welfare Administration.

Another critical area of widespread noncompliance concerns the development of IEPs. Under federal law, parents are entitled to participate actively as partners in this process. But in New York City, parents arrive at meetings to find IEPs already written - not in draft, but in final typed form! They are afforded little, if any, opportunity to influence the established goals and objectives.

Often, it is only with the threat of impartial hearings and possible attorneys' fees that parental rights to full participation in the process are respected. Yet for far too many parents with limited financial resources, even this is not a viable option.

Recommendations for Improvement

Although federal special education law and regulations are essentially sound, the law must be implemented more effectively. Administrators, educators, and parents must all work to support children in general education classrooms. To ensure that schools meet the needs of all children in the inclusive classroom, we must improve the quality of classroom teaching, increase the availability and quality of preventive and related services and instructional materials, and expand the continuum of special education services.

Laying the Foundation

In order to accomplish these objectives, AFC urges adoption of the ten entitlements proposed in the National Coalition of Advocates for Students' The Good Common School: Making the Vision Work for All Children. Children are entitled to:

(1) "have parents, advocates, and concerned educators involved in all decisions affecting their education;"

(2) "learn in an integrated, heterogeneous setting responsive to different learning styles and abilities;"

(3) "comprehensible, culturally supportive, and developmentally appropriate curriculum and teaching strategies;"

(4) "access to a common body of knowledge and the opportunity to acquire higher-order skills;"

(5) "a broadly-based assessment of their academic progress and grading structures that enhance individual strengths and potential;"

(6) "a broad range of support services that address individual needs;"

(7) "attend schools that are safe, attractive, and free from prejudice;"

(8) "attend school unless they pose a danger to other children or school staff;"

(9) "instruction by teachers who hold high expectations for all students and who are fully prepared to meet the challenges of diverse classrooms;" and

(10) "an equal educational opportunity supported by the provision of greater resources to schools serving students most vulnerable to school failure."

U.S. Department of Education

As advocates, we note with dismay that, four years after the Department of Education's 1989 monitoring visit, New York State and City have failed to implement mandated corrective actions.

It is even more discouraging that the U.S. Department of Education has not acted to enforce the corrective action plan. Now, a new monitoring visit has revealed many of the deficiencies identified in 1989, particularly with regard to restrictive placements. **What does it take for the Department of Education to implement strong enforcement actions?**

AFC has on numerous occasions communicated with U.S. Department of Education staff regarding follow-up to the Office of Special Education Program's 1989 Monitoring Report. We see every day the appalling impact that the current system has on children, and question why no substantive reform has occurred despite so many clear violations and apparent agreement on the steps that must be taken to remedy the noncompliance. We are deeply disturbed by OSEP's failure to enforce compliance with its own mandated corrective action plan. Do the federal, state and city bureaucracies lack the political will necessary to change New York's segregated and second-rate special education system? Must we watch another generation of vulnerable children endure diminished self-esteem and compromised academic achievement?

In Segregated and Second-Rate, we stated the obvious - we presented information well known to people in the system. We were amazed by the number of parents, teachers, and City and State education and public administrators who agreed with our findings and recommendations. And yet today, a year and four months after the release of our report, no meaningful change has occurred. **We are experiencing a crisis of leadership.**

To those of us working every day with parents and children, the fact that only 6.8% of all special needs children in New York are placed full-time in general education classrooms is appalling. It is even more horrifying when one considers the devastating impacts this segregation has on the academic and social education of children with disabilities. The Department of Education must take swift action to ensure that New York City and State provide every disabled child special education services in the least restrictive appropriate environment. Immediate action is needed to implement nationally recognized methods and techniques such as using general and special education teacher teams, consultants, and itinerant teachers to serve special needs students in general education classrooms.

Toward that end, the U.S. Department of Education must provide technical assistance and enforcement actions to ensure that New York City and State - and other states across the country - take prompt action to implement the following recommendations. Further, review of the extent of compliance with these recommendations should be a central aspect of future OSEP monitoring visits.

State Legislatures

State legislatures should:

0 Revise special education reimbursement formulae to remove barriers to supported inclusive programs, broaden continual of special education services offered in the general education classroom, and expand program options between levels of service.

0 Establish new continual of intermediate, preventive services which provide students with individualized support services prior to special education referral.

State Education Departments

State education departments should:

0 Promulgate and widely circulate policy statements which underscore their commitment to ensuring the availability of an inclusive education option for all children with disabilities.

0 Compile, assess, and document available data on current inclusive models and distribute the data to all local educational agencies.

0 Convene task forces of educators, advocates, and other professionals to study the inclusive programs of other states and to recommend those programs particularly suited for implementation in their state.

0 Provide school districts with informational conferences, forums, videos, and other materials regarding inclusion.

0 Provide technical assistance to school districts across their states to enable schools to:

  - fully comprehend the federal and State requirements pertaining to the LRE and assessment and evaluation procedures;
  - fully comprehend special education reimbursement formulae and methods to secure funding to support more inclusive placements;
  - implement the innovative, inclusive programs which other districts and States have successfully adopted; and
  - implement state of the art inclusive models.

0 Ensure, as required by federal law, that school districts comply with federal standards pertaining to the evaluation and assessment of children for special education.

0 Ensure that all teachers receive more comprehensive training in the education of children with disabling conditions, in conjunction with local school districts, colleges, and universities. Revise the courses of study offered in teacher training institutions to focus on teaching strategies that we know work well for all children, including children with disabilities, such as team teaching, cooperative learning, and peer tutoring, rather than lecture formats.

0 Revise teacher certification tests/assessment methods to reduce adverse impact on applicants of color and to include issues related to cultural/linguistic/racial knowledge and sensitivity, ability to adapt instructional strategies to meet diverse needs, and understanding the importance of parental involvement.

0 Foster culturally-sensitive attitudes in administrators and teachers, in conjunction with local school districts, colleges, and universities. Ensure ongoing professional development opportunities for teachers and administrators so that they can improve their professional skills, increase their knowledge and understanding of education, and become familiar with new ideas and strategies they can use in their own classrooms and schools.

0 Scrutinize and monitor the appropriateness of instruments currently used to evaluate and assess children of color for special education.

0 Issue regulations which require evaluation teams, in responding to referrals, to fully disclose school officials' informal assessments of students; to better document evaluation and assessment results, including children's strengths as well as weaknesses; to demonstrate point by point that their recommendations correspond to assessment results; to justify any decision to remove children from mainstream settings; and to establish goals of decertification and inclusion.

0 Promulgate regulations which establish high standards for Individualized Education Programs (IEPs) and set forth procedures for review of substandard IEPs.

0 Thoroughly investigate the failure to include special education students in general education classrooms.

0 Thoroughly investigate the over-representation of children of color in special education placements, especially their over-representation in the more restrictive settings.

- Convene task forces of racially and culturally diverse representatives from education agencies, nonprofit organizations, and professional associations to study and recommend revised evaluation and assessment procedures and materials for children of diverse cultural and racial backgrounds.
- Encourage school districts to limit the number of students in classrooms and provide financial assistance to build more classrooms.

Local School Districts

Local school districts should:

- Specifically formulate policy statements that promote full inclusion of disabled children in general education classrooms and remove any existing current regulations which impede the implementation of inclusive programs.
- Provide "push-in" academic and support services in every school to special education students and at-risk Chapter 1 students in general education classrooms.
- Devise local initiatives to:
  - create support and informational networks for teachers to share strategies for and experiences in educating disabled children within the general education classroom;
  - develop consultant-teacher and team-teaching strategies and adopt inclusive models;
  - foster "natural supports," i.e., students and adults, who can provide disabled children with informal assistance or simple special education services in the general education classroom;
  - strive towards school-based management with significant parent participation and create other programs through which parents can take an active role in the education of their children and community members can contribute their time and resources;
  - convene committees of community leaders, professionals, parents, and teachers to establish high standards for curriculum to interest and challenge students and to establish high standards of student performance; and
  - design and implement programs which frequently assess students' progress and provide remediation as necessary.
- Actively recruit teachers who represent different racial, ethnic, cultural, and linguistic backgrounds.
- Strive to match children with evaluators who are familiar with their cultural, racial and linguistic backgrounds and who can sensitively interpret all assessments, especially un-normed tests.

Federal Government

Advocates for Children opposes the proposals by teachers' unions and some administrators to eliminate pendency placement rights for children. We also oppose any attempts to weaken the protections set out in the U.S. Supreme Court's Honig v. Doe decision, which we believe properly balanced the rights of children with disabilities and the needs of schools. Given our first-hand experience with recalcitrant districts who refuse to implement the law until parents request an impartial hearing, we strenuously oppose any suggestion to weaken the right of parents to obtain attorneys' fees for successful outcomes of impartial hearings. Most of the parents we represent have limited financial resources; the attorneys' fee provision is essential to ensure that at least some parents are able to obtain representation in special education cases. Finally, we urge Congress to closely oversee the monitoring and enforcement activities of the U.S. Department of Education, which is the last bastion of hope for parents against noncompliant school districts.

Conclusion

It is critical to the future of our nation that we reverse the trend toward isolating children from their peers - children with educationally disabling conditions, medical needs, behavioral concerns, need for academic remediation, or immigrant status. Our experience and education research indicate that isolation and segregation rarely constitute effective educational strategies. Rather than improve these children's chance of academic success, such programs often increase the likelihood of educational failure.

We deeply believe that the promise of the Individuals with Disabilities Act is unmatched in the history of federal education legislation: a free, appropriate, public education in the least restrictive environment, with the full participation of parents. Sadly, that promise is too often broken by local school districts and state agencies.

As advocates for children in both general and special education, we are in the unique position of experiencing and valuing both. Based on our years of experience with IDEA, we are committed to the belief that the protections embodied in that law are critical to assuring the right of all children to learn. We oppose school reformers who suggest the elimination of the protections and services mandated for children with disabilities. Instead, we urge that the basic tenets of IDEA be viewed as a role model for the education of all children, and that IDEA, Chapter 1, Head Start, and all federal education programs be fully funded. It is only in this way that the full promise of IDEA will be realized.

Chairman OWENS. Thank you. Ms. Wendel.

Ms. WENDEL. Good morning, Mr. Chairman and members of the committee.

I have fully prepared text, which I know you all have been given. So rather than go through it, I would just like to talk to you a bit about some of the main points, and I am not going to use my notes.

First of all, I am Vice President of the Board of Directors of Self Initiated Living Options in Medford, New York. SILO as it is called, is an independent living center and it is one of 37 in our State. I'm also an educational attorney who currently practices. And finally, I am a person with a disability.

I told you all these things because I need you to realize from where I am coming. First of all, I think it is quite ironic that I'm sitting here before Congress now, debating and discussing the reauthorization of the IDEA, since I was one of the children who was first educated in the mainstream classroom in 1970, five years before your Act was authorized.

What I'd like to talk to you about are some of the major goals of IDEA, as I understand them, and as I understood them to be at that time.

As our prior panelists have told you, the object is for students with disabilities to begin to achieve and to ultimately be transitioned for employment.

That is where I think independent living professionals can be essential. And that is where I think you may need to work as legislators to change parts of the IDEA.

When we talk about their substantive education, which Mr. Bowe was discussing and saying that these children are not being taught, you know, it's not about where they are taught, but how they are taught.

I would just like to tell you how you might be able to change the IDEA to help to accommodate some of his goals, some of my goals, and some of Ms. Autin's goals, I hope. First, you have the IEP process. The Individualized Education Program, is what most people call it. You understand that in Rolly v. the Board of Education, which is the Supreme Court case that decided what rights would be reviewable by the Supreme Court under the IDEA, Chief Justice Rehnquist does something that sort of severs part of the law, and I think it is a problem.

He won't look at substantive education issues. He instead said, you know, the parental due process will provide for that. The parents will have their IEP meeting. The parents will go to impartial hearings, and the State plan that each State has to submit to the Federal Government won't cover substantive educational issues.

Instead, he said we are going to think about only the due process parts of the law and make sure that each parent is given due process.

Well, I just want to tell you that the IEP, the vehicle towards getting substantive education, has been greatly diminished because educators are having difficulty because they don't want to be held accountable for an individual student's failure.

We also talked a lot with prior panelists about parent involvement, and what this committee can do to change the law, strengthen it, and make it conform and sort of utilize some of that strong parental involvement.

What I would like to tell you is that if you are able to work the IEP in a different manner, if the IEP goals were mandated to be something I call SMART—Specific, Miserable, Attainable, Results-oriented, and at a time pace that a student could achieve something in a reasonable length of time. Then a parent would know what their child's goals are. Parts of my testimony go through, on pages five through seven, I think, different examples of how to make up a SMART goal.

Well, let's put it this way, if you had a child that had orthopedic difficulties, and you know that the Act originally envisioned children with orthopedic and neurological impairments that created mobility problems, what you would do is, you would infuse an occupational therapy goal that said maybe the child will learn to pick up this cup, and five out of ten times be successful.

And the occupational therapist continues to look at how well the child picks up the cup and what has to be done in terms of support services if the child can't learn to pick up that cup; or if the child is not learning successfully enough, will we use the straw or will we make sure that the cup is mounted on a wheelchair? There is always something we'll do.

Well, today's children covered by the IDEA, who have serious emotional difficulties, some of them, and learning disabilities, some of them, they need you to write in part of the IDEA and probably in the State's submission plan, a portion that says that you must include short-term objectional goals, and you must have long-term annual goals that are specifically measured. For example, if a student has difficulty with his behavior, then you must state and project that your goal for this year is that five out of ten times, Johnny will, instead of having a temper tantrum and screaming and yelling or whatever he does generally, learn to control his behavior with an alternative that I, the teacher, suggest, like conflict resolution.

Maybe he will have another behavior that will help him to demonstrate his frustration. People have these little stress relievers that they use. And some people think I am kidding when I say we should concentrate on changing the behavior of an emotionally disturbed kid or one who is labeled emotionally disturbed. Be careful, don't think that every kid that is labeled emotionally disturbed is one, because they are not.

But by labeling the behavior, by looking at the negative behavior, you will be doing something to help me, help these kids, to become employed in the future. If they can start to learn to meet their goals, if they can have measurable goals that the parents understand and that they understand, then you can help to teach them a little bit about success.

And if the goals are measured, if they are operationally defined, if they are measured in terms of real life meaningful things, like Johnny will not come late to school at least one day a week—if they start to do that, then Johnny will have some ability to control his success.

And it will assist him in transitioning to full employment. As Mary Wagner said, some of the students are not succeeding; they are not able to grasp some of that academic material.

Well, if we knew what behavioral part of learning they couldn't understand, like their reading level, or if we understood that the part of the math problem they don't get is where they have to interpret the dividing sign, then we would know what kind of jobs they should avoid or what kind of skills they should start to learn to make them more employable.

But most importantly, if we know what they shouldn't be doing, we would be able to implement the program that would teach them to feel and know success.

You asked before, Mr. Chairman, what can we do? Aside from changing, you have to find a way to tell the States that are submitting these plans that their local educational agencies must have short-term objectives for these children.

My children are getting suspended and they don't have short-term behavior management objectives in their IEPs. They are getting suspended, sir, and they sit out of school for five days and then go back to school.

The IEP says, "Johnny will learn to socially adapt to his peers." Johnny is not being taught to socially adapt to his peers. Johnny is never introduced to methods that will help him learn. He is only introduced to: if you behave badly, you're out of my school. And then he goes back and does it all over again.

The IEP was supposed to be the vehicle to bring unique services to the children. The IEP is now a computerized or handwritten form that is done as an afterthought. Even if the parents are there with me, and I'm an attorney, I can't get them a full copy of the IEP because it is not really done yet.

