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IDEA: WHAT'S GOOD FOR KIDS? WHAT WORKS FOR SCHOOLS?

HEARING

OF THE

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS UNITED STATES SENATE

ONE HUNDRED SEVENTH CONGRESS

SECOND SESSION

ON

EXAMINING THE IMPLEMENTATION OF THE INDIVIDUALS WITH DISABILITIES ACT, AS IT APPLIES TO CHILDREN AND SCHOOLS

MARCH 21, 2002

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IDEA: WHAT'S GOOD FOR KIDS? WHAT WORKS FOR SCHOOLS?

THURSDAY, MARCH 21, 2002

U.S. SENATE,
COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS,
Washington, DC.

The committee met, pursuant to notice, at 10:35 a.m., in room SD–430, Dirksen Senate Office Building, Senator Kennedy (chairman of the committee) presiding.

Present: Senators Kennedy, Harkin, Mikulski, Jeffords, Wellstone, Reed, Clinton, Bond, Collins, and Sessions.

OPENING STATEMENT OF SENATOR KENNEDY

The CHAIRMAN. We have a full morning, and we are getting a later start than we had hoped, so we are very grateful and would ask all of our guests to come in. We have quite a number of people outside who have taken a great interest in this legislation, as we can understand, so we want to make sure all the chairs are filled. If families have small children, we will ask the children to come up here and be seated so they can see. This at its best sometimes get a little technical and not the most interesting part of a child's life, but to try to enhance it a bit, we will bring some chairs up here in front, and the children can come on up.

We want to thank all of you, particularly our witnesses, and we apologize for the delay—there was a Senate vote earlier—but we are very, very grateful for your patience, and we thank all the guests who are here today.

We thank you for being here for our first hearing on the reauthorization of the Individuals with Disabilities Act. Today we will hear testimony on one of the greatest civil rights laws ever enacted in this country, because it guarantees the right of every child with a disability to a free appropriate public education.

We know that children with disabilities should have the same opportunities as every American to fulfill their hopes and dreams of living independent and productive lives. This important law provides that opportunity in our public schools.

In Brown v. Board of Education, the U.S. Supreme Court ended segregation by race and declared that all children would be guaranteed equal access to education under the Constitution. But it was not until the passage of the Education for the Handicapped Act in 1975 that we ended school segregation by disability and opened the doors of our public schools to disabled children. Only then did the Nation's 4 million disabled children begin to have the same oppor-

tunities as other children to develop their talents, share their gifts, and contribute to their communities.

For 27 years since then, the Act now called IDEA has held out hope for young people with disabilities so that they too can learn and contribute their talents to our communities. IDEA has meant the difference between dependence and independence, between lost potential and productive lives.

We must never go back to the shameful days of warehousing children with disabilities when most disabled children were excluded from public education, when few if any preschool children with disabilities received services, when institutional placements were more common than educational opportunities.

Today, 6.5 million children with disabilities are receiving special education services, and 96 percent of them are learning alongside nondisabled peers. The number of young children with developmental delays receiving early childhood services has increased threefold over the last decade. More disabled children are participating in State and national testing programs. Graduation rates and college enrollment rates are slowly rising.

But even as we celebrate these important accomplishments, we know there is still room for improvement. IDEA can and should be strengthened as part of our new education reform designed to leave no child behind.

We can strengthen IDEA in the areas of accountability, enforcement, quality, coordinated program supports, and meet the Federal commitment to fully fund IDEA. There is virtually no limit to the advances that special education students can achieve over the next quarter century.

However, it does not matter how good a job Congress does in strengthening IDEA if the law is not implemented and enforced. We need to ensure that disabled students are truly receiving their individualized program services to they can progress in the general education curriculum and meet academic standards.

We need to ensure that teachers are well-trained and have the classroom supports to do their jobs right.

We need to ensure that agencies work together with schools to coordinate the support services with education.

We need to ensure that parents work in partnership with schools.

Most important, we need to explore new ways to aid children with disabilities as they progress through life's many transitions from early childhood to elementary school, from elementary school to high school, from high school to college, and on to a good job.

We are fortunate today to have knowledgeable witnesses from across the country who will offer their insights into the current implementation of IDEA and their recommendations on how to strengthen this landmark legislation.

We know that many of you have made a great effort to be here today, and we are grateful for your presence and for all that you do. We are incredibly grateful to all of you.

I might mention that as we are here, the Budget Committee is marking up, and the budget proposal that the Senate will have before it will have full funding, with the mandatory spending for the additional funds for IDEA. This is a great tribute to my friend and

colleague, Senator Jeffords. There are many leaders in this effort and endeavor, but none more so than Jim Jeffords. And Tom Harkin, of course, has been a great leader, and others as well. So those who are here today feel that this is progress, and help is on its way, but the reauthorization is a key element. We want to get it right, and we have some excellent witnesses here to try to get it right, and we look forward to hearing from them.

Senator Collins?

OPENING STATEMENT OF SENATOR COLLINS

Senator COLLINS. Thank you, Mr. Chairman.

In 1975, Congress worked with the education community, and together we embraced one of our most disenfranchised groups of citizens—children with disabilities. We invited them into the public school systems. Millions of children were for the first time given the opportunity to attend school alongside their peers.

No matter what else can be said about the program, no matter what other problems still need to be resolved, we can be proud that IDEA has helped to ensure that the educational needs of some of our most disabled children are being met.

That said, there is still plenty of work to be done to ensure that children with disabilities are receiving appropriate educational services and that schools are being provided with the necessary resources. During the upcoming reauthorization process, I am hopeful that we can look at ways to improve personnel training, focus in on providing more seamless early childhood services, and decrease unnecessary paperwork and litigation.

I would also like to explore ways to help schools deal with children that have low-incidence, high-cost disabilities. In the small rural town of Surrey, ME, the school district serves just a few hundred children, but 27 percent of these children have been identified as having disabilities, a few with costs that exceed $100,000 a year.

Let me emphasize that there is no question that we must continue providing appropriate services to these children, but I think we need to take a look at crafting legislation that would help a small school district such as this one afford these rare but high-cost cases.

As for the funding of IDEA, I have two primary concerns. The first, of course, is the full funding of the 40 percent promise. As the chairman has indicated, the House and Senate Budget Committees have each outlined a path for reaching full funding, and I am hopeful that we can finally resolve this issue by the end of the year. After Congress has had the opportunity to reform IDEA, those who have opposed full funding of the Federal share will have no argument to continue to block this very necessary funding.

But I am also interested in a less talked about source of funding for children served by IDEA. In 1988, Congress reformed Medicaid, encouraging schools to provide services to Medicaid-eligible students. While some States have been able to take advantage of these funds, which approximate $2 billion a year, other States have been denied funding by the agency that administers Medicaid. I am looking forward to hearing the assistant secretary's testimony, and I hope he can provide some input as to how we can ensure that more

schools are reimbursed for Medicaid-eligible services provided to Medicaid-eligible children.

Finally, I hope this hearing will help guide us toward policies that will encourage more trained special education teachers to join the profession. I have introduced legislation that would provide loan forgiveness as an incentive to encourage more individuals to become special education teachers. Several of my fellow committee members—Senators Frist, Hutchinson, Sessions, and DeWine—have cosponsored that bill. S. 1918 is designed to recruit teachers with an expertise in special education to work in schools with high concentrations of low-income students by offering substantial assistance with their student loan payments.

Providing more quality special education teachers will bring us a great deal further toward providing quality education to students with disabilities. In that respect, I am delighted that the President has included $45 million in his budget for a similar proposal.

Again, I look forward to working with the administration and my colleagues on this very important issue.

Thank you, Mr. Chairman.

The CHAIRMAN. If I could just depart from committee procedure for a moment and ask our good friend, the Senator from Vermont, Senator Jeffords, who has spent so much time on this issue, if he would like to say a word at the opening of this hearing. We would welcome it.

OPENING STATEMENT OF SENATOR JEFFORDS

Senator JEFFORDS. Thank you, Mr. Chairman.

I want to say how excited I am to see so many wonderful people here today letting the country know how important this issue is.