We're only going to take the first four pages and we're going to get four blank pages, and then the rest of the pages that define all the goals are going to stay the same. And my kids are learning to fail. And see, I personally, can't deal with that.

Social Security statistics for 1992 tell us that 5.6 million adults are receiving SSI, and that from September 1992 to December 1992, 94,000 children became eligible for SSI and 60 percent of those children have some kind of mental, as Social Security characterizes it, disorder, that includes emotional disturbances, mental retardation and other disorders that are cognitively-based.

What I'm trying to say to all of you is that first of all, the IDEA has failed abysmally for all of these children, because they are not able to lead useful and productive lives and become members of their community; Second, they have never been taught how to succeed.

And the only thing I can see that might help statutorily, is if you find phraseology that partially overrules Rolly in the event that a local education agency fails to meet IEP substantive standards, understanding that we already have appendix C of Code 300 of the Code of Federal Rules and Regulations that is supposed to tell each State agency what an IEP consists of.

What I'm trying to tell you is that regardless of what that appendix says and how difficult it might have been to get those amendments made, the IEPs don't actually work out that way. They never actually say that.

And if you wanted a parent to be involved with their child, if you wanted a school system to be involved with their child, you have to tell them what behavior to expect, what goal to strike for and then how to go about it. If Johnny's mother knows that Johnny's problem is that he acts up in class and walks out, cusses or is truant, then maybe she can do something at home. But with the IEP goal that she sees now, she can't understand that in a home-life way.

She can't help Johnny to become more socially appropriate in his peer group when she's not at school with him. They have to tell her what his problem is.

Finally, and I may have gone on just a bit, I think it was you Mr. Chairman who asked, how does the community become involved?

One of the things that is a problem with transitional services is that the current amendments say that the State vocational rehabilitation agency should be getting involved when a transitional IEP is being formed.

I have to tell you that I don't hold that much hope for the State vocational rehabilitation agencies, but I do hold out something they created that may be of assistance.

The independent living professionals in this country are people like myself who have certain challenges and have been through some portion of the system. If there was anybody that could help a child understand how to choose his goals, and help parents understand how to bring their child to those goals, and help them to succeed, it's probably an independent living person.

The State vocational people don't work with the work incentive projects. If we are going to save money in the Federal Government, they will need to successfully use the work incentive projects to reduce their need for Federal benefits.

An independent living person knows about how to use those support programs. The other thing an independent living person knows is how to compensate for things we know the student cannot necessarily eliminate.

In other words, an independent living person doesn't start from the premise that this is what a normal person does. An independent living person starts from the premise that this is what you're able to do and then helps to work out a life plan at that point.

So I think that you might want to ask the State education agencies to make it a requirement of the local education agencies that they locate and coordinate a cooperative effort between local schools and members of the community that are adults with disabilities or members of independent living.

I don't want to say that we should keep it all to ourselves. I just want to say that the young adults with disabilities have to have some role models. And it's those role models that are going to teach them how to live useful and productive lives.

I really think that. I said quite a bit elsewhere in the testimony itself. But I just want to make you understand that we are real people.

One of the reasons that I am so against just including vocational—State vocational and evaluators is this. When I first graduated from high school—and I did stay in a mainstreamed high school all the way through and I did earn our State's highest recognized academic diploma and I am learning disabled—and first approached State vocational and said, "I want to go to college," they said, "You will not succeed, you're not college material."

I put myself through college with the help of an independent living movement and my employment there. What I want to tell you now is that maybe they were right, I wasn't college material, but I sure was lawyer material.

[Laughter.]

Ms. WENDEL. What I'm trying to say is, independent living people know that we should be given an opportunity to succeed, and I want all the young people of today to have somebody to teach them to understand what success is.

Their school is teaching them to fail. There is a 40 percent dropout rate. Their school is teaching them that they are not normal.

I just want to make their IEP goals a way of showing them that they can do some things really well. And then whatever they find to do really well, I want them to have the chance to do it, which means using the magnet school programs which were created with Federal funds. Right now, those magnet school programs exclude my children because they have severe behavioral problems.

Those magnet school programs are special types of environments that have technical assistance areas and also provide vocational-oriented training that is demonstrative. In other words, the kids are in a hands-on environment. All of the kids who are not succeeding in the academic classroom should be given a chance at those environments, but they don't get them because they are special education students, they have behavior problems, and they might overreact.

I have a kid that sits in my office and the parent is talking to me for an hour. The kid is supposed to have a behavioral disorder, and is supposed to jump around my office and make a mess. Instead, the kid is doodling cartoons on a piece of paper.

And I say, "You are a really good person to draw me a picture; is that your talent? Do you like art?" And the kid talks to me and says, "Yes."

I find this high school program that has creative art and cartooning as part of its magnet offering, and I can't get my child into that school, because he's had one or two suspensions, which is what New York City defines as severe behavior problems.

So I'm just trying to show you that there are real impediments, but there are also real solutions. And I hope that we might be able to work at some point in the future toward finding words that would make the IEP the vehicle it is supposed to be. And I wish you luck.

[The prepared statement of Dorothy Wendel follows:]

Dorothy A. Wendel
Vice President, Board of Directors
Self Initiated Living Options, Inc. (SILO)

Good morning Mr. Chairman and members of the Committee. Thank you for the opportunity to address you this morning regarding the reauthorization of the Individuals With Disabilities Education Act (IDEA).

As the Vice President of the Board of Directors of Self Initiated Living Options (SILO), one of thirty seven Independent Living Centers (ILC's) in New York State, an attorney who practices education law and a person with a disability, I have experienced first hand both the past and present inequities which have "crippled" the special education system and frustrated the purpose of IDEA. I hope my remarks this morning demonstrate not only the nature of those inequities but also shed some light on how the practice of providing special educational services has fostered rather than eradicated the over-dependence of people with disabilities on state and federal income maintenance programs.

I have chosen to discuss the quality of the substantive education children with disabilities presently receive by analyzing one aspect the service delivery process, the IEP, and its implications with regard to the future employability of youths with disabilities. I hope to persuade you to amend the Individuals With Disabilities Education Act (IDEA) so that it can ensure that both the educational and related services provided to students with disabilities will assist them in reaching their goals of self-sufficiency.

I would like to share with you both my personal and professional experiences, giving particular attention to the manner in which those experiences relate to the successful transition of youths with disabilities in New York State from school to work.

As a person who was educated in the public school system beginning in 1970, a full five years before the Education for All Handicapped Children Act was being written, my personal experiences have caused me to persevere despite the harsh reality that the public education system saw me as an oddity. The New York City school system was so ill prepared to deal with my disabilities, that my family was forced to move to Long Island, to a school district that agreed to give me an opportunity despite my disabilities, although at that time such an opportunity was conditioned upon my success without support services. Today, some of my remarks will highlight current New York City statistics that demonstrate the severity of a system-wide failure throughout NY State, and suggest that things have not changed much since my family's flight.

It is particularly ironic that I, as an attorney with a disability, have come here to Congress to discuss the IDEA. There were many times, as a mainstreamed high school student, I thought I'd never graduate. I am ever more amazed that many of the students I now work with have disabling conditions known collectively as "learning disabilities". Until twelve years ago, when I was first diagnosed, I never even knew they existed. Although many things have changed since I first entered the elementary school I attended 23 years ago, the similarities are striking. Educators of today complain that some children have conditions which cannot be compensated for. To those individuals I am proud to say that despite the fact that I experience mobility, visual and learning difficulties as a result of spastic cerebral palsy, I have managed to succeed. It has never been easy, but it has always been worth the effort.

As I proceed, you will hear me describe children whose problems appear complex and often insurmountable. While you consider my thoughts on this subject, remember two things: First, that children with disabilities share the same dreams, have the same hopes and the same fears as their nondisabled peers. Second, that the journey toward success, no matter how far, begins with taking one step.

In 1975 when the members of this very same committee were considering the reasons for enacting the Education For All Handicapped Children Act they were responding to the unavoidable reality that over 8 million children with disabilities were being denied access to a "free appropriate public education."[1] Having recognized that, they aptly considered the ramifications of such a denial and determined:

> The long range implications [of inadequate education] are that tax payers will spend many billions of dollars over the lifetime of these handicapped individuals simply to maintain such persons as dependents on welfare and often in institutions.
>
> With proper educational services many of these handicapped children would be able to become productive citizens contributing to society instead of being left to remain burdens on society.[2]

Although I am uncomfortable with the characterization of children with disabilities as a burden to society, I recognize that these statements reflect the intent of Congress that the IDEA, then and now, should allow children with disabilities every opportunity to achieve self-sufficiency.

Today, almost twenty years later, children with disabilities still suffer from the effects of an inferior education. As Chief Justice Earl Warren observed "It is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education."[3] Although the Chief Justice was referring to African American children learning in segregated settings in Kansas, the veracity of his statement is equally applicable to children with disabilities. Despite the efforts of Congress and the nation's special educators, children with disabilities are less likely than their nondisabled peers to graduate after four years in high school. In the New York City class of 1989 only 4% of children with disabilities graduated after four years of high school.[4] When this figure is combined with the

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[1] 20 U.S.C.A. 1400

[2] The House Committee on Education and Labor in describing the need for legislation H.R. Rep. No. 332.

[3] Brown v. Board of Education, 347 U.S. 483, 493 (1954).

[4] Walter Stafford et al., Federation of Protestant Welfare Agencies, Inc., Cause for Alarm: The Condition of Black and Latino Males in New York City 13 (1991).

high dropout rates among children with special needs it becomes evident that the present system has failed to prepare its disabled youth for lives as independent, fully participating members of their communities.

The professionals of the Independent Living Movement have recognized both the depth and the breadth of the difficulties faced by adults who are ill prepared for the challenges of our economically depressed environment. These difficulties have produced a greater need for disability-related transfer payments. For example, in December 1992 over 5.6 million people were receiving Supplemental Security Income (SSI) benefits, according to Social Security Administration (SSA).

While this figure represents all recipients, 11.2 percent were children (623,845).[5] Of the remaining 88.8 percent, 62.4 percent were adults with disabilities whose incomes are, as a result of the unemployment, slightly higher than that of individuals receiving Aid to Families with Dependent Children (AFDC) benefits. Payment levels for both of these programs are known to be inadequate to meet an individual's basic needs and are clearly inadequate to provide young adults with disabilities with the resources to maintain independent lifestyles. Perhaps most distressing is the fact that this figure is increasing. That means that more than three million disabled adults receive subsistence-level income maintenance. This figure has increased every year since the program began in 1974.[6] These Americans with disabilities represent only the beginnings of our failure as a nation to prepare youths with disabilities for meaningful participation in the work force.

There are several reasons for the present system's documented failure rate. However, before we try to examine them, we as a society must realize that not only are the number of disabled children increasing but they are not those typically envisioned

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[5] Kennedy L. Children Receiving SSI Payments, December 1992, Social Security Bulletin Vol. 56 No.2 Summer 1993.

[6] Id. at 79.

when the IDEA was enacted.[7] Today's children are the victims of low birth weight, inadequate prenatal care and drug addicted parents.[8] As a result, they may not appear to have traditional symptoms associated with disability. Instead they have slight neurological disorders which because of improved neonatal care do not necessarily result in losses of mobility or lack of coordination. These children, instead, experience learning difficulties caused by shorter attention spans, hyperactivity, or poor visual motor integration skills, rather than walking, talking, hearing or seeing. Despite their differences, these children are disabled and require a school system which recognizes that their behavior and learning styles are perhaps different but which does not hold them in lower regard as a result of their difficulties. More of the children are students of color or children whose native language is not English and they are therefore susceptible to stereotypical bias and evaluation techniques that fail to accurately measure their abilities. Finally, these children appear to have no adult role models with similar disabling conditions. All of these issues contribute to the unique nature of each child's needs and must be properly addressed.[9]

Keeping in mind the unique needs of each child, I will now turn to the causes of failure which are inherent in the structure of the IDEA (as a statute) and the judicial opinions which interpret it. I have chosen two areas for discussion in relation to the provision of transitional services and the improvement of employability: the content of the IEP as a measure of the quality of the education each child receives, and the IEP process as it relates to the selection and provision of transitional services to

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[7] The 1992 data from Social Security indicate an increase of more than 94,000 child recipients. See Social Security Bulletin Vol. 56 No. 2 Summer 1993. 60 percent of all SSI children were considered disabled based on a mental disorder.

[8] Rothstein, Laura F. America's Policy for the 21st Century: A Race Between Learning and Catastrophe The Kansas Journal of Law and Public Policy, Summer 1992 No.2 n2 p.75-84.

[9] Id. at 81.

students. Although the 1990 amendments to the IDEA were a positive step toward eradicating the educational and occupational failures of students with disabilities, they did not go far enough. The valuable goals of the original act have been subrogated by the Supreme Court. In its decision the Board of Education v. Rowley,[10] Chief Justice William Rehnquist weakened the IDEA significantly. In order to preserve states' rights, he created a standard of review concerning violations of the act which fails to consider the substantive value of a given student's education. Instead his opinion focused on the procedural due process, under the act, given to parents who seek redress.

The Supreme Court believed that the congressional emphasis placed on full participation of concerned parties throughout the development of the Individualized Education Plan (IEP), as well as the state and local education agencies' plans being submitted to the Secretary of Education for approval, demonstrated the legislature's intent that adequate compliance with procedural safeguards would assure the substantive content of the IEP.[11]

While I agree it is highly unlikely that Congress would impose standards on the several states or overturn the states' choices of appropriate educational theories for their children with disabilities, it is just as unlikely that Congress intended for the IEP to be a computer-generated, fill-in-the-blanks, typed or handwritten form completed as an afterthought rather than functioning as an educational management and monitoring tool which seeks to measure progress and assist the student in his or her effort to ameliorate the consequences of a disabling condition. An Individualized IEP is the only way to ensure that the unique needs of the child are being considered.

Despite the addition of Appendix C of Part 300 in the Code of Federal Regulations and the instructive nature of its question and answer format concerning the content requirements of the Individual Education Plan, parents for the most part cannot exercise due

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[10] Board of Education v. Rowley, 458 U.S. 176 (1982)

[11] Id. at 206

process rights appropriately in order to gain an IEP which when measured against an individual state's substantive educational standard, gives a disabled student a comparable program.

Most of the IEP's I have seen in the field fail to contain the federally mandated elements.[13] Perhaps most egregious is the absence of short term instructional objectives and appropriate, objective criteria with which to measure a student's success. Educators who are members of the Committees on Special Education (CSE) simply fail to consider short term instructional objectives altogether and rarely individualize goals, never taking into account the needs which are unique to each child.

If the IEP process is going to succeed in an attempt to ensure equal access to education, it must begin by incorporating goals, for each student, which are **SMART**:

S = Specific to the individual child's unique needs.

M = Measured and measurable, defined in behaviorally-oriented terms.

A = Achievable to give each child the opportunity to succeed and feel successful.

R = Results-oriented, leading to occupational placement.

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[13] 34 CFR 300.346 Content of Individualized Education Program.

(a) *General*. The IEP for each child must include-

A statement of the child's present levels of educational performance;

A statement of annual goals, including short-term instructional objectives;

A statement of the specific special education and related services to be provided to the child and the extent that the child will be able to participate in regular educational programs;

The projected dates for initiation of services and the anticipated duration of the services; and

Appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether the short term instructional objectives are being achieved.

(b) *Transition services*.

The IEP for each student, beginning no later than age 16 (and at a younger age, if determined appropriate), must include a statement of the needed transition services as defined in 300.18, including, if appropriate, a statement of each public agency's responsibilities or linkages, or both, before the student leaves the school setting.

If the IEP team determines that services are not needed in one or more of the areas specified in 300.18 (b)(2)(i) through (b)(2)(iii), the IEP must include a statement to that effect and the basis upon which the determination was made.

T = Time-specific, with time parameters that set a practical pace.[13]

Historically, individual educators have expressed concern over the want for accountability not leading to personal liability for an individual student's failure. Over-emphasis on those concerns has caused a deterioration of the IEP process. Local educational agencies and parents must outline their expectations in a format and language which allows them to jointly undertake the effort of assisting children with disabilities to reach their goals. When an administrative or judicial review is undertaken the statutory framework of the IDEA should incorporate a substantive standard which is reasonably calculated to allow for self-sufficiency rather than simply ensuring access to education and services.

By ensuring that transitional goals are a realistic expectation of student potential, the Congress, schools and parents will have an opportunity to plan for the future lives of adult children with disabilities. Including measurable terms will allow children and parents to know what is expected of the student and allow all parties an opportunity to work toward success. This process should begin as early as possible rather than at 16 or 14 years of age as regulations currently require. If we operationally define both behavioral and academic expectations for each child, we will not only be measuring that child's success, but we will also be teaching him how to succeed.

There are educators who will undoubtedly argue that present regulations already require that the aforementioned process occur. I would argue that present monitoring practices employed by the states rarely if ever concern the content of an individual IEP except to note overall classification and placement determinations. Although words such as outcome oriented are often used, such language has never trickled down to create a meaningful procedure to implement the process.

Seeking to identify behaviors or skills which each child needs

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[13] The theory of behavior oriented evaluative goals stems from occupational performance appraisal literature.

to improve will, it is hoped, cause educators to label negative behaviors or insufficient skills rather than causing them to inappropriately label children in a negative manner. As an illustration consider the following two occurrences: first, a physically challenged child who has limited upper arm strength which causes her to drop cups and eating utensils or spill food. When a clinician determines an occupational therapy goal for this child that clinician would probably recommend intervention that included a test of improvement based on the child's successful attempts to control her movements and avoid spilling foods. Thus the behaviorally defined goal would appear as "the child will successfully drink from a cup she holds 5 out of 10 times." The Committee on Special Education (CSE) would probably find this goal acceptable and would chastise or find unacceptable the degradation of this child's character if she failed to achieve her goal. In fact, if said failure was persistent, then perhaps alternative methods of teaching would ensue or adaptive equipment would be considered that allowed the child to drink from the cup without holding it.

If, in the alternative, a child experienced difficulty exercising "impulse control and acted out", frequently the same teacher or CSE is likely, especially with regard to male children of color to react negatively to the child, seeking ultimately an alternative placement for the child. Both of these children require assistance. However, when behavioral difficulties arise educators often fail to consider alternative methods of instruction or seek the assistance of appropriate clinical staff to monitor individual behaviors of a child. Crisis management paraprofessionals almost never interact with clinicians even when they are in place to assist the child on a daily basis. In this situation regarding the acting out child perhaps an appropriate goal would be "John will discontinue yelling when he feels provoked 5 out of 10 times" and short term objectives could include prompting the child or teaching him to use alternative methods to demonstrate his displeasure. Using this method John's behavior can be measured to reflect progress rather than simply to punish.

Too often the Committees on Special Education fail to recognize the impossibility of separating a child's psychological needs from that of his academic needs. This is especially apparent in the process of IEP development which generally fails to provide functional behavior management goals. Despite the warning in Honig v. Doe [14], that a student should not be expelled or suspended for behavior which is simply the manifestation of his or her disabling condition, schools in New York and other parts of the country have used temporary suspension to justify a change in the student's place and classification without ever having developed a sufficient behavior management goal which identifies and seeks to correct behavior which disrupts learning. These actions on the part of school administrators accomplish two distractive objectives. First, from a student's perspective, he is temporarily rewarded with time out of school, and second, that same student is educationally disadvantaged by the absence of academic material and by the potential that reclassification will jeopardize the academic progress the student is making. At the very least, more restrictive placements or segregation as Chief Justice Earl Warren noted will cause children to view themselves as inferior members of society.[15]

If, instead of suspension and reevaluation, the school administrators, teachers and the CSE concentrated its efforts on effectively coordinating educational and clinical staff in an effort to develop a meaningful management approach, the child would experience the benefit of positive attention-getting techniques rather than the detriments of negative attention.

Congress should consider mandating that state education agencies specify in their submitted plans, requirements that local educational agencies must build in regular and frequent

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[14] 484 U.S. 305 (1988)

[15] Sheffler, B. Education of Handicapped Children: the IEP process and the search for an appropriate education, St. John's Law Review, fall 1981 56 n1 pps. 81-113 p.83

consultation time for teachers and clinicians when students with emotional difficulties demonstrate increased negative behavior which threatens their placement before other actions are considered, regardless of a student's placement.

Positive approaches to special education are essential to effective transitional planning and the concomitant long term goal of successful employment. If the school and the parent do not develop positive intervention techniques in an effort to manage behavior and/or enhance existing skills, they may never be able to help the student discover his or her marketable skills. It can't be said often enough that children with disabilities must experience success, no matter how trivial, in order to realize their own ability to contribute in society.

As a person with a disability who was one of the few students to be fully mainstreamed prior to the IDEA's federal mandate to provide a free, appropriate public education to all children with disabilities, I can tell you that regardless of the nature of one's disability it always has some impact on emotional development and self esteem. Children with disabilities, especially adolescents soon to experience both the natural and educational transition to adulthood, are as unsure of their abilities as their peers, even more so if their educational experiences are marked with repeated failure. Combating this problem is a team effort that should include the student and an independent living professional. Unlike most other advocates, individuals who work in independent living have learned by doing. Unlike most parents and teachers these professionals can understand first-hand the frustrations encountered by a troubled student. Independent living professionals can often bridge the gaps between school and work.

Congress should mandate that each state assist their local education agencies to find, contact and coordinate efforts to include an ILC member on a CSE team reviewing or creating an IEP that considers transitional services. Since each of the fifty states now has independent living centers, a requirement such as this does not seem unfeasible. However, should circumstances such as geographic location present a problem, then an equally acceptable alternative could be the inclusion of any person with a disability from within the community who can act as a role model for the student and assist the parent committee member to familiarize themselves with the intricacies of adult services provision. I feel the advocate is needed to balance the power in the CSE meeting and allow the child's and parents' voices to be heard. As an attorney, I have seen that the parent is often ignored or brushed aside.

While state offices of vocational rehabilitation have been included by name in the existing regulations, that does not necessarily mean that an agency representative is able to coordinate the interaction of the various federal and state laws which govern work incentive the regulations under most entitlement programs. This position is supported by the fact that existing work incentive programs are under utilized. Furthermore, the presence of an advocate with experience in transitional services would support a parent's position so that he or she could be the successful negotiator that the IDEA envisioned.

There are times when the bias of vocational counselors is astounding. As an example, I want you all to know that my state's vocational agency actually determined that I wasn't college material. Guess what, they were right. I wasn't college material. I was lawyer material! Effective advocacy in the face of stereo typing helped me to achieve my goal, and gain their support.

The present regulation that allows parents to bring whoever they want is inadequate, since many know very little about the Independent Living Movement.

Since the student should be attending IEP meetings related to transitional services, he or she may, for the first time, meet an adult with a disability. This will encourage them to think of their strengths and discount their feilures. In the best of all possible worlds, I would encourage CSE's to include a person with a disabling condition similar to that of the child.

If a child is meeting her goals, she is bound to feel successful. If not, then the short-term goals should be altered so they are achievable. With reasonable expectations as a framework, and a knowledge of individual strengths and weaknesses, the determination of an occupational setting is more easily made. Matching young adults to the job placement of their choice rather then simply telling them where they fit in based on a rehab professional's traditional notions of appropriate placement is sure to produce a higher success rate. The Independent Living Movement has always known that each person must determine as well as accomplish his or her own goals in order to succeed.

Finally, the IDEA should mandate that the Office of Special Education Programs (OSEP) ensure that children with disabilities are given access to the magnet schools which were established with federal funds.[16] Some of the existing programs specifically exclude children with behavioral problems. These schools have improved their course offerings to include subject areas and technical equipment related to occupational endeavors, among others. Access to this type of hands on experience will allow any child the opportunity to discover his or her talents and should improve self esteem.[17]

The opportunity for employment will ultimately give each young adult with a disability the chance to become a self-sufficient, independent member of society and achieve as a result, the goals of the IDEA.

If rigorous meesures are taken now to improve the special educetion system, perhaps by the year 2000 we will have truly improved America's schools and reduced the unemployment rate among adults with disabilities. We must keep the promise of the

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[16] Magnet achools were established through Title III of Education Economic Security Act of Public Law 98-377. The direct relationship between the special nature of the program and the federal funding of Magnet programs emphasizes the need to have these programs readily able to accept students with disabilities and provide reasonable accommodation and educational services needed to provide free appropriate public education.

[17] Cudahy T, Federal Statutory Requirements for Accommodating Handicapped Students in School Choice Programs,University of Chicago Legal Forum Annual, 293-313 (1991).

preceding generation alive and give all our children, including those with disabilities, a better tomorrow.

Thank you.

Chairman OWENS. Well, we wish all of us luck. Together we will do it. Thank you.

Dr. Gartner.

Mr. GARTNER. Mr. Chairman, I testified following Diane Autin with a kind of mixture of feeling. I was a plaintiff in a suit that the organization which she——

Ms. WENDEL. A defendant.

Mr. GARTNER. A defendant, excuse me and she was the plaintiff.

Chairman OWENS. Wishful thinking.

Mr. GARTNER. I have some penance to do, and I trust that today's testimony is a piece of that.

I'd like to just say one word in response to those questions you asked of earlier witnesses.

First, I want to congratulate you on the set-aside, as it were, for parental involvement in the SEA, and I am bold enough to suggest perhaps sign-off from the recognized parent organization including special education parents on that 1 percent. I think to let school systems——

Chairman OWENS. You want to turn back history to the 1960s when we started.

Mr. GARTNER. Yes, I do want to turn back history.

Chairman OWENS. We had sign-off rights to the whole thing.

Mr. GARTNER. Yes, Congressman, I do want to go back to those days when we knew each other, when at least one of us was younger.

[Laughter.]

Mr. GARTNER. Secondly, you asked the question, are there excellent programs? There are indeed, and I want to note in the testimony that Ms. Lipsky and I prepared together—she's not accompanying me; I guess it's closer that I accompany her—Roanoke, Virginia; Shawney Mission, Kansas; Johnson City, New York; Napa Valley, California; Ufrada, Washington; Copple, Texas are all places where there are excellent programs, including excellent programs at the high school level, and many, many more.

Chairman OWENS. All of these are listed in your testimony?

Mr. GARTNER. Yes, sir. Dr. Lipsky will be talking about a national survey of inclusion programs, that the national center dealt with.

The implementation of Public Law 94–142 has on the one hand been an enormous success in providing access to children who heretofore have been excluded from public education.

I emphasize that for two reasons. One, it's fact, and two, it gives us heart for the work yet to be done.

We are a capable people. We, who are school people, are capable of doing heroic things. We have done it to date in the education of children with disabilities. We can turn to the next piece of business.

The next piece of business is a function of two simultaneous facts. One, outcomes for students in special education are disastrous, are dreadful, are terrible, ought to be unacceptable—whether we talk about dropout rates, twice the rate for the general education population; whether we talk about graduation rates, less than half the rate for general population; whether we talk about going on to postsecondary education and training, less than a third of that for the general education population.

When we talk about participation in the workforce, we have to look at two issues. The high unemployment rate masks the worst part, which is nonparticipation in the labor force.

As you know, Mr. Chairman, you can only be unemployed if you are considered in the labor force. Most people with disabilities are not considered in the labor force. So, the high unemployment rate masks an even more dreadful situation.

And too many young people with disabilities live at home when they could live in the community. Now the school system is not entirely responsible for all of it, but it bears a heavy responsibility for much of it. You've heard earlier, Mr. Chairman, about placement issues.

And no, we are not talking about placement as if that were the sole criteria. But we are nearly now 20 years since the passage of Public Law 94–142, and we have a similar pattern of placement over the course of those 20 years: a third of the youngsters in general education settings, a third of the youngsters in resource rooms, and a third of the youngsters in special classes or more restrictive settings.

This is despite the fact that the great increase in those two decades has been among the youngsters with the least severe impairments.

The great increase of the more than a million children now served under IDEA than were first served under the Public Law 94–142 are youngsters called learning disabled—not who are learning disabled; they are called learning disabled.

Chairman OWENS. Is emotionally disturbed in that?

Mr. GARTNER. No, learning disabled, not emotionally disturbed, Mr. Chairman—learning disabled. They now consist of well over half of all the children served under IDEA.

These are the youngsters with the least severe impairments. These are the youngsters who you would expect and believe and ought to be in the least restrictive settings. The fact that we haven't changed the mix over 20 years is an indication of the failure.

So we have two failures, Mr. Chairman. We have a failure on outcomes, and we have a failure in placement. And we would suggest to you that those are interrelated.

They are cause and consequence, one of the other. And until we address both of them simultaneously, we will not make a difference.

Let me say just one word about students of color. You've heard about that, and I know it's an area in which you are very knowledgeable.

But let me add a twist on that. It is not simply that students of color are over-represented in a number of categories in special education—categories such as retardation and emotional disturbance.

Those are the very categories, Mr. Chairman, which are involved with the most restrictive placements. Those are the students—children with severe emotional disturbance and children with retardation—who are placed in the more restrictive setting.

So we have a double bond. We have an over-representation of African-American youngsters in those programs, and those are the very programs that are the most segregated.

And I use that word, intentionally, Mr. Chairman, because that, indeed, is what it is. We need to address that head-on.

The key issue, the genius, if you will, of Public Law 94–142 is about individual programs for youngsters. We've had earlier testimony that some of us who believe in inclusion think about youngsters as undifferentiated.

I would say to you, Mr. Chairman, that the IEP developed for Raphael Oberti, the youngster in the New Jersey case where the court, first in District Court and then the Court of Appeals, said inclusion was a right for all, not a privilege for a few; that IEP is the most individualized, particularized, kid-specific, unique, whatever synonym you want, IEP written in this country.

And if every one of the nearly five million youngsters served under IDEA had an IEP like that of Raphael Oberti, we would come back and say, we have had a new success.

Chairman OWENS. Before the case or after the case, was it most individualized?

Ms. LIPSKY. After.

Chairman OWENS. After? Yes, go ahead.

Mr. GARTNER. And the same IEP for Rachael Holland in the case in Sacramento—again, with a District Court and a Court of Appeals decision.

The key issue—and the language is already there, Mr. Chairman—is the individualization with the necessary supplementary aids and support services.

We need to craft for every youngster served under IEP an individualized education program, with the necessary supplementary aids and support services, so that he or she can succeed in the mainstream of education.

We are capable of doing that. The Congress is capable of helping to make that happen.

Let me share and turn this over to my colleague, Dorothy Lipsky.

Chairman OWENS. Dr. Lipsky, I want to apologize for downgrading of you as "accompanying." We didn't mean to slight you.

Ms. LIPSKY. It could have been much worse, I assure you. I don't mind accompanying Alan anywhere. We have worked together for a number of years, and we've been criticized together for a number of years.

As a matter of fact, in our first article, I think, in Harvard Educational Journal in 1987, we've been called many names together. So "accompanying" is fine.

Let me begin by saying I'm very pleased to be here. We've been hearing a lot of different things today. And I guess it has made me reflect on how difficult it is for us to really make change.

Kuhn has said that a paradigm shift in science is most difficult to do, because so much is in the eyes of the beholder. And, in fact, that's the case, be it in art, be it in science, be it in education.