Just to give you a little history of my involvement, when I first arrived in Washington in 1975, it was the Watergate year, and there were 92 freshman Senators that year, of which 17 were Republicans. That was good news and bad news. The good news was that you had immediate seniority because there was nobody else around. As a result of that, I got to be the ranking member on the committee, working with Congressman Brademus to write 94-142, and thus, I became deeply involved in this issue and have remained deeply involved.

Twenty-7 years ago, nearly half of all disabled children, approximately 2 million children, were not receiving a public education. Another 2 million children were placed in segregated, inadequate classrooms.

Today, IDEA services approximately 6 million disabled children. And, more than just serving children with disabilities, IDEA is succeeding in providing the basic constitutional right of a free and appropriate public education for our disabled children.

Dropout rates have decreased, graduation rates have increased, and the percentage of college freshmen with a disability has almost tripled. IDEA has helped individuals with disabilities become independent, wage-earning, tax-paying contributors to the Nation.

I am proud of IDEA and how it has helped further quality of life for families and children with disabilities. But our fight is not over.

First, we must continue to fight for full funding of IDEA, and we are optimistic on that. Although Congress has increased IDEA

funding in recent years, it has woefully failed to meet its obligation to fully fund IDEA.

We must recognize that we cannot provide all of our children with the opportunity to achieve unless we support our children with adequate resources. Full funding would provide our schools with those desperately needed resources, and then, perhaps we could ensure that indeed none of our children is left behind.

We must also better address the needs of our youngest children with disabilities. We must make sure that young children with disabilities and their families have access to the full array of health, social, educational, and other support services so that all children enter school ready to learn and have the opportunity to fully participate in community life.

I believe we all know the value of early intervention services in the lives of children with disabilities and their families, yet many barriers to participation continue to exist, and we must remove those.

In fact, Department of Education statistics reveal that Part C of IDEA serves only approximately 200,000 children nationwide. In contrast, Part B serves over 6 million children. Clearly, families of young children with disabilities are not getting the information and support that they need.

We must look at how States identify infants and toddlers for Part C services and strengthen the outreach and the interagency coordination required in Part C to make sure that all of our young children get the services they so desperately need. We must also adequately fund Part C.

In addition, we cannot forget our older children as they prepare to leave school. Despite significant advances, too many of our children do not attain high school diplomas. Unemployment among those with disabilities is far too high, and too many of our youth end up in correctional facilities. We need to make sure that our children receive the appropriate services to transition out of school so that when they finish school, they can truly become independent, self-sufficient members of their communities.

Although we have made great strides over the years, there is still a lot of work to be done. I look forward to working with my colleagues on both sides of the aisle to make sure that all of our children have the opportunity to achieve.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Jeffords.

We will take an additional moment if our friends Senator Reed and Senator Clinton want to add an observation, because this is of such major importance.

We welcome their comments.

OPENING STATEMENT OF SENATOR REED

Senator REED. Thank you, Mr. Chairman.

If I may, I would ask that my full statement be included in the record and would simply say that the leadership of you and Senator Jeffords and Senator Harkin has been extraordinarily important in this effort, and I thank all of you.

The comments that my colleague Senator Collins made, your comments, and Senator Jeffords' comments all underscore the

issues that we face. One, we have to have the resources. In 1975, the authorization language called for 40 percent Federal share; we are at about 15. We have to do better. And as a result of not only our insufficient commitment but an insufficient effort at the local level, many State are out of compliance with the basic provisions of IDEA. In this reauthorization, we have to ensure that the resources and the authority and the effort and the will are there to make IDEA work for all of our children.

Thank you, Mr. Chairman.

[The prepared statement of Senator Reed follows:]

PREPARED STATEMENT OF SENATOR REED

IDEA has made a difference in the lives of children with disabilities and their families. It has also been the key to independence and a productive, fulfilling life for many of these individuals. Simply put, IDEA demonstrates the positive role Congress can play in education.

Prior to the enactment of IDEA in 1975, only 50 percent of students with disabilities were receiving a free appropriate public education.

Today, IDEA serves 6 million children with disabilities, the majority of whom are taught in their neighborhood schools in regular classrooms with their non-disabled peers.

High school graduation rates for special needs students have also increased dramatically. And students served by IDEA are employed at twice the rate of older adults who did not benefit from this law.

In 1997, I worked with many of my colleagues on this Committee on a bipartisan, bicameral reform bill. The 1997 Amendments made several improvements to strengthen the law, including providing children with disabilities an opportunity to be involved in and progress in the general curriculum, promoting greater parental participation by providing parents with regular reports on their child's progress and including parents in eligibility and placement decisions about their child, reducing litigiousness by encouraging the use of mediation, and ensuring that educational services cannot be terminated for children with disabilities.

While progress has been made, the true promise of IDEA—a free appropriate public education for all children with disabilities—has not yet been realized.

When enacted in 1975, Part B of IDEA authorized the federal government to pay up to 40% of the cost of educating students with disabilities. Today, federal funding only amounts to 15% of that cost. Its time for Congress to honor its commitment.

Living up to this commitment is not just an important goal, it is a necessity if we are to ensure that all children have an opportunity to succeed.

Across this country, there is mounting frustration over the lack of education resources. Our school districts are striving to provide a high quality education for all children but don't have the adequate resources to do the job.

As a result, parents of children with disabilities, who only want to ensure their child gets the education they deserve and need, are forced to fight for the very programs and services to make that possible.

For too long, we have created tensions and triggered conflicts between special education and

general education over budgeting priorities. For too long, we have forced parents of children with disabilities to battle principals, schools districts, and other parents for limited educational resources.

Additionally, the law has not been well-implemented and there are areas that need attention if we are to improve the outcomes for children with disabilities.

Accountability and monitoring of programs must be improved. The federal government must ensure that state special education programs comply with IDEA. In January 2000, the National Council on Disabilities released its evaluation of IDEA, entitled Back to School on Civil Rights. The findings of this report painted a bleak picture: every state and the District of Columbia are out of compliance with one or more of the basic IDEA requirements.

For example, 80% of the states failed to ensure compliance with the law's free appropriate public education (FAPE) requirements; 78% of the states failed to ensure compliance with procedural safeguards; and 72% of the sates failed to ensure compliance with the placement in the least restrictive environment (LRE).

Inconsistent and ineffective federal efforts to enforce the law over several years have forced parents to carry the burden by invoking formal complaint procedures and requesting due process hearings to obtain the services and supports to which their children are entitled under the law. As we work on the reauthorization, we need to look at these compliance issues.

We also need to ensure general and special education teachers get the pre-service and in-service training they need to provide high quality instruction and meet the needs of children with disabilities.

According to the Consortium for Citizens with Disabilities Education Task Force, over 600,000 students with disabilities are taught currently by special education teachers who are unqualified or under-qualified. There are also shortages of special education and related services faculty at institutions of higher education, inhibiting the capacity to train special education teachers. This shortage of qualified higher education faculty further curtails research that is critical to the development of the knowledge base for designing and delivering educational and related services to children with disabilities.

We need to ensure that early intervention and pre-school services are available to all eligible children. Programs authorized under Part C and Section 619 of Part B allow states to create family-centered systems of services across multiple programs and funding streams to ensure that infants, toddlers, and preschoolers are prepared for school and learning. To do this effectively, states must have the resources to screen and identify all eligible children for developmental delays. There must also be interagency collaboration to coordinate the provision of services. Simplifying the process of accessing Medicaid funding to pay for some of the costs of services for children with disabilities is another area of critical need.

Finally, we must continue to address the over-representation of minority students in special

education. Minority students are referred to special education at higher rates than their share of the overall population. These data raise questions as to whether some minority students are being incorrectly identified as having disabilities.

I look forward to the testimony of today's witnesses, and to the upcoming work on the reauthorization of IDEA.

The CHAIRMAN. Senator Clinton?

OPENING STATEMENT OF SENATOR CLINTON

Senator CLINTON. Thank you very much, Mr. Chairman.

I welcome all of our guests who are here today for the beginning of this very important process. I think the way that the chairman has titled this hearing, "IDEA: What's Good for Kids? What Works for Schools?" is exactly the right formula.

I was listening to Senator Jeffords describe some of the history of this legislation, and I was actually involved many years ago, in 1973, with the Children's Defense Fund, going door-to-door in communities trying to find out why children were not in school, because we had Census tract numbers which said there was a certain number of school-age children, and then we had school numbers, and there was a difference, and there were missing children.

So I literally went door-to-door and asked if there were any school-age children who were not in school. And it will not surprise the chairman or any of the parents and educators and others here today that what I found is that children were being kept out of school, were being denied schooling, because of some disability. And many of the children whom I met were perfectly capable of learning, were fully ready to go to school, but because there was no place or trained teacher or willingness or understanding, they were kept out of school.

So that work along with the work of so many others, led by people like Senator Jeffords and Senator Kennedy and Senator Harkin, has taken us to this point. I look forward to working with my colleagues. I am very proud that on the Budget Committee on which I sit and where I will have to return in a moment, we do have a provision to finally fulfill the promise that was made all those years ago for the Federal Government to provide full funding—our fair share—and we are going to fight hard for that, aren't we, Senator Jeffords?

A lot of us are just not going to wait another minute let alone another year for that promise to be fulfilled. It is not fair to the children who need the services, and it is not fair to all the children who go to school and need to make sure that we are meeting the needs of every, single child.

The CHAIRMAN. Thank you very much, Senator Clinton.

Before we begin I have statements from Senators Gregg and Warner.

[The prepared statements of Senators Gregg and Warner follow:]

PREPARED STATEMENT OF SENATOR GREGG

Mr. Chairman, I commend you for holding this hearing today on IDEA, as we begin the reauthorization process of this law, which provides federal funding for the education of children with disabil-

ities. There are a number of issues that this committee needs to examine in the IDEA law.

In the past months, we have talked a great deal about funding issues surrounding IDEA. I have been a fierce supporter of IDEA full funding since I became a United States Senator over eight years ago. I understand the burden that has been placed on our local school districts and believe that we need to continue our efforts to reach full funding.

However, there are many other areas of concern besides full funding of IDEA. A number of problems plague our special education system. Let me give just a few examples: Paperwork requirements associated with IDEA unduly burden teachers and administrators while failing to benefit students. IDEA's procedural safeguards have inadvertently prevented parents and teachers from making beneficial changes to a child's individualized education program, and created a hostile environment between parents and school officials.

Many children, particularly minority students, are misidentified for special education. IDEA's definition of a learning disability is very broad, and can create situations in which states and school districts are left dealing with an ambiguous guideline for identifying children as learning disabled. IDEA creates a double standard when it comes to disciplining violent students, as students under IDEA are not subject to discipline in the same way as other students. Some of the IDEA regulations have gone beyond statutory requirements and have even conflicted with the statute.

It is disappointing and frustrating to hear that a law intended to help children with disabilities receive a good education is in some instances acting as a hindrance to serving them. These problems need to be addressed in this year's reauthorization, so that IDEA will fulfill its intended purpose.

I look forward to hearing today's witnesses discuss these problems, as well as propose innovative ways that we can reform IDEA to serve special education students more effectively. I am also interested in knowing what has worked well in the law, so that we can build upon our successes.

PREPARED STATEMENT OF SENATOR WARNER

Chairman Kennedy and Senator Gregg, I thank you for calling this hearing on IDEA.

The fact is that prior to the passage of IDEA in 1975, schools in America educated only one in five students with disabilities. Special needs students were locked out of the school house doors. IDEA has helped these students receive a free and appropriate education.

IDEA has been successful in ensuring that children with disabilities have access to a free appropriate public education. However, we all know that the law is not perfect.

As we reauthorize IDEA this year, we have an opportunity to learn about the problems parents and educators are facing with this law, and we have the opportunity to correct these problems.

Today's hearing is the start of this process.

I am confident that all of us on this Committee recognize that the funding associated with IDEA is a major problem. When Congress passed IDEA over 25 years ago, Congress, I believe, made a

commitment to fund 40 percent of the costs associated with this legislation.

Unfortunately, Congress has never come close to meeting this 40% commitment—although progress has been made the last several years.

Last year, IDEA received about a $1.2 billion increase in funding. This year, President Bush again has budgeted over a $1 billion increase for IDEA funding. I commend President Bush for his commitment to substantially increased funding for IDEA.

While we still have a long way to go to reach 40 percent—we are getting there.

Nevertheless, it is important for us to recognize that this unfunded mandate places an enormous burden on state and local education budgets that must make up the difference. If the federal government paid its share of IDEA costs, then local school districts and states would have additional resources of their own to fund local priorities, such as new school construction. For these reasons, I have been supportive of mandatory full funding.

While funding is one issue, it is not the only difficult issue we as a Committee are going to be faced with during the reauthorization of this important law.

At the outset, I would like to express my hope that we can follow last year's model of bipartisanship that served as the foundation for our work on the No Child Left Behind Act.

Last year, under the leadership of President Bush, Secretary of Education Paige, Senator Kennedy, Senator Gregg, and others, we were able to achieve historic reforms in elementary and secondary education.

It is my hope that we can again work together in the same fashion to reauthorize IDEA.

Again, I thank Chairman Kennedy and Senator Gregg for holding this hearing.

Our first witness, Mr. Robert Pasternack, serves as Assistant Secretary for Special Education and Rehabilitative Services at the U.S. Department of Education. Mr. Pasternack previously served as the director of special education for the State of New Mexico, where he worked with students with disabilities and their families for 25 years.

Mr. Pasternack is a nationally certified school psychologist and has been both a special education teacher and school administrator.

We have sign language interpretation on my left for those who wish to have that service.

Mr. Pasternack, thank you very much for being here today. We are looking forward to your testimony.

STATEMENT OF ROBERT H. PASTERNACK, ASSISTANT SECRETARY FOR SPECIAL EDUCATION AND REHABILITATIVE SERVICES, U.S. DEPARTMENT OF EDUCATION, WASHINGTON, DC

Mr. PASTERNACK. Thank you. Good morning, Mr. Chairman and members of the committee.

Thank you for inviting me to talk with you about the implementation of the Individuals with Disabilities Education Act, the IDEA. I am pleased to be here; it is a privilege. I would like to thank you

for joining the President in bipartisan support of the landmark legislation to reform elementary and secondary education, the No Child Left Behind Act, NCLB. I look forward to working with you in the future to develop legislation reauthorize the IDEA.

As you have eloquently stated this morning and in the past, over the past 25 years, the IDEA has successfully ensured that children with disabilities have access to a free appropriate public education. Prior to the IDEA, in 1970, for example, schools in America educated only one in five students with disabilities. Today, the overwhelming majority of children with disabilities, about 96 percent, learn in schools with other children rather that in State institutions or separate facilities. Three-quarters of children with disabilities now spend at least 40 percent of their day in a regular classroom instead of in separate rooms. Half of the children with disabilities spend 80 percent or more of their day in regular classrooms.

These accomplishments reflect the dedication of lawmakers, educators, parents, and the children themselves, to ensuring that all students with disabilities receive a high-quality education that prepares them for postsecondary education, good jobs, a productive and independent life.

However, despite the many accomplishments of the IDEA over the last 25 years, many challenges remain. We know that we will never improve results for students with disabilities by focusing on special education alone. We must look at the whole education system and whether we are providing the right services to the right children at the right time, in the right settings, and with the right personnel to achieve the right results.

That is why I am so excited about the sweeping reforms made by the NCLB Act and the impact it will have on students with disabilities. From the Reading First program to Title I, NCLB will truly hold States and school districts accountable for the annual progress of all children, including children with disabilities.

In reviewing the challenges of implementing the IDEA, there are several major issues that present themselves. The successful implementation of the IDEA is perhaps most critically dependent on the quality of the people who implement the principles contained in the law—the teachers, para-educators, related service providers, and administrators, in cooperation and partnership with parents and the children.

We know that much more needs to be done to better prepare and support all members of the learning community in their efforts to educate children with disabilities.

Accountability provisions have been strengthened in the IDEA over the years, but more needs to be done. We must build on the accountability provisions enacted by NCLB to ensure that States and local school districts are accountable for results and that children with disabilities are included in rigorous assessments of student performance.