And, yet, education is not an exact science. As a matter of fact, one of the problems perhaps with the transitional studies that we do is that at one point, it may appear as if nothing is going to change in the environment and, therefore, we are going to be able to hold it discreet, have two definite cohorts.

But that is not the case. Things change around all the time, even as we are doing our research.

I come to you, I guess, from a number of different perspectives. I sat here thinking, a few minutes ago, that 24 years ago, when my son, Danny, was born, I was faced perhaps with the most major decision of my life, to let Danny live or die. In fact, he was born with severe spina bifida.

At that time, they were not suggesting that we operate on children with spina bifida. We were not closing the backs. We were not putting in shunts, because of hydrocephalus being so severe.

And we knew that the outcomes for spina bifida children and the quality of life were going to be most difficult.

In fact, we did decide to let Danny live. We did take an aggressive pathway. And after 24 different surgical procedures, and Danny being one of the first children that was mainstreamed and included in his regular public school, Danny is now living in Atlanta, Georgia.

He has recently gotten engaged. He is doing volunteer work in a nursing home for others. He is living a quality of life, and has brought much understanding of the field of education and special education to me.

I came from being a classroom teacher, to administration, to superintendency, and then on to educational research. I've been lucky enough to be funded, of course, by the Department of Education, to do transition studies as well as family support studies.

But what I want to talk to you about today is the work that we have been doing most recently: the reconsideration of education, the revamping of education, the restructuring of public education—restructuring so that we do not have two discreet systems, special education and general education—a new paradigm shift, a restructured education system that is quality for all children.

Yes, we know that works. It is no longer a fantasy. It is no longer just an idea. It is now a reality.

And the National Center on Educational Restructuring and Inclusion has been seeking information over the last year about where quality programs are. How is it happening in the public schools that some are successful; that special education children, even the small 2 percent that have the most severe disabilities, are now included in general education classrooms, and that special education and general education teachers are working together, and that parents are part of the team, and administrators are also part of the team?

Indeed, we know, to make any shift, you need to have all of the stakeholders in that paradigm change.

As Alan has said, we have documented over and over again, in small areas and in large, in urban and rural, school systems that are including all children. And we have also done research enough now to know the outcomes for those children; diametrically different than the ones that we have seen over the last 20 years for special education students who have been in separate classrooms.

We thought we knew, as parents and as educators, when Public Law 94–142 was passed, we thought we understood what was right for them—pull them out, put them in smaller classes, give them a special curriculum, and then we'll be able to make the change, and we'll get them back into regular education.

But lo and behold, it never worked that way. We set up two different tracks of education. The new curriculum did not help children get back. It only helped them go further behind.

And, in fact, now when we even talk about students with emotional handicapping conditions. Why do they fail; why are they deemed emotionally handicapped? We know, more often than not, it is because they have not had academic success.

If you don't know how to read, you can't keep up. And more and more children are falling behind because of that factor. And yet, we do know how to do it differently.

In New York City, Ron Edmonds has said to us, we know how, if we care to. Now, it's time for all of you to say, we care enough and we want our children in general education.

I would like to turn quickly to recommendations. I know you would like us not to go on too long. In the testimony, I think it's page 3, you have a copy of the specific recommendations that we would like to see happen. If you don't have it, of course, we have extra copies.

We would like to see you, quite specifically, reaffirm the least restrictive environment requirement, holding that general education setting, is the first and preferred option for all students with disabilities; and in keeping with this, require that the school systems demonstrate what the supplementary aids and supports are going to be, and document on that IEP what it is that the child needs to be able to do to be successful in that regular classroom.

If the multi-disciplinary team does not recommend a regular class, they should talk about the time line and what is going to be very specific in that special education class that is going to allow that child to be back into the regular education program.

We need to look at the funding formulas in every State, and I would suggest that you require the States to demonstrate how their funding formulas allow for integration into regular class placement. Right now, it is better for school systems to have children in special education programs than in regular education programs.

We also request that you require that the States demonstrate how their assessment process does not impede regular education placement. In fact, the IEP has not done what we had hoped it would do.

We ask, therefore, that you develop an IEP format that would require the listing of what the supplemental aids and supports would be, both for the student, as we have previously done, but also for the classroom teacher.

Having been a superintendent of schools, I am very aware of the difficulties of classroom teachers with diverse groups of students in that class, and the needs that are there. But we have enough data now, in terms of our national study, to know what it is that classroom teachers require, and how to help them to get there.

Therefore, we also ask that you require States to develop and implement personnel preparation programs so that more teachers, more administrators, more related service personnel and paraprofessionals understand how to work with children in the regular education programs.

We ask that you look at collecting further data on outcomes of inclusion, helping to look at how the changes are helping those students, not just in terms of social integration, because remember we are talking about the majority of students are mild and moderate. Only 2 percent of the students are severe.

And even there, the outcomes are academic, not just social. They are learning more words. They are learning eye contact. They are learning communication. But those students who have learning disabilities are learning, and they are graduating high school.

We ask that you provide more support for parent training so that they know how to use the IEP for their children and to be involved in the IEP process.

In the good school district, where my son went, the words were, "If you feel it is necessary for you to attend the IEP development, we want you to know the day that it will be held."

That's not the language that we want to see school systems use. We want parents involved. And we want families to know how to work with their children at home in a total true involvement.

We ask that you provide more training and have States develop training for their multidisciplinary team who are doing the evaluations. We know, as so much of the research has shown us, that the evaluation is, as Ysseldyke has used the words, "no more than a toss of a coin." Some are here, some are there—general education, special education, a separate program, in BOCES.

We need to help our team know how to develop IEPs that can be used in the regular class program. In fact, if teachers spend as much time trying to think about what they need in their classroom to be successful with Susy or Johnny or Jose, rather than trying to document how to get the children out of their class and into the special education system, which has still opened their arms for that to happen, in fact, those children would be more successful, and teachers would feel more successful, because we know teachers do want to do a good job.

I ask also that in whatever program the national government funds, special education students are included. Anything that is funded here should say "all" and really mean all. And, in fact, that goes for the standards and curriculum, as well.

Our full testimony that you have goes into many different aspects. It also goes into the national study that was done on inclusion, so that we can understand how to restructure public education to make it successful for all children.

Thank you.

[The prepared statements of Dorothy Kerzner Lipsky and Alan Gartner follows:]

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<u>HIGHLIGHTS OF TESTIMONY ON THE REAUTHORIZATION OF IDEA</u>

Dorothy Kerzner Lipsky, Director
&
Alan Gartner, Dean for Research

- The law has been a success in terms of providing access.
- Less successful has been the inclusion of students with disabilities in the mainstream of education and in student outcomes (academic, social, and behavioral).
- While these failures affect all students with disabilities, they have particular consequences for students of color and LEP students.
- These areas of failure are both cause and consequence -- the largely separate special education system continues to fail students in terms of their learning, graduation rates, post-secondary education and training, subsequent employment, and community living.
- IDEA must declare that the general education setting is the first option for students with disabilities, requiring that districts document the use of supplementary aids and support services to make it the best option. This is in keeping with the state of the law (as interpreted by courts covering nearly half the states), issues of fairness and equality, and best practices in school districts across the country (as documented in the National Center's survey of inclusive education).
- In addition to changes in school and classroom practices, changes are necessary concerning funding, student evaluation, and assessment. Needed are changes in state funding practices which support separation; assessment programs which exclude special education students, conveying a message of their incapacity; and the IEP, which too frequently has become an instrument of procedural routine without regard to educational substance.
- These changes cannot be achieved in special education alone. It is time to bring together the necessary reform of special education and the broad restructuring of general education.

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Legislative Recommendations

Our recommendations are designed, in the words of Assistant Secretary Judith Heumann, to move from the holdings of the courts that "The regular classroom in the neighborhood school should be the first option for students with disabilities." to the practice that makes it "the best option as well."

Specifically, we recommend that The Congress:

- reaffirm the Least Restirctive Environment requirement, holding that the general education setting is the first and preferred option for all students with disabilities. In keeping with this, school systems should be required to demonstrate the ways in which they have provided supplementary aids and support services necessary to provide satisfactory education in the regular classroom before a more restrictive placement is considered. Further, at the annual reevaluation of students not served in regular classrooms, require that districts explicitly reconsider placement in the regular classroom, with the necessary supplementary aids and support services, and if placement in the regular classroom is not recommended the school district must document the reasons why such a placement is not appropriate for the student and develop a timeline in which the educational program recommended will lead toward the least restrictive placement;
- require that states demonstrate that their funding formulas for special education program support and encourage the least restrictive placement;
- require that states demonstrate that their assessment and evaluation process supports and encourages the least restrictive placements;

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- develop a standard IEP format, which will support student outcomes in the least restrictive environment, and will include supplemental aids and support services for the teacher as well.as the student;

- require that states develop and implement personnel preparation programs that support the development and implementation of inclusive education programs, including for teachers, administrators, related services providers, and paraprofessionals to participate in inclusive education programs;

- direct the Department of Education to collect data on the implementation of inclusive education programs, both currently and as part of their longitudinal studies, e.g., document the extent to which outcomes for students (academic, social, and behavioral) while in school and subsequently are affected by their participation in inclusive education programs and other more restrictive settings;

- provide support for the development of state and local programs for the evaluation of inclusive education, and for the conduct of research regarding the implementation and outcomes of inclusive education, conducted by institutions of higher education, state education departments, and local districts, and including the role of teachers as researchers, and the involvement of parents;

- provide support for parent training and parental involvement in the IEP process;

- provide support for training those who evaluate students in the development of inclusive education IEPs;

- provide support for the involvement of adults with disabilities (and their organizations) in school and community programs;

- require that all special education students be included in comprehensive state and district evaluation activities, unless precluded by the student's IEP, with the necessary adjustments to assure the accurate assessment of a student's knowledge and skills;

- require that all educational assessment activities supported by the federal government (e.g., NAEP) include all students with disabilities;

- require that all national standards, curriculum development, personnel preparation and certification, and educational restructuring activities supported by the federal government address the needs of all students, including those with severe disabilities;

- direct the Department of Education to make an annual report to The Congress on the ways in which it has supported the effective implementation of inclusive education programs.

Introduction

These hearings on the reauthorization of IDEA (Individuals with Disabilities Education Act) present an opportunity to review the nearly two decades of federal legislation, guaranteeing to **all** handicapped children a "free and appropriate public education". It is a time both to celebrate genuine achievement and to identify the challenges that face us.

No activity of American public education deserves greater honor than the enactment by the Congress in 1975 and the implementation by local districts across the country of P.L. 94-142,the law which has provided access to students with disabilities. With few exceptions, all children with handicapping conditions and in need of special education services are receiving them. This is a tribute to the initiatives led largely by parents and carried out by school people throughout the nation.

Recognition of this achievement is important -- for its own sake and as an indication of the capacity .of the people and government of this country to move forward. For while access has been achieved, <u>less successful has been the inclusion of students with disabilities in the mainstream of general education and the achievement of effective outcomes for students</u>. These are system failures. Such failures have special consequence for students of color and so-called Limited English Proficient (LEP) students.

Let us look at some recent data concerning both issues. We link them here because we believe that the failures in inclusion and outcomes are cause and consequence of one another.

Overview of the Current Scene

What is the current situation in special education? The Department of Education's Fifteenth Annual Report to Congress, 1993, as well as various studies sponsored by the Department provide pertinent data. Let us first address data concerning outcomes for students.

- The special education system serves close to 10 percent of the nation's school age children, more than five million youngsters.
- The cost of special education is approximately $30 billion per year, less than 10 percent of these funds are federal, with the rest coming from state and local governments.
- Special education students drop out of school at rates often double that of students in general education; rates in excess of twenty percent are not uncommon.
- More than half of the special education students who leave school do so without a diploma. In assessing this datum it is important to note than more than half of the special education students are those labelled as "Learning Disabled", the least severely impaired students.
- Special education graduates go on to post-secondary education at less than half the rate of general education graduates.
- Adults with disabilities have high rates of unemployment, and even higher rates of non-participation in the labor force. This despite consistent evidence of their desire to work.
- Too few adults with disabilities are well prepared to live in community settings.

Now, let us turn to issues of placement.

- In the 1990-91 school year, approximately a third of the students in special education were placed in regular classrooms, a third in Resource Rooms, and a third in separate classes and more restrictive placements. (The exact figures are 33, 37, and 30 percent, respectively.)
- Between the 1977-78 and 1989-90 school years, regular school placement of students increased by 0.5 percent.
- The percentage of students in regular classrooms increased by 6.1 percent from the 1985-86 to 1989-90 school years.
- Regular class placements increased by 1.2 percent between the 1989-90 and 1990-91 school years. Resource Room placements decreased by 0.9 during this same period.

These figures mask a great deal of variation -- by handicapping condition, by state, and within states. For example, for the 1990-91 school year while the national average for students with all disabilities served in regular classroom was 33 percent, the range among the states was from 3 percent to 91 percent; for those served in Resource Rooms, while the national average was 37 percent, the range among the states was from 4 percent to 79 percent; and for those served in separate classes, while the national average was 24 percent, the range among the states was from 0.0 percent to 43 percent.

There are even wider disparities when the data are disaggregated by handicapping condition. For example, The ARC, analyzing data from the Fourteenth Annual Report to Congress, 1992, reports that nationally only seven percent of students with mental retardation were served in regular classes, with the range among the states from 59 percent to 0.26 percent; only four states educated more than a quarter of these students in regular classes. At the other extreme, in terms of students with mental retardation educated in separate classes, nationally the average was 67 percent served in special classes, with the range among the states from 9 percent to 84 percent; more than two-thirds of the states placed greater than half of these students in separate classes. Nearly 12 percent of these students were served in totally separate schools.

The data indicate wide disparities by race. The percentage of students labelled as "retarded" ranged from 26 percent among Black students in special education, 11 percent among white students, and 18 percent among Hispanic students. The range among the three groups labelled as "learning disabled" was 43 percent, 51 percent, and 55 percent, respectively. Among Black special education students labelled as "retarded", the range among the states was from over forty percent in Alabama and Ohio to under ten percent in Nevada, Connecticut, Maryland, New Jersey, and Alaska. These figures demonstrate two points: first, that there are wide disparities by race as to handicapping label and, second, that Black students are disproportionately placed in those categories where there is the greatest separation. This is a new form of segregation.

Overall, in the period since the adoption of P.L. 94-142, when the number of students served in special education has increased by some 1.2 million, there has been little change in the placement patterns: about a third of the students in general classroom placements, a third in Resource Rooms, and a third in separate classrooms and more restrictive placements. In understanding this datum it is important to note that the great bulk of the increase has been among students labelled as "Learning Disabled", those with the least severe impairments, and as such one would expect that they would be served in less restrictive placements.

<u>These failures are not of school systems alone</u>. We live in a society where there continue to be many barriers for people with disabilities, both physical and attitudinal. While the Americans with Disabilities Act is a major step forward, there is much yet to do to assure that our country is one of openness and opportunity for persons with disabilities.

School systems and special education professionals have done what was expected of them, and they did it very well. They created two separate systems, neither of which are working very well. A recent report makes this point clearly:

> Special education programs at the local school level are <u>a logical results of the laws which bring them into being</u> and the regulations by which they are run. The problems of the special education program, and the failure to move more rapidly toward integrated programming, <u>are not the result of a failure properly to administer the program</u>, but are rather <u>the inevitable result of a set of programmatic regulations no longer appropriate to current school or fiscal realities</u>.

(Emphasis added.)

While the patterns of student placement have not changed substantially, what has changed is the attitude toward this continuation of substantial separation: by the courts, as expressed by spokespersons for the Department of Education, by parents and other advocates, and by school personnel and professional organizations.