We need to do more to provide research and technical assistance on alternate assessments and accommodations for children who need them.

And perhaps more importantly,we need to push for assessment tools that are created using universal design concepts. Universal

design principles will not eliminate the need for all accommodations but can significantly reduce the need for them and will allow the use of accommodations without threat to the validity and comparability of scores.

An important aspect of the 1997 amendments was the emphasis placed on access to, and participation and progress in, the general curriculum. Those changes raised the bar by requiring school districts and States to provide meaningful access for children with disabilities to the general curriculum.

The CHAIRMAN. Excuse me, Mr. Pasternack. As you have gathered, this is a somewhat unusual day, as we were late in starting, and there are a lot of other activities.

Our good friend, Tom Harkin, who along with Jim Jeffords have been the real leaders on this committee, will be chairing a very important hearing as part of his responsibilities on the Appropriations Committee at 11 o'clock, and he has some very, very special guests who should have the kind of introduction that only Tom Harkin can give them. When you hear their story, everyone will understand why.

So with your permission, I will let Senator Harkin make his comments, and those comments will appear at an appropriate place in the record, and then we will continue with your testimony. So if you could hold for just a moment, I will recognize Senator Harkin.

Mr. PASTERNACK. It is an honor, Mr. Chairman.

OPENING STATEMENT OF SENATOR HARKIN

Senator HARKIN. Mr. Pasternack, thank you very much.

Thank you, Mr. Chairman. I am scheduled at 11 o'clock to chair a hearing with all the NIH directors on the NIH budget, a lot of which goes for things that we are talking about here in terms of biomedical research; so I will have to be down there at 11 o'clock.

So I thank you, Mr. Chairman, for giving me this opportunity to introduce to you and those who are here a friend of mine who goes back about 30 years or so. Valerie Findley is one of the real stars in our State in fighting for people with disabilities, especially kids, and making sure that each child gets the appropriate support early in life and gets that support on through the educational system.

Valerie got into the van with Louisa, who is sitting next to her. Louisa and I have marched together in a few demonstrations in the past in support of ADA and IDEA and so forth. So Valerie is here with Louisa as well as her daughter Hannah, who is sitting behind her, and her two sons, Jubal and Gabriel, also behind her. They all got into a van and drove out here from Iowa to be here for this very important hearing.

Louisa attends the Hillis Elementary School in Des Moines where she receives special education and related services. Valerie has told me that Louisa has received services since she was 5 months old. She is now 9, and because the Des Moines public schools are on spring break, they were able to come out here during this week.

Of our group of panel members, Valerie will offer the parent perspective—what it means from the parent's perspective from birth through age 9—and she has worked with other kids beyond that age, too, I know. She has worked with other parents. She is a staff

member for Iowa's Family Support Initiative Systems Change Project and, through that project, has worked across systems in health, human services, and education in addressing supports for families.

Valerie has served as the family consultant for Iowa's Statewide Deaf-Blind Project. In that role, she has provided technical assistance to parents and training on issues related to dual sensory impairments. Most often, this training focuses on transition and assistive technology issues.

Valerie is a member of Iowa's Special Education Advisory Panel and works with other parents around the State on policy issues.

So from her experience as an advocate, as a mother, as the parent of a child with a disability, she is acquainted with every aspect of what it means to raise a child with a disability, the problems that families face, the access to services. The one thing that Valerie has always been on me about is coordination and making it simpler, making it easier. There are just too many cross-cutting things out there for people to have to access. There ought to be one type of entity or package where a family can go to get all the services they need, and she will address that more eloquently than I ever could.

Mr. Chairman, I am just despondent that I cannot be here for Valerie's testimony, but I think you will find it as powerful and as moving as everything she has said to me for the last 25 or more years about working to get these programs in line and to make sure that families get the supportive services they need for their children.

And Louisa is a wonderful young woman. As I said, we have been to a few places together, to the State Capital and others. She is receiving her services, and she has a future ahead of her, and it is because of IDEA; it is because of the support that IDEA has given these kids, but more importantly, it is because of Valerie and a lot of other parents like her who just will not give up.

Thank you very much, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator Harkin, for coming and making that presentation. We look forward to hearing from Valerie in just a few moments.

Mr. Pasternack, did you have any further comments? Do you want to conclude your remarks? I think you were fairly close to concluding them.

Mr. PASTERNACK. If I may, Mr. Chairman. This is your hearing, Mr. Chairman.

The CHAIRMAN. Please.

Mr. PASTERNACK. As I was saying, sir, an important aspect of the 1997 amendments was the emphasis placed on access to, participation and progress in, the general curriculum. Those change raised the bar by requiring school districts and State to provide meaningful access for children with disabilities to the general curriculum.

We need better research and better technical assistance to support the focus that the 1997 amendments placed on access to the general curriculum.

While we can point to lower dropout and higher graduation rates among students with disabilities as significant accomplishments for the IDEA, we still need much improvement in the transition from

school to work and from school to postsecondary education for students with disabilities. The dropout rate for children with disabilities is still about twice that of their peers, and this is way too high.

There are also a number of implementation issues around the identification of children with disabilities, including the disproportionate representation of some minorities in some categories of special education. We know that too many children are referred for special education services because of a lack of scientifically-based instruction and early educational interventions in the regular education program. This again is an issue of providing special education services to the right children and having well-trained and qualified teachers and administrators who have the knowledge, skills, and supports to ensure that we are in fact serving only the right children—those with disabilities who truly need special education services.

I also want to address an implementation issue that is of concern to many parents, educators, and certainly to you on the committee. The discipline provisions of the IDEA are predicated on the concept that every child in every school has the right to be educated in a safe learning environment. As the law has been implemented since the 1997 amendments, it is evident that some of the requirements of the statute and regulations may be too complicated or confusing and need to be reviewed.

Our experience with implementing these provisions has highlighted the overall need for schools and school districts to focus on improved classroom management, effective school-wide models of positive behavior supports, strategies, and interventions, and the use of functional behavioral assessments.

I would also like to quickly discuss several issues relating to the implementation of Part C of the IDEA, which authorizes the Grants to Infants and Families program. As we move toward reauthorization, we need to examine the appropriate balance between the States' need to access all revenue sources, such as public and private insurance programs, and the financial burden for families. The requirements under the program for service coordination often present significant challenges that have not always been overcome.

In the short time I have been on the job, I have spent a good deal of it asking questions of parents, advocates, children, teachers, principals, university professors, researchers, and State directors of special education around the country. During my visits, I am frequently told that school districts and teachers struggle to be in compliance with the process mandates of the current law at the expense of the quantity and quality of services provided to our children.

Under current law, compliance does not focus on improved results for children. Instead, compliance has been too focused on process as opposed to results. We have redesigned our monitoring system and continue to modify that system in an effort to focus on key performance indicators, technical assistance and research, and on helping States develop plans that can really lead to improving results for children with disabilities. We want States to focus on results and compliance with the key substantive requirements of the law.

I ask these questions to encourage all of us to think creatively and insist on a culture of accountability within the IDEA similar to the approach you have taken in the reauthorization of the ESEA. I have touched on but a few of the issues that relate to the implementation of the IDEA and recognize that each of these topics deserves far more attention than I have given it today in this brief statement.

It is time for all of us—the Department of Education, the Congress, the parents in this room, and educators—to take a serious look at the IDEA. We must look honestly to see what has worked well and what has not worked well. We must not hesitate to refocus the statute where necessary, and where doing so will improve the results for America's children with disabilities.

As you are aware, the President has established Commission on Excellence in Special Education that is charged with collecting information and studying issues related to Federal, State, and local special education programs, with the goal of recommending policies for improving the educational performance of children with disabilities. I am pleased to serve on that commission and think that this is another example of the administration's desire to engage in the systemic reform of education by looking at all of its facets, asking the tough questions that address problems and generate solutions.

I am confident that when the commission finishes its work in July, its report will inform proposals for reauthorizing the IDEA.

Finally, I look forward to working with all of you in the years ahead. Your commitment to this important statute has led to the education of millions of children with disabilities who otherwise might never have had the educational opportunities made possible by the IDEA.

Thank you for this opportunity, Mr. Chairman and members of the committee; I welcome your questions.