Court Decisions

Recent court decisions have supported students' rights to inclusion. Federal district courts in four circuits have in the past two years issued similar decisions, each supporting inclusion. The cases involve an 11 year old with Down syndrome, a nine year old labelled as mentally retarded, a kindergarten student with severe behavior problems, and a student with severe mental retardation and physical disabilities.

While differing in details, these court decisions each support inclusion. In Oberti v. Board of Education of the Borough of Clementon School District, a New Jersey case, in 1992 the court held, "Inclusion is a right, not a privilege for a select few". Affirming this decision, the court of appeals decision stated:

> We construe IDEA's mainstreaming requirement to prohibit a school from placing a child with disabilities outside of a regular classroom if educating the child in the regular classroom, with supplementary aids and support services, can be achieved satisfactorily.

The key phrase in the court's decision is "with supplementary aids and support services". Last month, the Ninth Circuit in California upheld the district court's decision in Sacramento City Unified School District v. Rachel H., ruling that a second-grade student benefitted academically and socially from placement in regular classes. While the court rejected the school district's claim that it would lose state aid if it moved the child into regular classes full time, the consequences of funding formulas for the perpetuation of separation is an important issue to address.

The Department of Education

The Office of Special Education and Rehabilitative Services is now led by a strong supporter of inclusion, Judy Heumann, as is the Office of Special Education Services director, Tom Hehir. The Department has distributed the Oberti decision to chief state school officers, superintendents of schools, and to special education directors. And it filed an amicus brief in Holland v. Sacramento Unified School District, stating that IDEA

> prohibits a school from placing a child with disabilities outside the regular classroom if educating the child in the regular classroom, with supplementary aids and support services, can be achieved satisfactorily.

Parental Support

There is a widening network of support among parents and their organizations. TASH: The Association for Persons with Severe Handicaps, the nation's largest organization of professionals and parents concerned with children with severe handicaps, continues its long-standing championing of full inclusion. Many of the recent books supporting inclusion have been written by parents. The PEAK Parent Center, in Colorado, has been funded by the Department of Education to focus on issues of inclusion. Across the country chapters of SAFE (Schools Are For Everyone) advocate full inclusion.

Support from Educators

Support for full inclusion has long been the case among some general and some special educators. A positive new development is the support from general education organizations. The National Association of State Boards of Education urges states

- "to create a new belief system" of inclusion, and calls for retraining teachers and revision of funding formulas".

The National Education Association, the nation's largest organization of teachers, has stated that,

- "The current state of knowledge about successful practice makes this an opportune time to reflect on how schools can achieve high quality outcomes in integrated settings for all students".

The National Scope of Inclusion

What is happening regarding inclusion is more than court decisions, pronouncements, and policy statements. It is more than a matter of physical placement. It is a recognition that the current design of a separate special education system:

- does not provide sufficient benefits (cognitive and affective) for students;

- has failed to assure beneficial post-school outcomes;
- is not in keeping with the broad societal efforts of integration; and
- is excessively costly.

Many terms have been used concerning issues of placement of students with disabilities: "Least Restrictive Environment" is the law's term; "mainstreaming", although not found in the law, is the term commonly used, generally referring to special education students participating with general education students for a part of the school-day, often in non-academic settings. Both Least Restrictive Environment and mainstreaming assume the existence of two separate systems, special education and general education, in which students labelled as "handicapped" spend a portion of time in one and a portion of time in the other. "Inclusive education" (or inclusion) combines placement (LRE) with the appropriateness of the services provided, i.e., the law's requirement for the provision of a "free appropriate public education". At a minimum, we believe inclusion means: providing to all students, including those with severe handicaps, equitable opportunities to receive effective educational services, with the needed supplementary aids and support services, in age-appropriate classes in their neighborhood schools, in order to prepare students for productive lives as full members of the society.

In implementing inclusive education, first it is important to recognize that the Least Restrictive Environment standard has been a requirement of the law since its enactment. What is new is the emphasis on redesigning the general education setting to provide the necessary supplementary aids and support services to students and teachers to make it the best alternative for all.

In the restructuring of general education, which is the work before us, it is important to recognize the composition of the nation's special education student body: more than half are labelled "Learning Disabled", the least impaired, while fewer than two percent are considered to have severe handicapping conditions. Inclusion is for both.

The National Center on Educational Restructuring and Inclusion (NCERI) is conducting a national survey of inclusion programs. Chief state school officers and state directors of special education were contacted to identify inclusion programs of significance within their state. The response has been overwhelming, with states and local districts sending information and materials about their programs. While the analysis is not yet complete, we are finding a number of common factors:

- inclusion programs are taking place across the country, in states such as Vermont, Oregon, Kentucky, North Dakota, Louisiana, and Washington;

- inclusion programs are taking place in a wide range of locations -- in urban school districts such as Roanoke, Virginia; in suburban school districts such as Elkton, Maryland, and in rural school districts such as Coppell, Texas;
- inclusion programs are being initiated by administrators, teachers, parents, university faculty, state education departments, and as a result of court orders;
- the evaluation of inclusion programs is taking place, addressing issues of implementation, outcomes, and financing, by individual districts, such as Shawnee Mission, Kansas; statewide in Massachusetts; and nationally through the Center for Special Education Financing;
- there is an emerging network of individuals and organizations involved in inclusive education practices;
- there are a wide array of materials on inclusive education practices, for teachers, administrators, and parents. These include videos, printed material, and training opportunities.

In addition to the positive developments, the survey identified a number of limits. These include:

- the scarcity of inclusive education programs at secondary levels;
- the lack of district and state-level data concerning the costs of the current system and of inclusion;
- inadequate recognition of the importance of staff development and curriculum adaptation;
- limited involvement of parents in program development and support;
- failures of the current designs of student evaluation;
- the lack of teacher training materials that address the needs of students with severe disabilities served in inclusive settings;
- the limitations of evaluation processes and development of inclusive education IEPs;
- the lack of in depth training on inclusive education fir

teachers, paraprofessionals, administrators, and school board members.

The data reported above from the National Center's survey do not mean, of course, that inclusive education is the common practice. It is not. Most students with disabilities continue to be educated in separate settings. Nor are the indicators of support for inclusion noted earlier representative of universal support. That is not the case. Some parents and organizations remain committed to traditional continuum design. And, there are differences of opinion within some disability groups concerning the inclusion of students, particularly those with deafness or blindness. Others fear that inclusion is a way for a society, tired of committing resources to social programs, to save money at the expense of students with disabilities. And, yet others fear that teachers who may already feel burdened may not be given the adequate resources, training, or support necessary to meet the needs of students with disabilities in general education settings. All concerns warrant attention and response.

Inclusive education is not dumping. It is not done to save money at the expense of student needs. It is placing students in general education settings with the necessary aids and supports for them and their teachers to be successful. It offers the potential of providing the **best** setting for students with disabilities:

- **best** in terms of academic, social, and behavioral outcomes;

- **best** in terms of preparing them for the lives as full and contributing members of society;
- **best** in terms of the benefits to their nondisabled peers; and
- **best** in terms of the use of scarce public funds.

Let us summarize:

- the current separate design is not working;
- the courts have declared inclusion a right for all;
- the Department of Education has taken a strong position favoring inclusion; and
- inclusive education programs are being successfully implemented in schools and districts across the country.

Looking at the general education and special education systems, there is need for:

- a restructured system to create quality educational programs for all children;
- a change in education funding formulas, especially those in special education;
- a critical review of special education identification and placement;
- the use of the IEP to establish needed supports for students and teachers in general education settings;
- the provision of time and ongoing training for teachers, paraprofessionals, administrators, school board members, and parents.

Inclusive Education in Practice

We turn now to the particulars of inclusive education programs and further findings from the National Center's survey on inclusion. We will:

- examine the factors necessary for inclusion;
- identify several models of inclusion;
- identify inclusive classroom practices;
- report on the practices of several inclusion districts.

Factors Necessary for Restructuring and Inclusion

Based upon the National Center's survey and review of the research, at least six factors are necessary for inclusion to succeed:

1. visionary leadership,
2. collaboration,
3. refocussed use of assessment,
4. supports for both staff and students,
5. adequate and targeted funding, and
6. effective parental involvement.

1. Visionary Leadership

An Indiana superintendent, commenting about what is necessary for inclusion to succeed, said it only took two things: "leadership and money". As to leadership, three elements are critical:

1. A positive view about the value of education to students with disabilities. It is the application to students with disabilities of the late Ron Edmonds' assertion

that "all children can learn".

2. An optimistic view of the capacity of teachers and schools to change and to accommodate the needs of all students.

3. Confidence that practices evolve, and that everyone benefits from inclusion.

Illustrative of this vision is the statement a director of special education services in Vermont:

> Some years ago we came to view inclusion as a subset of the restructuring of the entire educational system. From this perspective we no longer view special education as a means to help students meet the demands of the classroom, but rather as a part of the classroom services that must be available to accommodate the learning needs of all children in a restructured school.

By leadership, we do not mean only that of the official "leaders". Yes, of course, superintendents and principals are leaders, and their support is necessary. But, so too, school boards, parents and teachers. The survey indicates that the initiation of inclusive education may come from many sources; it succeeds, however, only when all the stakeholders join in -- each having a different and essential role.

2. Collaboration

The traditional organization of schools has meant the separation of special and general education. It has been based largely on teachers working individually within their own classroom, what Al Shanker has called the "egg box" design. The achievement of inclusive education presumes that no one teacher can -- or ought -- be expected to have all the expertise that all the students in the classroom need. Rather, teachers must join together as a working team with administrators and other school personnel to address the educational problems they are faced with today. Teachers must have available to them the support systems that provide collaborative assistance and which enable them to engage in cooperative problem solving. Building planning teams, scheduling of time for teachers to work together, recognition of teachers as problem solvers, conceptualizing teachers as front-line researchers -- each of these are tools of this necessary collaboration. The most successful programs to date have provided regular planning time for the team of teachers to meet together, to plan and to problem solve, to develop materials and to document student progress.

Kentucky, perhaps the state with the most fully developed comprehensive educational restructuring effort, incorporates inclusion as part of that redesign. Central is the collaborative teaching model which focuses on the delivery of the appropriate educational services within the general education classroom to all students. They found that the traditional "pull-out" and separate class programs did not work because:

- transition from the special education curriculum to the general education curriculum did not take place;
- the student mastered the specialized materials but this curriculum was not compatible with the general education curriculum;
- the setting expectations are not adjusted to the learning style of the student.

3. Refocused Use of Assessment

Traditionally, student assessments have been used as screening devices -- to determine who goes into which slot. In special education, there have been a myriad of studies as to the inadequacy of this screening. The most comprehensive of the studies, those of Jim Ysseldyke at the University of Minnesota, found that determination of whether a student should or should not be certified as "handicapped" was little better than "a flip of the coin". Clearly, such determinations need to have a sounder basis. Additionally, there continues to be a disproportionate number of students of color and limited-English speaking students placed in special education programs. We need to prepare those who assess students and prepare the IEP to shape inclusive education IEPs, working with classroom teachers to identify the necessary aids and support for students and teachers to be successful. Parents, too, need to learn more about developing an inclusive IEP and to be an integral part of the educational team.

A broadened concept of student assessment must be considered. For example, the use of alternative measures of performance, attention to portfolios of student's work and performances are means to refocus assessment. In this manner, assessment is used not just as a standardized measure but one that builds a greater understanding of the needs of the student. It is not used as a marker of teacher success nor to measure one district's or building's performance against that of another.

4. Supports for Staff & Students

Regardless of the staffing configuration used to implement an inclusive education program, two factors are essential for its success: systematic staff development for all those involved and flexible planning time for staff collaboration.

From the vantage point of students, supports for inclusion mean supplementary aids and support services. These may include:

- assignment of school aides, full or part-time, short- or long-term;
- curriculum adaptation and assessment modification;
- provision of needed therapy services, integrated into the regular school program;
- peer support, "buddy systems" or "circles of friends";
- effective use of computer-aided technology and other assistive devices.

The expert witnesses in the Oberti case described the types of strategies which could be used to support Raphael in the general education classroom:

- modifying some of the curriculum to accommodate Rafael's different level of ability;
- modifying only Rafael's program so that he would perform a similar activity or exercise to that performed by the whole class, but at a level appropriate to his ability;
- "parallel instruction", i.e., having Rafael work separately within the classroom on an activity beneficial to him while the rest of the class worked on an activity from which Rafael could not benefit;

- removing Rafael from the classroom to receive some special instruction or services.

Each of these were activities, the witnesses said, that could be provided by a general education teacher with proper training.

5. Funding

P.L. 94-142 promised states which chose to participate up to 40 percent of the national average expenditure for all pupils with disabilities for each child with a disability. In fact, federal allocations have never exceeded ten percent; the federally-funded Center for Special Education Finance estimates that the funds to be provided in 1994 will equal 8.79 percent.

In addition to the issue of the total funds allocated is the consequence of federal and state policies for implementing inclusive education. A 1993 report of the Center for Special Education Finance points out that, "All special education funding systems contain some types of placement incentives, and some reward more restrictive placements." In most states, the funding formulas used to support special education encourage separate programs. Rather than supporting placement patterns, funding designs must follow students, encouraging inclusive education. This is now the case in Vermont, for example, where the state special education director reports that changes in the funding formula was the essential change in their promotion of inclusive education for all students.

The preliminary findings from interviews conducted with district and school administrators at eleven sites across the nation by the Center for Educational Finance indicate that while inclusion costs more initially (i.e., one-time start-up costs), in the longer run, "When the costs of providing services in home schools relative to the costs of transportation and educational services in cluster programs or specialized schools, inclusion is less expensive." (Emphasis in text.) This conclusion coincides with reports from the National Center on Educational Restructuring and Inclusion's survey, as well as our own experience in New York City.

6. Effective Parental Involvement

While the federal law requires parental involvement, too often this has been more perfunctory than substantive, more a matter of honoring due process procedures than enhancing the educational experience. The knowledge and experience which parents have becomes especially critical as we move to inclusion, both in terms of the parents' experience with the child outside of the school, as well as in terms of their hopes and dreams for the child when s/he completes school. Also, there is the legitimate concern of parents of nondisabled children as to the consequences of inclusion for their children. While school districts with inclusive education programs report positive outcomes for all students, the concerns parents of general education students must not be ignored. Indeed, it is all the more reason to engage them in the dialogue concerning educational restructuring and inclusion.

Effective parental participation is more than a matter of procedures or involvement in planning. Schools both serve students and encourage parental participation through the provision in school settings of family support services, as well as in the development of programs which engage parents as co-learners with their children. Programs which bring a wide array of health and social services to children in the school setting, such as New York City's Beacon Schools, provide two sets of benefits -- the direct benefits to the children and the opportunities provided for parents and other family members to become involved in school-based activities.

Models of Inclusion

There is no single model of inclusion.

Results of the national survey indicate that there are several models in terms of differing roles for teachers.

- A co-teaching model, where the special education teacher co-teaches alongside of the general education teacher.
- Parallel teaching, where the special education teacher works with a small group of students from a selected special student population, in a section of the general education classroom.
- Co-teaching consultant model, where the special education teacher still operates a pull-out program, but also co-teaches within the general education classroom several

hours a week.

- A team model, where the special education teacher teams up with one or more general education teachers to form a team, who are then together responsible for all the children in the class or at a particular level.
- Methods and resource teacher model, where the special teacher, whose students have been distributed in general classes, works with the general education teachers.