[The prepared statement of Mr. Pasternack may be found in additional material.]

The CHAIRMAN. Thank you very much for a very comprehensive and thoughtful statement.

We will have 5-minute rounds for questions, and I will ask staff to keep track of the time.

We have been joined by Senator Sessions as well as other members of our committee.

In your testimony, Mr. Pasternack, you talk about the issue of numbers, and this is an issue that we are going to have to address. You also talked about the importance of early intervention, because with earlier intervention, we can sift out and find out what these children need, and if you are able to get the kinds of support services which are intended to be available in the No Child Left Behind Act, this is a way of getting what is necessary for children at a very early time and getting those support services. That can be one way, an appropriate way, of dealing with the issues where the children are challenged.

The harsher way, obviously, is to just carve out numbers and say, look, there are too many numbers, and this community has more numbers than that one, and you just have to carve them out.

You made a point in your opening statement about the importance of early intervention and understanding, and I imagine this

is in reading and math and emotional support and otherwise. Am I correct in understanding what you were driving at with that point?

Mr. PASTERNACK. Yes, Mr. Chairman.

The CHAIRMAN. Second, in the legislation, we have an important—you talked about tying in in terms of the No Child Left Behind—one of the important aspects of that is to try to ensure that there is a well-qualified teacher in every classroom, and that is something that we are hopeful of being able to do. There are obviously a number of different features. You referenced that as well, and I would be interested in what you think can be done specifically in terms of trying to make sure that we are going to get quality special education teachers to help and assist in the classroom for these children. It is a difficult enough challenge in other situations with the shortage of teachers, but do you have some ideas about things that could be done? It seems to me that before even getting the legislation, we should probably be about the business of trying to do that now.

Mr. PASTERNACK. Thank you, Mr. Chairman.

Clearly, if we do not have highly-qualified teachers instructing students, we are never going to get the kinds of results that parents have a right to expect and Congress has the right to demand. So we are working closely with the colleges and universities to try to improve the quality of pre-service preparation.

One of the things that I have learned from my trips around the country, and I am sure you are well aware, Mr. Chairman, is that many school districts are spending a great deal of money on professional development because teachers coming to them from colleges and universities do not have the skills to do the very difficult job that we are asking them to do. So we are really looking at trying to increase the quality of personnel preparation programs and making sure that they are rigorous, and that they are implementing scientifically-based practices in training these teachers.

We also know, Mr. Chairman and members of the committee, that we have a critical shortage of personnel in special education, and it is about to be exacerbated by large numbers of people who are eligible to retire. And we are very concerned. We have just done a national study and found out that there are three main reasons why teachers are leaving the field of special education. Two of them appear to be things that we might be able to deal with in the reauthorization and at the Federal level. One of those is that teachers report that they are spending too much time filling out paperwork. The second is that teachers report that they are spending too much of their time in meetings.

If you add those two things together, Mr. Chairman, what teachers are saying is that they got into this profession because their passion was to teach kids with disabilities, yet they do not have time to teach.

So we have got to try to change things so there is less emphasis on process and more opportunity for teachers to be able to do instruction.

The third reason is an interesting one and one that we need to also focus on, and that, Mr. Chairman and members of the committee, is a perceived lack of administrative support. I think that that

speaks to the fact that not only do we have to have outstanding models of personnel preparation for all members of the learning community, but we also have to look at building the capacity of administrators to understand the needs of kids with disabilities and their families, be sensitive, empathetic and compassionate, and help the special educators deliver high-quality interventions which are designed to achieve the desired results.

The CHAIRMAN. The first two are principal contributors to nurses leaving the profession as well, so that is interesting.

My time is up, but finally, on the accountability measures, I am interested in how you view those. As a practical matter, historically, we have not seen very effective accountability going back over any period of time in education; there is a reluctance to cut back support for States and local communities in terms of education funding. It just has not been out there. And I am not suggesting that we ought to be doing it, obviously, in this area, but there are provisions in the legislation, so to speak, where it can be done.

In a broader sense, what are the things that we ought to be thinking about in regard to accountability so we can avoid these kinds of ruptures in terms of achievement and accomplishment? What do you think we should be thinking about? We tried in the No Child Left Behind Act to have a rather elaborate series on accountability. If we are going to be doing that, maybe that would be something that we should try to work with you on—I am not expecting—if you could talk in general terms about how you see that, I would appreciate it.

Mr. PASTERNACK. I would like to applaud the work that you all did on the No Child Left Behind Act and particularly the attention that was paid to kids making adequate yearly progress.

I think, Mr. Chairman, that for too long in special education, we have not expected students with disabilities to make adequate yearly progress, and I think we have an incredible opportunity to help build the capacity of the learning community to ensure that students with disabilities make adequate yearly progress.

One thing that we absolutely need to do is work with test publishers and test developers to use principles of universal design to make sure that the tests are appropriately developed. That will ensure that kids will get accommodations when necessary and that the tests will have the broadest opportunity to be used with the largest number of students; and then, those students who really cannot take the State and district-mandated tests even with appropriate accommodations would be the right candidates for the alternate assessments, and then we have to work with States to make sure that those alternate assessments are rigorous, are valid, are reliable, and are in fact measuring the progress of students.

The CHAIRMAN. Very good. My time is up.

Senator Bond?

Senator BOND. I will pass, Mr. Chairman.

The CHAIRMAN. I want to say to the administration that we have been working in different groups on IDEA, and Senator Sessions has had a very keen interest in terms of the discipline issues, and he is working with us in trying to find some ways, rather than having something resolved—or not resolved—on this, to try to find con-

structive ways of addressing it. It is enormously thorny and difficult, and I want to acknowledge him here and thank him for the time that he has taken and the way in which he has approached this whole issue. I know it is something that he feels strongly about, and it has been very constructive and positive, and we thank him.

Senator SESSIONS. Thank you, Mr. Chairman, and thank you for your concern over this issue. We are due to review this Act now, and we are not going to achieve progress—and that is all we want is to have a better system after we leave here than before we started, and your leadership will be key to that.

I think it is consistent, as you indicated, Dr. Pasternack, with IDEA and leaving no child behind, making sure that every child reaches his or her fullest potential. But we created an act over 30 years ago, and it is probably time for us to see if we cannot make it better. I know that that is the case, in my own mind, having traveled the State and winding up being instructed by teachers with master's degrees and doctorates in special education issues who have taught for years, and they tell me that there are problems—as you noted, paperwork being one of them; lawsuits being one of them. I believe there is too much of that.

And where a child's misbehavior is not connected to their disability, we believe there should not be a double standard of discipline for that circumstance only, recognizing that there have got to be separate behavioral standards for children whose disability makes it impossible for them to conform to normal rules.

I think those are some things that we should take seriously. I am impressed with your background and with your commitment to this issue and to serving the children.

I believe that with Senator Kennedy's leadership—and I know that Senator Clinton and others have expressed a desire to make this Act better—together, we can make it better. I really do believe that.

I notice that Dr. Ratcliffe in her submitted testimony makes a point that I thought was interesting. She quoted a lawyer at one of the conferences who quoted Gerald Ford, saying that when he signed the bill, he was worried, and he noted that it contained, "a vast array of detailed, complex, and costly administrative requirements under which the tax dollars would be used to support administrative paperwork and not educational programs." Dr. Ratcliffe is herself a parent of two children with disabilities who have gone through the public school system, and she was concerned about that. She says that now, as a teacher and a Ph.D. helping other disabled children, "President Ford's prophetic words have become the reality of public educators across the Nation."

Do you agree that we do have a problem with that issue of administrative paperwork and rules?

Mr. PASTERNACK. Absolutely, Senator Sessions.

Senator SESSIONS. I met with a very impressive lady who had spent quite a number of years in this area, and she told me at the end of our discussion, with great passion: "Jeff, let me tell you what the problem is. The problem is that we are focused on rules and lawyers and complying with these complex regulations, and we

are losing sight of what is best for the child and best for education."

Would you agree that the rules and the lawsuits and those kinds of issue oftentimes diminish the ability to actually serve the children we want to help?