Classroom Practices that Support Inclusion

Much of what is necessary in inclusive education classrooms is congruent with broader educational changes to produce better outcomes for all students. Indeed, in some states, the work to develop inclusive education is integral with their broader educational reform efforts. Many of the best inclusive classroom and classroom practices are incorporated in the broad educational restructuring designs of the Coalition of Essential Schools developed by Ted Sizer at Brown University, the "Success for All" model developed by Bob Slavin at Johns Hopkins, Henry Levin's "Accelerated Learning Model" at Stanford, and Jim Comer's comprehensive design developed at Yale. These include:

Multi-level instruction allows for different kinds of learning within the same curriculum. Here there is a focus on key concepts to be taught, variations in presentation methods, willingness to accept varying types of student activities, and acceptance of multiple outcomes, various ways in which students can express their learning, and diverse evaluation procedures.

Cooperative learning, first developed in support of programs of racial integration, which involves heterogeneous groupings of students, allowing for students with a wide variety of skills and traits to work together. Differing models of cooperative learning give greater emphasis to the process of the group's work, and to assessing outcomes for individual members as well as the team as a whole. In all cases, cooperative learning promotes students planning and working together, features increasingly desired in the contemporary work place.

Activity-based learning which gives emphasis to learning in natural settings, the production of actual work products, and assesses students performance in terms of what they can do or perform. It moves learning from being solely a classroom-based activity to encouraging and preparing students to learn in community settings, which, of course, they will need to do when they complete their schooling.

Mastery learning which focuses on the specifics of what a student is to learn and then allows sufficient opportunities for her/him to gain "mastery". Outcomes based education shares a similar focus on the results desired -- what it is the student is to learn, but here with a greater range of instructional modalities. Here there is attention to relearning, reteaching, as well as consideration of student's learning style(s).

Technology which ranges from the use of computers for individualized student assessment to assistive devices such as reading machines and braille-to-print typewriters, as well as curricula support and enrichment.

Peer support and tutoring programs which place students in instructional roles, thereby enhancing the teaching resources of the school and providing benefits for both the tutor tutee. Indeed, peer programs capture the reality that students must be the center of the learning process, that only they can learn for themselves.

Inclusion Districts

In light of these broad principles and models, let us now look at some examples of inclusive education practices in several districts.

At the Westside Elementary School, Roanoke, Virginia, their inclusion program includes students labelled as "LD", "EMH", "Speech/Language", and "ED". Their program involves special education teachers co-planning and co-teaching with general education staff, coordination for reinforcement and mastery activities, cooperation in development of student assignments. Critical, they feel, is the process of team building and the development of shared responsibilities.

In the Federal Way Public Schools, in the state of Washington, 19 of the 21 elementary schools, a junior high school, and a high school are involved in inclusive education. Each school is allocated twenty days per year of release time to visit other models, to plan or to attend in-service opportunities. Also, there is a district inclusion facilitator. Each building develops its own plan. Among the strategies they use are multi-grade classrooms, team teaching, integrated curriculum with team teaching, a modified school calendar, and grouping of students into "families" and/or content areas at the secondary level. Various curricula and instructional strategies are used, as well as cooperative learning and behavioral management programs. A parent advocate, trained by the local SAFE group, educates other parents as to the value of inclusion, as well as joining in the weeklong summer institute on inclusion. One of the ways which the district supports the inclusion program is to make their staff development activities available to other districts for a fee.

In the Napa Valley Unified School District in California, collaborative teaming is the key to the inclusion program. The planning team includes the general education classroom teacher as the core person, an integration specialist, administrative support from the principal, related services providers, and the students parents. The team provides support to instructional staff in general education settings through the development of an individualized instructional plan, enables the parents to be involved in the educational planning for their child, and develops a transition plan as the student moves to the next school level. Teachers substitute materials and curriculum as appropriate for the individual child.

In the Shawnee Mission Public Schools, in Kansas, there are inclusion programs in 43 elementary schools, seven middle schools, and three high schools. They have adapted designs from various other districts: the "Home School Model" from Vermont, the "Individual Student Planning Teams" and "Class Within a Class" from Kansas. Collaborative planning between general and special educators is key in each of these designs. In the "Class Within a Class" model, a learning strategies curriculum is used. Staff development focuses on best practices, the models to be used, team-building, and development of an inclusion plan for the specific school. As students are moved from more restrictive settings, staff in those programs have been reassigned.
A survey conducted among general education teachers, special education teachers, paraprofessionals, building principals, and parents found strong positive support:

- in terms of the special education students benefitting socially and academically, as well as feeling part of the school;
- in terms of benefits to the general education students;
- in terms of parental support.

The Ontario School District, Oregon, is a rural district, which has long espoused mainstreaming. As part of a program of site-based management, special education funding was moved to the building level. All funds were put in a single "pot", allowing the principal to assign staff as needed; a software program allowed for tracking expenditures. Special education teachers now perform as support specialists to general education staff. Support services are provided to the teacher, so as to preclude an aide in the classroom from isolating the youngster. As the high school principal says, "If you velcro the instructional assistant to the kid, you haven't freed the kid."

The Hilton Public Schools, Massachusetts, has for the past several years developed a strategic planning team to shape the future of public education in this rapidly growing district. Parents of a multiply handicapped child who have demanded full inclusion for her, have educated staff and community members about the needs of severely disabled students and the possibilities for full inclusion. The other key source of inclusion initiatives has come from teachers, many from general education. Despite its rapid growth, the district has faced severe budget cuts in the past several years and all elementary and middle school principals have multi-building responsibilities. Inclusion activities began in pre-kindergarten and kindergarten, along with workshops on cooperative learning, whole language instruction, and adapting classroom materials.

Now, inclusive education is being incorporated in the planning for a new school as well as in restructuring an existing school where bilingual and Chapter 1 services will be coordinated. At both schools, an elementary instructional support team model is being developed, combining general education teachers and special education teachers, with Chapter 1, language arts and remedial reading specialists. A similar model is being developed for the middle school, while inclusion is moving more slowly at the high school.

Special education students with severe disabilities have long been housed at P.S. 811, a general education school in southern Brooklyn, New York City. Based on the initiative of the special education administrators, an inclusion program has been developed for students with severe disabilities. The special education students, who had been in a class with one teacher and three paraprofessionals, are distributed across three general education classes (two students per class), along with an aide assigned full time to each class. The aide is not limited to working with the special education students. The former special education classroom teacher serves as a "methods and resources teacher", assisting the general education teacher in developing materials and strategies, provides support in the classroom through model lessons and direct support, encourages parental involvement. An inclusion facilitator assists the overall effort. This plan is an activity of Citywide Programs of the Division of Special

Education, and has received significant support and leadership from the building's principal.

The Colorado Department of Education has developed an extensive array of materials to support the state's districts in implementing inclusive education. A building-level checklist is used to define indicators of quality services for school building staff who educate students with the most severe disabilities. The seven components addressed are:

- interaction with peers;
- IEP/staffing process;
- systematic instruction;
- program management;
- vocational/supported employment;
- transdisciplinary teaming;
- home/school partnership.

These examples are just that: examples of districts which are implementing inclusive education. In none is the work complete. Nor are they models for others to reproduce. They show the range of activities involved and the processes toward inclusion.

Inclusive Education and Educational Restructuring

The reform of special education and the restructuring of general education have taken place largely in isolation, one from the other. It is time for these two streams of educational reform to come together: at the policy level, national, state, and local; in district and administrative functioning and organization; in school building operations; in classroom practices; in funding formulas; in personnel preparation; and in educational and policy research.

In the past decade, we have seen two waves of educational reform. The first, following in the wake of A Nation at Risk (1983), focussed on external factors (e.g., strengthened graduation requirements, competency statements, no pass/no play rules); new -- and often mandated -- curricula; strengthened teacher certification requirements; and expenditure increases. Education is now in the midst of a second wave of school reform that focusses on the roles of adults: teacher empowerment; school-based management and shared decision making; integration of school and social service programs; enhanced community involvement in the schools; charter schools, voucher schemes, and parental choice. It shifts the locus of attention from state capitals to local schools, and from mandated activities to collaborative, cooperative, and protracted efforts. What is needed now is a third wave of reform, a comprehensive and systemic effort that has as its outcome a unitary system that

<u>serves well all students in inclusive settings</u>.

In this third wave of educational reform, public education must take the best of general and special education and blend them together into a refashioned and unitary system. Such a system:

- is grounded in high expectations for the capacity of all persons, including those with severe disabilities, to play a contributing role in the society;
- has high expectations for the learning capacity of all students, including those with severe disabilities;
- requires the schools to accept responsibility for the achievement of all students, including those with severe disabilities; and
- involves restructuring of roles and responsibilities in the school, increased use of the community as a learning resource, new roles for both teachers and administrators, and greater recognition of the role of students as producers of their own learning and thus the need to enhance their power and responsibility.

Legislative Recommendations

Our recommendations are designed, in the words of Assistant Secretary Judith Heumann, to move from the holdings of the courts that "The regular classroom in the neighborhood school should be the first option for students with disabilities." to the practice that makes it "the best option as well."

Specifically, we recommend that The Congress:

- reaffirm the Least Restirctive Environment requirement, holding that the general education setting is the first and preferred option for all students with disabilities. In keeping with this, school systems should be required to demonstrate the ways in which they have provided supplementary aids and support services necessary to provide satisfactory education in the regular classroom before a more restrictive placement is considered. Further, at the annual reevaluation of students not served in regular classrooms, require that districts explicitly reconsider placement in the regular classroom, with the necessary supplementary aids and support services, and if placement in the regular classroom is not recommended the school district must document the reasons why such a placement is not appropriate for the student and develop a timeline in which the educational program recommended will lead toward the least restrictive placement;
- require that states demonstrate that their funding formulas for special education program support and encourage the least restrictive placement;
- require that states demonstrate that their assessment and evaluation process supports and encourages the least restrictive placements;
- develop a standard IEP format, which will support student outcomes in the least restrictive environment, and will include supplemental aids and support services for the teacher as well as the student;
- require that states develop and implement personnel preparation programs that support the development and implementation of inclusive education programs,

including for teachers, administrators, related services providers, and paraprofessionals to participate in inclusive education programs;

- direct the Department of Education to collect data on the implementation of inclusive education programs, both currently and as part of their longitudinal studies, e.g., document the extent to which outcomes for students (academic, social, and behavioral) while in school and subsequently are affected by their participation in inclusive education programs and other more restrictive settings;

- provide support for the development of state and local programs for the evaluation of inclusive education, and for the conduct of research regarding the implementation and outcomes of inclusive education, conducted by institutions of higher education, state education departments, and local districts, and including the role of teachers as researchers, and the involvement of parents;

- provide support for parent training and parental involvement in the IEP process;

- provide support for training those who evaluate students in the development of inclusive education IEPs;

- provide support for the involvement of adults with disabilities (and their organizations) in school and community programs;

- require that all special education students be included in comprehensive state and district evaluation activities, unless precluded by the student's IEP, with the necessary adjustments to assure the accurate assessment of a student's knowledge and skills;

- require that all educational assessment activities supported by the federal government (e.g., NAEP) include all students with disabilities;

- require that all national standards, curriculum development, personnel preparation and certification, and educational restructuring activities supported by the federal government address the needs of all students, including those with severe disabilities;

- direct the Department of Education to make an annual report to The Congress on the ways in which it has supported the effective implementation of inclusive education programs.

Chairman OWENS. Thank you.

Ms. Phillips.

Ms. PHILLIPS. Thank you, Mr. Chairman. I appreciate the opportunity to speak to you today.

I am Vicki Phillips, the Director of the National Alliance for Restructuring Education. The Alliance is a unique partnership of five States, four school districts, corporations, foundations and not-for-profit organizations that are thinking hard and working hard to transform the educational system at all levels—State, district and school.

Prior to coming to the Alliance, I served as the Chief Assistant to the Commissioner of Education in Kentucky, helping implement one of the most comprehensive education reform Acts to date. I am, by training and experience, a special educator, and spent many years teaching students with disabilities, particularly students that were emotionally disturbed.

I wanted you to know that, so that you would have an understanding for the context and the perspective that I come from.

I have been asked to direct my remarks to those national school reform issues which affect the education of children with disabilities. I don't want to focus on the problems, because I think they have been really adequately identified by the other panelists with regard to both regular and special education; rather, like Dr. Lipsky, I want to focus on some of the promise, some of the potential that currently exists, and the work that is beginning to take place across the country in many schools.

We have looked at the essence of the National Alliance and of many of the reform movements going on across the country. They can really be categorized into about five areas: the first being standards and assessments—getting really clear about what it is we want all students in this country to know and to be able to do, and then designing the types of measures that are going to allow us to know if they are able to get there and when they get there; learning environments—creating a radically different view about what teaching and learning is in the classroom, connecting that to work and to real life situations, and using technology to really support student learning.

Next is community services and supports—recognizing that schools can't do this job alone; that we have to create that whole interconnected web of community involvement and community support that it is going to take to make sure that students are adequately prepared for successful participation in school, and to strengthen families' contribution to that.

Public engagement—and by that, we don't mean public information. We mean real engagement, identifying and implementing strategies that will provoke and sustain the types of public support that are needed for the complex changes that are going to happen and need to happen and must happen in the education system, and that are necessary for achieving the kind of world class standards that we want to achieve with all children.

And then high performance management—how do we provide the leadership and management principles and processes necessary to make this kind of complex change happen in individual schools and in districts and in States, and moving away from the input kind of control to the outcome and results orientation that we want.

What I want to do is to relate these kind of national reform areas to the education of students with disabilities. And I'm going to do that in a kind of overview way.

Each of these has extreme implications for the education of students with disabilities, and they really warrant further investigation and study on the part of the committee, as you seek to reauthorize IDEA.

When we talk about standards and assessments, there are three aspects of reform that really are strengthening across the country. One is the development of national and State standards.

The second is holding high expectations for all students, particularly making sure that teachers have the high expectation that all children can be successful, and then the design of those performance assessments.

And the implication for all children, but particularly for children with disabilities, is that they will work toward mastery of those same high standards that we are requiring of everyone else, except for those students that are most severely disabled; that the school staff will hold the expectation that those students can and will master those standards; and that the performance assessments, in fact, will allow children with disabilities to have greater opportunities to demonstrate their confidence and their progress towards meeting those standards.

When we think about learning environments, I want to echo what Dr. Lipsky said about there being places that are extraordinarily successful with this. We have learned how to make the learning environment such that all children can be included and can work successfully toward mastery of pretty dramatic results.

And many of the reforms across the country that you hear about and that the Alliance is working toward, along with others, are things like mixed age groupings, differentiating instruction and learning resources for all children, individualizing instruction in ways that help each student in the classroom be successful, transforming the traditional teacher/student relationship into one of teacher, as coach and facilitator, and students as taking more direct responsibility for their own learning, and being enabled to achieve the kinds of outcomes that they want and they help to set.

We should be trying to reverse the idea that school is about seat time, that it's about 55 minutes of tenth grade biology, or four years of high school, or a six hour instructional day; but, in fact, it might need to be before school, after school, during the summer, on Saturdays, and for extended years in order for children to be able to meet the standards that we want them to meet. So we're really trying to reserve that variable.

When we think about the implications for children with disabilities, they should be experiencing, as these will allow, more diversity in age and ability groupings, have a much greater variety of learning opportunities, many of which were depicted in Dr. Lipsky's paper and testimony, and then be provided with the time that they need, before and after school, in other kinds of ways, and the supports necessary to acquire the confidence, to master the standards, and to become much more self-directed in pursing learning goals.

Implied in these trends is the expectation that the "what" is going to be essentially the same for all the students; that it is the "who" and the "when" and the "how" that should be the variables.

And in concert with those kinds of changes in the learning environment is the whole idea of providing an early start to young students through real quality four year old at-risk programs, and through, as you all know, programs for three and four year old disabled students.

All of those characterize the types of changes that we are seeing in learning environments across the country.

The third issue that I talked about was community services and supports. In that arena, what we are seeing is increased integration of education with health and human services, to the degree that there are communities out there setting joint outcomes for what healthy children and families should look like, holding themselves as health and human service agencies and as members of the community responsible for those outcomes, right alongside schools, and really increasing the family and community involvement in the schools.

The implications then for students with disabilities are that they are going to come to school better prepared to learn, and that while at school, they are going to receive higher quality supports and services; and that, in addition, as we increase the capacity of the school to either provide or readily access those kinds of services, that we are able to detect problems early, and that we are able to address them early and, therefore, have a much greater degree of long-term success.

I said that the fourth trend was public engagement, and that public engagement is more than just informing the public of what we are doing, but having them actively engaged.

In many programs going on across the country, such as public/private sector partnering—where businesses and other community entities are beginning to be integrally involved in the school and to provide not only dollars, but human resources and direction and guidance and training, and the adoption of a real activist, pro-active posture for developing public support—the public should be totally involved in what we are doing, be active in those decisions, and well acquainted with what these changes are and need to be, and in some ways, demanding of those changes.

The implication for this is that there are more discretionary resources beginning to come in to schools, to support their reform efforts. There is a much greater extension of the learning environment now into the workplace.

There are school and business partnerships. And there is this gradual raising of the expectations of the community as to what all children can do, including children with disabilities.

The last one I mentioned was high performance or high performance work organizations which has probably some of the most significant implications for the education of children with disabilities: the decentralization of decisions and resources to the school level; the adoption of accountability systems that include rewards and penalties for school performance and lack of performance; and the recruitment, retention, and training of the teachers and human resources necessary to carry out these reforms.

As we think about the implications of that for this population, it means that those adults—teachers, parents and others—who are in the greatest contact with children with disabilities, should have the authority and the resources to act more quickly and appropriately on a child's behalf; that schools will actually be held accountable for continuously increasing the percentage of students who perform to high standards, including children with disabilities; and that school systems will recruit, hire, and, where necessary, train staff who hold high expectations for all learners, and are capable of meeting the diverse needs of an increasing complex student population.

Probably the most exciting thing is that when you look at a Kentucky or a Vermont or a San Diego, or some of the other places we are looking at, you find all of these pieces converging together in one whole.

And what that means for the education of students with disabilities is that they become an integral part of, not apart from, the whole education system. And you've heard that echoed here again and again: there needs to be one comprehensive, seamless system, not two separate ones.

And that's what should be happening. As these other reforms move out, and as Goals 2000 goes into place, we hope, as an Alliance, to create not individual schools that are doing a good job there, but a system of schools in which the expectations and the incentives for producing high levels of student performance among students with disabilities is as great as producing it for any other student in the school.

I know you have an incredibly unique opportunity here to bring IDEA in line with the central tenets behind these education reform efforts. It is, as everyone at this table has said, an incredibly complex task

While every effort has to be made in that process to ensure that the rights of children with disabilities to a free appropriate public education remain protected, we also have to move special education from an era of input controls to one of accountability results. And that means that you have to strike a balance between those protections and the flexibility that is necessary for schools and districts and States to move to a performance-based education system.

And they are struggling mightily out there. I mean, after three years of on-the-line experience in Kentucky, and in watching what's happening across the Alliance, I know that there are good people trying to do good things, and struggling with the system. It is an awesome task.

And as I think about the challenges facing you, there are at least four that I want to highlight. One is aligning IDEA with Goals 2000, the Elementary and Secondary Education Act, and the School-To-Work Opportunity Act. By doing so, we can move special education into the era of accountability and results, and out of the inputs control mode that has been productive in many cases, for lots of good reasons, but not so productive in others.

Two is ensuring that an increasing proportion of the funds available to special education is used to provide additional supports and services to help children with disabilities be successful as measured by the same standards and assessments as regular program children. And, certainly, the caveat to that is students with the most severe disabilities.

But the predominant portion of students with disabilities need to be held to those same standards, and schools need to be held to making sure that they have the time and the supports necessary to achieve the kinds of things that we are seeing happen in many schools across the country. In addition, we need to ensure that the use of those funds not be unduly hampered by rules and interpretations and categorizations.

The third is identifying those provisions which act as barriers against the integration of programs for children with disabilities and other Health and Human Service programs, and replacing those provisions with incentives for integration. This has to become a seamless web of school, community, other agencies and organizations, thinking about what outcomes they want for these children, and for all children, and acting together to make it happen. We need to provide the incentives to keep those ideas and that integration moving.

The fourth and probably the most difficult task is convincing very dedicated advocacy groups and the concerned public that moving to a performance-based system in which schools and school systems will have program and resource flexibility to produce results for this population of students, as well as for all students, will increase, rather than decrease, the opportunities that exist for students with disabilities.

And that is a monumental task, because we are all incredibly, and rightfully so, concerned about that.

Thank you for the opportunity to talk to the committee. If there is any other way that our organization or myself can be of assistance as you move forward, don't hesitate to ask us.

[The prepared statement of Vicki Phillips follows:]

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Introduction

Thank you, Representative Owens, and members of the Committee, for the invitation to speak with you today. I am Vicki Phillips, Deputy Director of the National Alliance for Restructuring Education. The Alliance is a unique partnership of states, school districts, corporations, foundations and not-for-profit organizations working to transform the educational system at all levels (state, district, and school). Prior to coming to the Alliance, I served as the chief executive assistant to Kentucky's Commissioner of Education. In that role I was intricately involved in the implementation of Kentucky's comprehensive education reform legislation. I am a special educator by training and experience and have taught students with disabilities as well as worked at state and national policy and program levels.

I have been asked to direct my remarks today to those national school reform issues which effect the education of children with disabilities. I'd like to begin by giving you a context for those remarks — an image of what we, The Alliance, mean when we talk about systemic education reform. The Alliance believes that we must educate all of America's students to higher levels of performance than ever before, particularly those students who perform least well now. Our mission is to develop and implement the tools and strategies necessary to restructure state and local education systems so that all students achieve at high levels. The essence of our work falls into five broad areas. These areas are consistent with the reform efforts in Kentucky and nationally

1. ***Standards and Assessments:*** Getting clear about what it is that we want all students in this Country to know and be able to do (i.e., setting high standards for all students) and designing the types of measures that will allow us to determine student progress toward the standards we set.

2. *Learning Environments:* Creating a radically different view about the way teaching and learning are conceived and carried out in the schools so as to enable all students to achieve high standards; ensuring that students make critical connections between what is learned in school and real life and work; and making use of technology to support student learning.

3. *Community Services and Supports:* Recognizing that schools cannot do the job alone, and thus, creating an interconnected web of community-wide services and supports designed to prepare students for successful participation in school and to strengthen families' contributions to and support for their children's educational progress.

4. *Public Engagement:* Identifying and implementing strategies that provoke and sustain public support for the systemic changes in educational policy and practice that are necessary for achieving world-class performance at all levels of our education system.

5. *High Performance Management:* Using proven leadership and management principles, practices and processes to integrate the whole and to produce higher levels of school and system performance so that the public gets good value for its investment in education.

Implications of National School Reforms for the Education of Children with Disabilities

Let me relate these national school reforms to the education of children with disabilities.

What are the implications of national reform trends in standards and assessments for the education of students with disabilities?

There are three aspects of reform related to standards and assessment: the development of National/State standards, holding high expectations for all students and the design of performance assessments. The implications are that all children (except for those most severely disabled) will work toward mastery of the same high standards, that school staff will hold the expectation that children with disabilities can, and will master, those standards and that performance assessments will allow children with disabilities greater opportunity to display their competence.

What are the implications of national reform trends related to changes in the learning environment?

Included in the reforms in this area are: mixed age groupings, differentiated instruction and learning resources, transformation of the traditional teacher/student relationship to one of learning facilitator/responsible learner and reversing the seat time/quality of learning variable. The implications are that children with disabilities will experience more diversity in age and ability groupings, have a greater variety of learning opportunities, become more self-directed in pursuing learning goals, and be provided with the time (before school, after school, and during the summer) and supports necessary to acquire competence. Implied in these trends is the expectation that the "what" (the curriculum) will be essentially the same for all students, but that the *who*, the *when* and the *how* can and will vary according to individual children's needs.

In concert with fundamental changes in the general learning environment is the effort to provide an early start to youngsters at risk through quality programming for four year-olds, and, as you well know, for three and four year old children with disabilities.

What are the implications of national reform trends related to community services and supports?

Two primary aspects of reform in this area hold significant implications for the education of children with disabilities: increased integration of education with health and human services and increased family and community involvement in the schools. The implications are that children with disabilities will come to school better prepared to learn and that, while at school, will receive higher quality support services. In addition, by increasing the capacity of the school to provide or readily access a range of student and family supports, children's problems can be detected and addressed much earlier and with a much greater likelihood of success.

What are the implications for the education of children with disabilities of national reform trends in public engagement?

The current public engagement initiatives are centered primarily around two efforts: public/private sector partnering and adoption of an activist/proactive posture for developing public support. The implications of these trends include attracting more discretionary resources for school reform efforts, extension of the learning environment into the workplace through school/business partnerships and raising the expectations of the community regarding the contribution of children with disabilities.

What are the implications for the education of children with disabilities of national reform trends in high performance management?

Three initiatives in this area have particularly significant implications for the education of children with disabilities: the decentralization of decisions and resources to the school level; the adoption of accountability systems that include rewards and penalties for school performance or lack of performance; and the recruitment, retention and training of the human resources necessary to carry out these reforms. The implications of these trends are that those adults (teachers, parents, etc.) in the greatest contact with children with disabilities will have the authority and resources to act more quickly and appropriately on a child's behalf; that schools will be held accountable for continuously increasing the percentage of students who perform to high standards, including children with disabilities, and that school systems will recruit, hire, and where necessary, train staff who hold high expectations for all learners and who are capable of meeting the diverse needs of an increasingly complex student population.

What are the implications for the education of children with disabilities when these reforms come together in an integrated whole such as in Kentucky and in other Alliance schools/sites?

The implication is that the education of students with disabilities will become an integral part of, not set apart from, the education of all children — that we will create not just individual schools, but a system of schools in which the expectations and incentives for producing high levels of performance among students with disabilities is as great as for producing high levels of performance among any other student population.

Conclusion

You have before you, the unique opportunity to shape the reauthorization of IDEA in a way that reflects and supports the central tenets of these reforms. As we move Special Education from an era of input control, to one of accountability for results, every effort must be made to ensure that the right of children with disabilities — through access to an appropriate public education, remains protected. You must strike a balance between those protections and the flexibility necessary for schools, districts and states to move to a performance-based education system. It is an awesome task and responsibility. Among the challenges you will face as you contemplate the various provisions of IDEA to determine their worthiness for reauthorization are:

1. Aligning IDEA with Goals 2000, the Elementary and Secondary Education Act and the School to Work Opportunity Act, and by doing so moving Special Education to performance and results driven (as opposed to an inputs driven) orientation.

2. Ensuring that increasing proportions of the funds available to Special Education are used to provide additional supports and services to help children with disabilities be successful as measured by the same standards and assessments as regular program children, and that the use of those funds are not unduly hampered by rigid rules, interpretations and unnecessary categorizations.

3. Identifying provisions which act as barriers against the integration of programs for children with disabilities and other health and human service programs and replacing such provisions with incentives for integration.

4. Convincing the advocacy groups and a concerned public that moving to a performance-based system in which schools/school systems have program and resource flexibility, but must produce results, will increase rather than dilute the opportunities for students with disabilities.

Thank you again for the opportunity to address this Committee. Please do not hesitate to call on me if I can be of assistance as you move forward with the reauthorization process.

Chairman OWENS. Thank you.

I neglected to pay tribute to my colleagues from New York, beginning with Ms. Autin. I haven't met you, but I've followed your organization quite a number of years. I know Miriam Thompson who, I think, was one of the founders or the first director. You carry a very heavy load, and you carry it very well.

Ms. Wendel, we just met, but I look forward to a long-term association. We could use your spirit and expertise to do some heavy lifting that we have to do in this area.

Dr. Alan Gartner, we have been in many arenas of different kinds together, and I'm pleased to meet Dr. Lipsky.

Ms. Phillips, as you are outnumbered by New Yorkers, why don't I ask you the first question.

Ms. PHILLIPS. Okay.

[Laughter.]

Chairman OWENS. I'm pleased to meet you, too.

Could you be more specific about proposals which might provide incentives for school districts to heighten their performance?

You recognize that it's a monumental task, and the alignment with all these educational reforms makes it even more so, and you make an interesting case. You did include schools. Schools must be held more accountable?

Ms. PHILLIPS. Yes.

Chairman OWENS. In your following of the ESEA and the Goals 2000, have you picked up anything about Opportunities to Learn?

Ms. PHILLIPS. Yes.

Chairman OWENS. Where do you think that fits into all of this? What kind of incentives can we provide out there to make certain that schools move to provide those opportunities to learn?

Ms. PHILLIPS. Let me give you a concrete example of what Kentucky has done, since I most recently came out of that.

The Kentucky Education Reform Act provided six goals for schools. And among those goals were things like holding high expectations for all students, making sure that all students attained certain capacities, and that includes academic capacities, as well as being self-sufficient, and all of those other thinking and problem-solving abilities. And they have a set of very specific outcomes that they are asking for all students.

Other goals included decreasing retention rates, lowering dropout rates, increasing the number of students going on to post-secondary opportunities, including education and jobs in the military; and then reducing the mental and physical health barriers to learning. Those were six goals set out for schools.

They created a performance assessment system to help them ascertain how students are progressing towards those goals.

And they set up an accountability system that, essentially, in a brief overview, says that schools are held accountable for all six goals, and that they must show increasing performance against each of those. In 1992, Kentucky took a baseline as to where schools were across most of those.

Although there is some controversy in our legislature right now and among the citizens about whether this will actually happen this year or whether there will be some delay until 1996, the original intent was that in 1994, a second round of assessments of where schools were from their original baseline would be taken. Schools would be either rewarded or sanctioned, based upon whether they were making progress toward those goals, and increasing the percentage of students that they were successful with. And that includes all students.

Chairman OWENS. They are going to do that this year?

Ms. PHILLIPS. Yes.

Chairman OWENS. They haven't done it yet?

Ms. PHILLIPS. I'll tell you what some of the incentives were.

The incentive is that major monetary rewards would go into the school, and that the school and the staff would decide how to spend them. So they might choose to spend those on additional teachers, in order to lower their class size, or run additional programs that they think will help them move the students to a higher level of performance, and therefore, increase their performance as a school over time.

So there are monetary incentives. And those incentives will be rewarded this spring.

The rub comes because there are also sanctions in that law. And the sanctions say that if your school either stays the same or continues to decrease the number of students who are successful, you can have a number of things happen to you.

The first is pretty dramatic—having to write a major plan and having that plan consistently monitored. If you have a decrease, one of the things that can happen is that a distinguished Kentucky educator or TEMA is sent into work in the school for a year to 18 months or longer, to help the school improve, and to make very specific recommendations about staff.

Teachers automatically lose their tenure rights in schools that are declared in crisis and in which distinguished educators go into. Students can automatically move to successful schools.

At the end of a certain period of time, a school could be totally disbanded, the principal could be fired, half the staff could be retained or transferred, the school could be totally reconfigured. Any number of things could happen in order to create a school in which students can be successful.

If you are a district with large numbers of schools in crisis, then at the district level, you are subject to the same kind of scrutiny to determine whether the superintendent, the board, and the central level people are contributing to this problem.

So it is a very high stakes game in Kentucky. And because the assessments are still under development, there is a recommendation to hold off the sanctions until 1996, to make sure that the assessments are measuring what we need them to measure, and the formula is working. However, there is no movement to drop the sanctions.

Chairman OWENS. How long have you been involved with Kentucky?