Mr. PASTERNACK. Senator Sessions, I believe, quite frankly, that some people are leaving this wonderful profession because of exactly those issues. I think that not only do we have a crisis in recruiting people to come and work in the field of special education, but we need to develop strategies to make sure we retain highly-qualified people.

The issue that you just articulated is one that is pushing dedicated, caring, competent people out of the field of special education. We have even heard stories of teachers asking to have special education credentials taken off of their licenses because of their desire not to be in special education but to work in the general education setting rather than teach kids with disabilities.

Senator SESSIONS. I am hearing that. That is what I am hearing. I have letters from teachers who are saying they are considering giving up the profession—poignant letters, really.

In fact, Ms. Goodrich wrote that she is concerned about the circumstances and said that "The perception communicated by the Federal law is that public schools would either underserve or stop serving students with special needs if they were not forced to be the law. Nothing could be further from the truth. These are our children. We have the same hopes and dreams for them as other children."

That is a perception, and I will just bring it to this hearing, which is widely held among the people who are actually caring for our children. I think you would agree with that from what I have heard you say.

Mr. PASTERNACK. Yes, I would, Senator Sessions.

Senator SESSIONS. Mr. Chairman, I think this is a healthy hearing. I look forward to learning more about the complexities of this important Act. When you visit the schools and see the special ed children and how they are being served, it does make us feel proud that our country is investing in that, but we are investing a lot.

We had a superintendent from Vermont here who testified that 20 percent of his budget goes to the special education portion of his school. So we are demanding an awful lot there, and we want to make sure we get the very best return and that the children we intend to help are given, under the limits that we have, as we always have on every budget item, the very best care that they can be given. I believe we can make it better.

Thank you, Senator.

Senator WELLSTONE. [presiding]. Thank you, Senator Sessions.

I am chairing now, but I arrived later, so we will go by order of arrival.

Senator Jeffords?

Senator JEFFORDS. Early education is an area that concerns me, and the lack of adequate funding for early education, whether special education or otherwise. Every other industrialized Nation, as you know, after the studies of the eighties and nineties, fully funded their infants and toddlers and early education.

What recommendations is the administration going to have to improve the ability of funding for early education and especially with an emphasis on special education?

Mr. PASTERNACK. Senator Jeffords, one of the things that we absolutely have to do is identify what works in the area of early childhood and make sure that we are in fact helping people implement scientifically-based practices that are developmentally appropriate and are designed to prepare kids to learn in school and focus on the readiness skills that we know are so critically important.

One of the things, among the many responsibilities that I am proud to have, is to serve as chair of the Federal Interagency Coordinating Council. The goal of that council is to advise the secretaries of the different Cabinet agencies on issues relating to early childhood, particularly as it relates to children at risk of developing disabilities or children who are diagnosed as having disabilities.

Interestingly enough, the two goals that we are working on this year, Senator, are child care—because we hear from many families of children with disabilities that they do not have access to child care, and I know that you are aware of that issue—and the second one that we are looking at is another issue that I know you are aware of, and that is the need to have a good health care delivery system for families of kids with disabilities and particularly to look at issues in terms of the mental health needs of young children. One of the things that we are disturbed to hear, for example, is that in Head Start programs across the United States, the largest increase request for technical assistance that those programs have received is in the area of interventions for children exhibiting behavior problems.

So we are very concerned about the rise in behavior problems in very young children, and we would like to see what we can do to prevent children from exhibiting those kinds of problems and make sure that we have high-quality staff trained to deliver scientifically-based interventions that are targeted to deal with those problems when they are identified.

Senator JEFFORDS. Along with it, will there be recommendations of Federal funding to assist with those problems?

Mr. PASTERNACK. We will look at that, Senator, certainly. As you know, we have a working group currently structured between the Department of Education and HHS to look at child care issues. The President's Commission includes Wade Horne, my colleague from HHS, Beth Ann Bryant from the Department of Education, Reed Lyon from NICHD—people with a legacy of achievement in the area of early childhood; and Russ Whitehurst and Susan Newman, who are assistant secretaries at the Department and both experts on early childhood.

So clearly, we want to put the best and the brightest minds together and work with you to come up with appropriate proposals, understanding that it is not always about money, although resources are critically important. It is also about doing the right thing and making sure we have highly-qualified people to deliver the services.

Senator JEFFORDS. Right now, as you know, there is really no help from the Federal Government with respect to funding. I know from talking to my young people who have children that they are

spending about $5,000 a year per child in order to get an appropriate quality education. And obviously, there are not many young people who can pay that much for their children, so I hope that at some point, we will be able to have adequate funding as every other Nation in the world has for that age group.

Mr. PASTERNACK. Thank you, Senator.

Senator JEFFORDS. I also am concerned and want to talk a little bit about accountability and adding more accountability requirements to IDEA, especially before we know what the fallout will be with respect to the present AYP requirements in No Child Left Behind. It kind of disturbed me when you ere talking about more accountability requirements, because as you know, we had terribly shocking results from the AYP tests that were done before we implemented the bill. So I just hope you are aware that this is a very difficult area that could really make things look bad.

Mr. PASTERNACK. Senator Jeffords, I know of your legacy of commitment to kids with disabilities, and I would just suggest that we really need to measure that kids are in fact making progress.

I hear, as I am sure you do, from many families that they are frustrated because their kids are not making progress, that they have the same goals and objectives on IEP year after year, and I think it is just something that we really need to focus on. I am proud of the work that you all did to focus on the concept of adequately yearly progress, and I think the challenge to us in special education is to build the capacity of the learning community to make sure there are good assessment tools used to in fact document that kids are making progress, because I believe that that is the goal of providing the specially-designed instruction.

Senator JEFFORDS. Thank you.

The CHAIRMAN. Senator Bond?

Senator BOND. I will pass.

The CHAIRMAN. Senator Reed?

Senator REED. Thank you, Mr. Chairman.

Thank you, Mr. Pasternack, for your testimony today. Let me raise one general issue and perhaps follow up.

During the debate last year on the No Child Left Behind Act, I worked to include language in the Teacher and Principal Quality title to ensure that professional development provided to teachers in general education included instruction in special education. We have been talking today about preparing special education teachers, but I think it is incumbent to ensure that general education teachers have a much better grasp of special education in every phase—in their preparation, in in-service, and in their continuing education.

In fact, in 1998, only 21 percent of teachers said they felt prepared to address the needs of students with disabilities in the general education population. How can we extend this effort in IDEA to reach out to the general education teacher population so they feel fully aware of and knowledgeable about special education? Can you comment on that?

Mr. PASTERNACK. Thank you, Senator Reed.

I think there are several things that we can do. One is to continue using the resources through Part D of the IDEA and investing and being good stewards of those dollars, making sure that we

are working to develop high-quality professional development opportunities for people in general education.

As I said in my opening remarks, it is not about special education or regular ed, it is about kids, and we clearly need to build the capacity of the general education system, because we are never going to fix special ed by only looking at special education.

Another thing that I am concerned about, sir, is that when we put teachers through professional development, we have not really developed the technology yet to measure that the skills that they are learning are being used when they leave the professional development opportunity and that those skills are in fact leading to increased academic achievement in the kids who are then being taught by those teachers who have been trained.

So I think that is kind of a paradigm shift that we need to help people make in the future.

Senator REED. Mr. Pasternack, in your comments and echoed by many of my colleagues on the inordinate amount of time in paperwork and meetings, may some of that be the result of not fully understanding the rules, assuming that you have to do more, bogging yourself down in paperwork?

Cutting to the chase, is that one aspect of education that we can promote in this reauthorization, knowing the rules and knowing how far you have to go?

Mr. PASTERNACK. Senator, I think that the most eloquent of the thousands of parents whom I have met with in the eight cities that we visited recently summed it up by asking could we please make it simpler. It is just too complicated. The intent is noble, and we have come a very long way, but I think we really have to work hard to make it simpler and streamline it.

Senator REED. In some cases, and not just with respect to special education, but many things, a rule is passed, and it is not so much the rule, it is the misunderstanding, it is the perception, it is overcompensating so that what starts out as something simple, people think, becomes more complicated. I again return to the point that perhaps we can think about ways, either through education or explanation, that we can, I would guess, eliminate some of the encumbrances that exist today without dramatically changing a lot of things. Maybe that is a hope and not a fact, but I think we should work on it as we go forward.

There is one other point I would raise before my time expires. One of the important aspects of any education is the role of parents. I would hope that in this process, we would specifically and consciously and determinedly try to ensure that parents have a role in this reauthorization and have a role in all education and in special education. I think you also feel that way.

Mr. PASTERNACK. Senator, I am an evidence-based policymaker. If I were not from New Mexico, I would be from Missouri. The last three people whom we have brought into the Office of Special Education Programs have all been parents, including our new director of the Office of Special Education Programs, who is the parent of a child with a disability.

I believe that parents are the true experts on their kids and know more about their kids than anybody else, and we should be

resources and consultants to those parents. So thank you for that comment.

Senator REED. Thank you, Mr. Pasternack.

The CHAIRMAN. Senator Clinton?

Senator CLINTON. Thank you, Mr. Chairman.

Mr. Pasternack, I greatly appreciate your testimony. You touched on many different issues in your written testimony and the answers that you have given to the questions.

Will the administration be coming forward with specific recommendations concerning the reauthorization?

Mr. PASTERNACK. Yes, Senator Clinton.

Senator CLINTON. And what is the timing on that?

Mr. PASTERNACK. I believe that we will wait, Senator Clinton, for the conclusion of the activities of the President's Commission on Excellence in Special Education, and they are tentatively scheduled to release their report at the beginning of July. Then, we will use the work that is being done by the fine commissioners to help inform our approach to reauthorization and then hopefully be able to have something to you during the summer.

Senator CLINTON. So you think that we will have your recommendations by sometime this summer?

Mr. PASTERNACK. I would hope during the summer and certainly no later than early fall, Senator Clinton.

Senator CLINTON. And will the administration be taking any position with respect to the mandatory funding for IDEA?

Mr. PASTERNACK. I know that that is an issue of great concern to many, Senator Clinton, and I am sure we will be looking at that.

Senator CLINTON. With respect to the issues that we are going to be concerned with, certainly the funding issues, the early appropriate interventions and education issues, the work force training and availability of qualified teachers, the idea that you present in your testimony about a process versus progress kind of conflict as to whether we are just spinning our wheels or actually making progress on behalf of the children, are all very important.

One issue that has come to our attention in a New York Times article in the last week is that there is concern given the Leave No Child Behind Act, with its emphasis on accountability, that there will be implicit incentives to over-identify even more children as special needs children as a way of buying more time for those children to respond to any testing requirements that the State or the national Government have imposed.

Has the administration and the Department given any thought as to how States and districts can try to prepare for that?

Mr. PASTERNACK. Thank you, Senator Clinton.

We have given a great deal of thought to that, and we are going to be working very hard. We believe it is about building capacity to implement the law, making sure that the right kids are in special education. I think that with Reading First, we really see a significant opportunity to help States improve their ability to deliver scientifically-based reading interventions to very young children which will hopefully prevent some students from being identified as having a disability, when in fact the problem to us seems to be that they were not taught how to read.

We want to make sure that the kids who wind up in special education are in fact those kids with the intractable reading problems who cannot benefit even from scientifically-based instruction delivered by highly-qualified personnel.

So we are going to be working very hard on that, and we are very aware of the increased demand for accountability. In your State, we are very proud of the data which suggest that right now, more kids with disabilities passed the Regents' exam than actually took the Regents' exam 4 years ago.

So that kind of progress is laudable and commendable, and we need to spotlight that and help other States emulate what seems to be happening in the great State of New York.

Senator CLINTON. Thank you very much.

Mr. Pasternack, I have got to excuse myself. We are introducing some legislation today on tracking chronic disease, the health tracking bill that Senator Reed and I have been working on. And with respect to that—I am very encouraged by your comment about being evidence-based; I refer to Washington at times as "an evidence-free zone," so anyone who actually pays attention to and is concerned about evidence is someone I admire and respect—I am very much convinced that adequate medical screening would demonstrate that many of our children have environmentally-affected if not caused issues that lead to learning disabilities. The largest causes of birth defects are environmentally connected. Many of the continuing studies show high levels of lead in children's blood, high levels of mercury.

So I would hope that in the process of reauthorizing this bill, we will also look below the surface at what is the reason why we have so many children with learning disabilities. From my perspective, it is a combination of genetics, the environment, and behavior, and if we do not start sorting that out, we are going to continue to see increasing numbers of children who are going to be held back because of disabilities that could have been prevented or could have been remediated very, very early.

So I hope the administration will work on that issue as well.

Mr. PASTERNACK. Thank you, Senator.

I know that you are aware of the National Academy of Sciences report that was released that talked about teratogens and particularly adverse impact that that has on kids in poverty and overwhelmingly, kids of color. So it is something that we are very aware of, and we want to work with our colleagues and other Federal agencies that may have a role in helping us deal with it.

Senator CLINTON. Thank you.

The CHAIRMAN. Senator Jeffords?

Senator JEFFORDS. I have one additional question. You use the phrase "right children" very frequently. What is the definition of "right children"?

Mr. PASTERNACK. These are children who really do have disabilities, Senator Jeffords. As you know, half of the students in special education are in the category of specific learning disability; and while there are seven types of learning disabilities, and while we know that learning disabilities are real, we know that many of those students—we are not quite sure how many of them—may be instructional casualties. They might not be kids who have a disabil-

ity, but they may be kids who were not taught how to read who really could have learned to read if they were taught by highly-qualified teachers using the scientifically-based approaches that have now been identified.

To me, that is the easiest example of some of the kids who may not be the right kids because these are kids who could have been instructed and do not necessarily have a disability.

I think it has been our diagnostic approach; it has been the discrepancy model that we have used since 1975 to look at the discrepancy between expected and actual academic achievement as indicative of a learning disability. And as you well know, sir, there is a two-tiered approach. Not only are we supposed to identify the existence of a disability, but we are also determining the need for special education. I think that in some instances, we have not done that.

So the language that I have been using is just an attempt to make sure that kids who are in special education are really kids who do have a disability, and those are the kids that I mentioned earlier, for example, in the area of reading who would have intractable problems and would need specially-designed instruction delivered by highly-qualified personnel.

Senator JEFFORDS. So what happens to the "nonright" children who are way behind in their skills, and who is responsible for them?

Mr. PASTERNACK. Well, I think we clearly do not want to push kids out of special education who are currently in special education. We want to improve the quality of the services that those kids are receiving so we can get better results for those kids.

What we are talking about, I think, rather than the proximal issue is a distal issue, one of making sure down that road that we are in fact taking a look at the taxonomy that we are using in our classification system and our assessment strategies to make sure that we are in fact helping identify the right kids by saying to the general education system, please document the failure of students to benefit from highly-qualified people delivering scientifically-based instructional interventions that did not work, and then and only then should kids be referred to special education. So it really is kind of strengthening the general education system's ability to educate all kids so that we in special education would not over-identify or be inappropriately identifying some students as having a disability.

Senator JEFFORDS. Well, it makes me very nervous, the utilization of the "right" children in that respect, because it looks like more of an attempt to reduce the cost rather than to help the kids. That worries me.

The CHAIRMAN. Senator Mikulski?

Senator MIKULSKI. Thank you very much, Mr. Chairman.

I want to welcome Mr. Pasternack and look forward to working with him.

Mr. Chairman, I ask unanimous consent that my opening statement be included in the record.

The CHAIRMAN. It will be so included.

OPENING STATEMENT OF SENATOR MIKULSKI

Senator MIKULSKI. Mr. Chairman, I want to thank you for calling this hearing on the reauthorization of the Individuals with Disabilities Education Act. I also want to thank each of the witnesses for coming here to share their expertise. I look forward to hearing your testimony.

We are at the beginning of a long process. As we look at reauthorizing IDEA, I urge my colleagues to remember why we have this law in the first place. Congress first passed IDEA in 1975 to ensure a public education for children with disabilities. The goal was to include students with disabilities in the classroom in order to help them succeed in school and in life.

During this reauthorization, we should focus on three goals: giving disabled students a quality, individualized education; preparing them to live full, productive lives; and fully funding IDEA, so special ed is not a hollow promise.