Ms. PHILLIPS. Three—I've been with the State Department for seven years. I served as the Commissioner's Chief Assistant for about three years, when he came on initially, up until May, when I joined this organization.

Kentucky is also one of the States that is a continuing member of the Alliance, so we are continuing to work with them. But that is one example of how schools are being held very specifically accountable.

Chairman OWENS. We certainly would like to see the same approach and those same standards applied to the programs for the students with disabilities.

Ms. PHILLIPS. Students with disabilities are included. I mean, the idea is as you move up the performance ladder. If your school is successful with 90 percent of your students, and you still have that 10 percent that you are unsuccessful with, you are just as responsible for continuing to increase your success with that population.

So, over time, schools are going to have to get very, very good at addressing the needs of students with disabilities and students that are at-risk.

Chairman OWENS. I wish you luck. We'll be watching Kentucky closely.

Ms. Autin, you heard the testimony of Dr. Bowe and Mr. Sanford. I think Dr. Bowe said the problem is not racial discrimination, in terms of some of the segregated settings and the over-representation of students; it's cultural insensitivity, maybe misunderstood; it's lifestyles. He did emphasize that competence is a problem.

We think we've taken all the steps we can to deal with ending the impact of racial discrimination. For the record, do you think that part of the problem is racial discrimination?

Ms. AUTIN. I have no doubt in my mind, at least based on my experience in New York City, even putting aside the issues of greater poverty rates, cultural differences, and language differences, that racial discrimination does play a role.

There are many studies that have been done out there about reduced teacher expectations for children of color, and children from poor families, which are——

Chairman OWENS. Do you think people would learn to be more sensitive if they didn't have a mind set to begin with?

Ms. AUTIN. I think that it is possible to work with many teachers and other people in schools who come with diminished expectations or misunderstandings or prejudices. I think many people can be trained to be more sensitive and do a better job.

But I think that if we try to overlook the fact that there is racial prejudice in this country, and that racial prejudice does affect children in schools, we are going to do a disservice, and we are never going to completely solve the issue of over-representation of children of color. I'll give you one example.

Chairman OWENS. We are always going to have racial discrimination. You can't do much about ending it.

But this is a system of professionals, paid to do a job. What is it that we can do in law to lessen the impact on this, since it obviously affects a large number of youngsters, say, in New York City?

Ms. AUTIN. Well, a lot of what needs to be done is already in law, Mr. Chairman.

Chairman OWENS. So the law has done as much as it can do?

Ms. AUTIN. Well, just one thing that this committee and the Congress can do is to hold the Department of Education more accountable in terms of their enforcement of the provisions of the law that already exist, about things like appropriate assessment instruments.

IQ tests are notoriously racially discriminatory, and have notorious adverse impact on children of color; and, yet, they continue to play a significant role in the determination of whether or not children are mentally retarded, for example, or learning disabled. So one big step that can be taken is to hold the Department of Education accountable.

Another step that could be taken, as a result of looking at some of the studies that have been done about assessment instruments, is to strengthen the sections of the law that deal with appropriate assessment instruments, issues of language, the role of parents in the development of IEPs and perhaps strengthening the language that talks about how you use the assessment in developing the appropriate IEP.

I think that a lot of these problems with assessment would be revealed if they were used more for developing.

Chairman OWENS. Suppose we get into more micromanagement from the Federal level, as you propose there, and then we do all those things and we still have this stubborn resistance, and the outcomes are still bad. Do you see the application of any of Ms. Phillips' remedies? If we applied the Kentucky model and said, we're coming into the school; you'll lose your tenure; would it work in New York City?

Ms. AUTIN. I think having an outcome-based system, without totally losing some of the input requirements, that we really hold people accountable to would be a positive step.

However, given the strength of the teachers' union, for example, in New York City, I find it hard to believe that anybody is actually going to hold teachers accountable in New York City.

If it happens, I'm all for it. I'd love to see it. I think it's really essential. I think that with outcome-based requirements and mandates, if you have real accountability, if you tell a teacher, no matter what you say this child does, you can't get rid of this child from your class; or if you tell a principal, no matter what you determine, whatever kind of problem you determine this child has, you can't get rid of this child from your school, if you made the teacher and the school responsible, as well as giving them authority, I think that would also go a long way towards solving some of these problems.

But we have to also recruit teachers, clinicians, supervisors, administrators of color who speak languages other than English. To some extent, the expectations that white teachers have are reinforced by the fact that the people that they work with are white, and just speak English. And they, themselves, don't see the role models that should be there for the children.

I think white teachers, clinicians and administrators need to see professionals of color who are holding responsible jobs, who are educators, and who are fulfilling their responsibilities, so that their expectations can reflect a different perception.

Chairman OWENS. Ms. Wendel, what do you think we can do from where we sit in terms of the legislation to get recognition for more parent participation, to force the system to encourage parent participation?

The 1 percent set-aside that we have in the House version of ESEA is one small step in that direction. What else can we do in this legislation to make certain? Since parents are such a key factor, and everybody acknowledges that, when it comes down to the actual education of the child; but, administrators balk; they don't want to really include parents.

Ms. WENDEL. This is going to sound somewhat self-serving. You have to see it work. When I go to an IEP meeting—you know, to a CSE committee on special education meeting with my parent—rather than just representing my parent at a hearing, that has an impact.

When my parent is talking, and the committee, the clinicians, are not listening to my parent, I'm there to tell them, "Wait. She has a point. She has an objective." Or, I'm there to ask my parent a question that helps me to solicit what we can do to help their child learn better.

So what I'm saying, I guess, sir, is that including a community member like an independent living person at certain committee on special education meetings would give that parent support for their viewpoint.

See, I can sit in the CSE meeting, and I can tell the whole committee of clinicians they are legally doing the wrong thing, and it doesn't matter, because their decision doesn't have a cumulative vote. It's not like a counted vote.

So, sometimes, I think there should be some kind of weighted voting process, so that if mom and the advocate vote against something, the clinicians can't win. I've stood there for three hours, yelling in the most voiceful voice I can. I say, you are committing a violation of the IDEA if you agree to this. And they say, they don't care, and they know it.

So I guess what I'm telling you, sir, is put in an automatic parent support. And it's not the parent members, sir, because when you are discussing transitional services, things that go to employment, the parent members on CSE are not, so far, educated enough in the area of transitional services to help the parent understand what their rights are.

Can I go back to something that was mentioned earlier?

Chairman OWENS. Let me just explore this area.

Ms. WENDEL. Okay.

Chairman OWENS. You are saying that one thing we can do in law is to make sure that more advocates are present. How do we do that; increase the cost of the expenditure for advocates and earmark it? How do we make sure more professional advocates are available to help parents?

Ms. WENDEL. Okay. Earmarking their presence would be one way. Certainly, if you mandated their presence, you would have to do something about costs.

But rather than that, I would just like to see the local education agency be mandated the way that they were in the original regulation. They are mandated to have a school teacher or clinician. I want them to be mandated to have an independent living professional or adult with disability—some kind of a phrase that says, you will make me part of the team to assist the parent.

Then that way, they can't hold a legally-convened meeting without inviting that member, especially for transitional services.

You see, I understand that what I'm asking for is a little radical. So maybe I can't get you to agree to do it for all the children from the first IEP on forward. But I want you to do it for the children that are 13, 14.

They have to see the adults. Just like an African-American child would have to see somebody as successful as Major Owens, my children need to see people as successful as Frank Bowe. They don't even know where Frank Bowe is, some of them. I'm sorry about that, Frank.

Chairman OWENS. He left already.

[Laughter.]

Ms. WENDEL. Can I say something else?

Chairman OWENS. Yes, go back to whatever you want to comment on.

Ms. WENDEL. If you look through my testimony, you'll see that I was asking that the IEP goals be specific, measurable, attainable and results-oriented.

If you look at where I might have got that, it's not that I'm a rocket scientist. I took it from decisions from Title VII cases that said that if an employer was trying to discriminate against a person simply because of their color or their national origin, and they used an appraisal technique that was sort of discriminatory as a underlying thing—in other words, they found an appraisal technique that allowed them to discriminate because their point was to discriminate—they could be found in violation of Title VII.

What I'm saying is that if we had IEP goals that were so objective and so measurable that everybody knew what the student's behavior was supposed to be, then the principal that Diane Autin is talking about, the one that is saying, this is a kid I want out of my school, he can't just write a letter, "This kid pushed another kid."

We have to look at the measurable behaviors that demonstrate what that kid is in control of, and don't let that administrator use his own bias to force that kid out.

Chairman OWENS. Ms. Lipsky, I think you mentioned that the funding formula was a problem, in terms of encouraging kids to be assigned to special education. Would a modification to the funding formula reduce the assignment of minority students, and problem students, too, in special education?

Ms. LIPSKY. Yes. And I would like to have my partner here, Alan, address that question, because he has given a lot of time and thought to it.

Mr. GARTNER. The simple answer is, yes, sir, it would.

Chairman OWENS. In what ways?

Mr. GARTNER. There have been studies done, particularly by the Center for Special Education Financing, funded by the department, pursuant to the instruction from the Congress, that indicate that the funding formula is not neutral. What kinds of school system behavior, what kinds of placement patterns are encouraged, are facts to the extent to which a school system places youngsters in more rather than less restrictive environments.

We have a unique situation in that one of the States, which changed its funding formula, and at the same time, changed its program outlook, is a State whose chief executive officer is represented as a high official in the Department of Education; namely, the State of Vermont and former Governor Kuney.

In Vermont, the special education director reports that the single most important factor that encouraged more inclusive placement across the State was the change in the funding formula. Let me now relate that to New York City.

New York State rewards schools systems that place youngsters in more, rather than in less, restrictive settings. It rewards, most of all, school systems that place youngsters either in BOCES or in private schools. Those are the most restrictive settings.

Given the percentage of children of color in New York City and New York State, that has direct consequences to the inclusion of young kids.

Chairman OWENS. How does it reward it, for the record?

Mr. GARTNER. I understand, sir. It rewards them in terms of the reimbursement rate provided to the school system. It is cheaper, to use a vulgar term, if you will, for the school system to send a youngster to a private school than it is to educate that youngster in its own inclusive setting.

The school system in New York State, but not in Vermont, is punished financially when it places a youngster in an integrated setting, and seeks to provide the supplementary aids and support services necessary for that youngster to succeed.

So, as Dr. Lipsky indicated, among our recommendations is that the Congress require that each State in its plan, that it has obligated and submitted to the Department of Education, affirm and demonstrate and document the way in which their funding formula—because the funding formulas are State-by-State—promotes inclusive opportunities, including the provision of the supplementary aids and support services.

That could be a simple, technical amendment to the legislation. It could be a requirement of each and every State plan.

Chairman OWENS. Thank you.

Ms. Lipsky, can you suggest any incentives that we should explore, which would encourage meaningful collaboration between special educators and the regular educators, at the administrative and classroom levels? Is there anything we can do?

Ms. LIPSKY. Well, let me tell you, as the Superintendent of Schools, and of course, as the research indicates from the national center in the study that we are doing now, teachers really need to be honored for the work that they are doing.

And we do not provide enough economic support for staff development work, and for teachers to be able to work together to collaborate. And, in fact, there is very little time in a day for the special education and the general education teachers to talk about students.

I worry sometimes, as we speak about the programs that are now successful for our children, that we are going to become blamers. We are going to blame the parents because the children are not doing well, and they come into school not being able to read well.

Many parents who have children in special education do not know how to read themselves.

We are going to become blamers of administration. As you see in New York City, let's get rid of the administrators, they don't help. Now, we are also talking as if we blame teachers. In fact, we need to honor our teachers. And we need to find ways for them to learn new skills. All teachers want to do well. I truly believe that.

In Australia, they have developed a program where teachers are researchers. They spend the time and energy to think about how to make it successful in those classrooms. And so, therefore, as part of our recommendations, we specifically ask that you require States, and give funding to States, to develop those staff development and personnel preparation programs for paraprofessionals, teachers, and parents to learn new skills and how to work in inclusive classroom settings.

Chairman OWENS. It seems like such a simple solution.

Ms. LIPSKY. It sounds like a simple solution. Actually, it is complex, because we are still trying to study how to do it well. But if we give time and money to teachers, they will tell us how to do it well.

Chairman OWENS. If we give them money, the administrators won't take it for something else?

[Laughter.]

Ms. LIPSKY. Absolutely not, unless it is a Hawaii vacation.

[Laughter.]

Chairman OWENS. Thank you very much. I could go on and on. Your testimonies are quite rich with information that we will utilize.

If we have any further questions, we will certainly be in touch with you. Likewise, please contact us if you have any further suggestions.

There is a long process ahead of us before we reauthorize this legislation. But you are the starting point, and we want to thank you for waiting so patiently.

Thank you again.

[Whereupon, at 1:10 p.m., the subcommittee was adjourned, subject to the call of the Chair.]

[Additional material submitted for the record follows.]

STATEMENT OF HON. CASS BALLENGER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NORTH CAROLINA

Mr. Chairman, I would like to thank you for conducting today's hearing on the Individuals with Disabilities Education Act. Since the Act's creation in 1975, there has been significant progress in the education of children with disabilities. But after 19 years, it is time to take the lessons we have learned, and apply them to improving the Act and improving the quality of education for students with disabilities.

Let me say up front that nothing we're going to look at in this reauthorization will threaten any important rights and protections provided under Public Law 94-142. These rights and protections are an important first step to securing access to special education and they must be maintained.

But it's just not good enough to make sure that all the procedures are being followed. We need to start focusing our energy on ensuring that each child with a disability gets a high quality education.

We also need to seriously address the law's commitment that the Federal Government will pay 40 percent of the cost of educating children with disabilities. Currently, Congress provides only about 8 percent of these costs, and has never exceeded a level of 12 percent. This law is widely heralded as one of Congress's biggest "Unfunded Mandates."

Since the law is a civil rights statute, we can't wave a magic wand and make the mandate go away. Instead, I believe we need to do all we can to increase funding for the Grants to States program. Republicans have consistently asked the Appropriations Committee to increase that program by $1 billion over several years. So far, we only achieved $600 million of that increase, but we will continue to push for higher funding.

There may also be other ways to address the unfunded mandate problem. We should find ways to reduce bureaucratic paperwork for the States and school districts. We should look for ways to solve disputes without always resorting to costly and contentious litigation. And we should make sure that the law's discretionary programs are well conceived and directly support the efforts of States and school districts through improved technical assistance, practical research, effective personnel preparation and in-service training, and parental supports.

Another major issue in this reauthorization is ensuring that children with disabilities are fully included in school reform. We've worked hard to make sure that "all students" talked about in GOALS 2000 really means "all students," including children with disabilities. We need to make sure that IDEA ties into GOALS 2000 and other school reform efforts in a sensible way.

Measuring student outcomes is an important ingredient to school reform, and it is a well known fact that many children with disabilities have been totally excluded from assessments. Of course, some accommodations and alternative assessments will be necessary, but all students should be included and expected to learn and progress in their education.

I know that Chairman Owens and I want this to be a very open process. We need the input and expertise of the parents and teachers and administrators that are on the front lines every day working on behalf of these students. We want to make this Act work better at all levels, especially in the classroom.

At this time it is not realistic to expect the Appropriations Committee to approve spending increases that would even come close to meeting the 40 percent commitment. But I would like to suggest that we view the budget as an opportunity—not just a barrier. The tight Federal budget that we're working with might provide us a special opportunity for improving special education. As you know, we've seen how hard times and overseas competition have made American business leaner and more competitive over the last several years. In the same way, tight budgets in special education might help us find creative solutions that we would have overlooked if money was flowing freely.

In summary, I'm committed to working with Chairman Owens and the administration in finding the best, most creative solutions to improving this law and the quality of education for students with disabilities.

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