Last year we passed the No Child Left Behind Act, which emphasized accountability for student achievement. And guess what—students with disabilities are included in these reforms. Yet these children need special attention. We should think about the education system as one system, with accommodations for students with disabilities, but not as two separate systems.

How do we do this? First and foremost, we need to provide adequate resources. When Congress passed IDEA in 1975, the federal government promised to pay up to 40% of the costs. Yet we currently only pay 16.5%. In Maryland, the federal government pays only around 10%.

The federal government must pay its full share of IDEA costs. Let me tell you why. Our state and local governments are facing shrinking budgets. They are already cutting education spending. Yet they must make improvements in education in order to meet new federal standards.

We have heard that 90% of states are not complying with IDEA. How can they comply if they don't have the money improve the quality of teachers, the success of early intervention, and everything else? How can they comply when they have to cut corners in order to save money? Without the proper resources, how can we expect schools to be able to provide a quality education for students with disabilities?

IDEA is a success story. The dropout rate for these children has decreased and the graduation rate has increased. The number of college-bound students with disabilities has more than tripled. Yet IDEA services are extremely expensive. In Maryland, we spend an average of $13,000 to educate a child with special needs.

Students with disabilities require special attention and special services, but for these children, these services are not "extras." They're essentials that mean the difference between self-sufficiency and a life of dependence.

We also need better coordination between special education and regular education, since the purpose of IDEA is to help disabled students achieve in school. We must make sure that IDEA is in line with the requirements in the No Child Left Behind Act. We must make sure that the special ed teachers and regular ed teach-

ers are working together. This means additional training in special education for regular classroom teachers, so that they are able to handle children who are ready to join the regular classroom. It also means training in special ed for school administrators, so they know how to support the staff.

Ninety percent of special ed students spend at least some time in regular classes. Yet teachers are only required to take one broad survey course in special education. This does nothing to prepare them for the practical problems of having disabled students in their classes.

Finally, we need to focus on outcomes for the children—achievement in school and success in life. This begins with making sure children are identified with the proper disability, and identified early. We must also address the shortage of qualified special ed teachers. 98% of US school districts report a shortage and there are several thousand vacancies across the country. 10% of special ed teachers are not fully qualified, but not nearly enough students graduating with degrees in special education.

IDEA has done a lot of good, but it could be a lot better. The only way it is going to get better is by providing adequate resources for services to students, for teachers, and for coordination. I look forward to today's testimony and to working with the Chairman and my colleagues on this important issue. Thank you.

Senator MIKULSKI. I also want to say to the parents, first of all, a very cordial welcome to you. To the parents and to the children who are here, when you see us coming and going, it is not because we are not interested—we are like airplanes stacked up over LaGuardia as we try to get to all of our hearings.

So I want to welcome you. Your testimony is important, and we are proud of you and what you do.

And to Ms. Rangel-Diaz, the National Council on Disability report I think really offers some very excellent guidance to the committee.

Mr. Pasternack, first, I think the issues that you raised in your testimony are exactly the issues that we need to pursue, but I would like to raise some that are not usually covered in the discussion. That is the issue of caregiving for the parents and burnout of the teachers.

We know that anything effective to help these boys and girls here depends upon their parents and upon their teachers, and of course, we in the community who support them.

Could you share with us what thoughts you might have given to the whole issue of—let me give some background. I chair the Subcommittee on Aging, and we were looking at issues related to Alzheimer's and Parkinson's, where people in the same generation, particularly usually women, provide care—the whole issue of caregiving where someone in the family has a chronic condition that requires very special attention.

What we provide in the area of aging are things like respite care and other things to support them in caregiving. Has anyone thought about how we can help these parents essentially—I do not want to call it burden-sharing; I mean responsibility-sharing—and in the whole funding of the disability act, while we look at full funding, that issue, either to help them with that and issues

around caregiving, even to take a breather; have we thought about that, or is this new territory?

Mr. PASTERNACK. Senator Mikulski, we have thought a great deal about that, but not within the context of the IDEA. As Senator Kennedy knows, I have a brother with Down's Syndrome who is 58, and many years ago, the life expectancy of people with Down's Syndrome was not expected to be that long. Now, God bless him, I am glad he is alive, but he has Alzheimer's; he broke his hip, he is in a wheelchair. I think that issues affecting the aging of people with disabilities are things that we have not developed good policies for as a country, and we need to be working with other Federal agencies who have the primary responsibility for those kinds of programs that you just articulated like respite care and make sure that we have supports in place so that we are helping families meet the needs of their children with disabilities as those children age.

I think that is one issue among many. There is an incredibly high prevalence of Alzheimer's in older adults with Down's syndrome, and I believe it is an issue that requires the best and brightest scientific minds that we have.

Senator MIKULSKI. And I agree, but I am not talking about the aging Down's syndrome. I am talking about these parents, right here, right now, who have a tremendous responsibility and the whole issue of counseling, another whole issue—how do we give help to those families practicing self-help? That is my question, and I hope they even speak to it there, because I think it is a significant issue within the family and also a significant impact on the other children when there is a particular child who needs the extra attention and love and help. We are talking about the whole family here. So that is one thing.

The second thing is teacher burnout. Special education and even just general education is enormously challenging, and my question is as we look at teacher training—sometimes we are schoolmarmish in mandating credentials, and that they meet this requirement—it is exhausting.

So my question is in teacher quality improvement, are we looking at what to do with burnout. And number two, when you say there are some teachers who even want their credentialing removed, if you want to be an administrator or move up, should we have a rotation through special education so that if you are going to be a principal or a school superintendent and so on, you have taught all of the children? And again, I do not want to be acting like the chairman of Baltimore City's Board of Education, but have we thought about burnout and helping the teachers—and of course, I am worried about the burnout of parents.

Mr. PASTERNACK. Well, Senator, I know that time is short, but I will tell you that the issue of compassion fatigue that we sometimes call burnout is one that we are very concerned about, and we want to make sure——

Senator MIKULSKI. I think that is a better phrase, and I will substitute that phrase.

Mr. PASTERNACK. That we have a system of supports in place to retain the highly-qualified, competent, dedicated, compassionate, empathetic people that we need to have in our profession.

And your issue about parent supports, we can when we have more time talk about our system of parent training and information centers and the community parent resource centers that we fund through Part D that do try to address those issues.

I like your idea very much and would like to talk to you more about it.

Senator MIKULSKI. Thank you very much.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Wellstone?

Senator WELLSTONE. Thank you.

I am going to be very brief, because you have done just a superb job, Mr. Pasternack; you really have—and I know there are others who want to testify.

Just to be really brief, rather than asking questions, I think I will just say a couple of things, and you can respond in any way you wish. And again, thank you for your testimony. I thought your answers to the questions were just superb.

I hope that when we are talking about accountability, we will have multiple indicators, that you will look at multiple indicators of student achievement. I think it is a huge mistake to rely on a single standardized test, and I think that people in the testing field say that as well.

The second appeal I want to make to you—and I do not want to just put this at your doorstep, but I would make an appeal on IDEA Part C and the whole question of mental health concerns, mental health needs—and of course, this is one of Senator Domenici's big priorities—yesterday I was in and out of a breakfast briefing by the National Mental Health Association in which they were saying that the President's budget has some really rather severe cuts in children's mental health services. I would just say for the record here today that I think we are going in the wrong direction if that is what we are doing. I think that if we can figure out ways of getting help to these kids—sometimes—and my wife and I do a lot in the area of trying to prevent violence in the home—sometimes, where children witness violence in their homes, that domestic violence affects their behavior. We have got to figure out ways of connecting to these kids and help them early on before they get into even more trouble. So I would just appeal to you in whatever way you can be a voice for making sure that we get the resources and services and support to kids at the community level that we do so.

My final point is going back to a question that Senator Clinton asked you—and again, I know it is hard for you to give a "yes" or "no"—but I also want to go on record—and we are pushing very hard now in the budget resolution—on the issue of making IDEA mandatory and having full funding—I think we do it in 6 years—and then we keep that full funding. For my State of Minnesota and for many other States here, it is a huge issue—a huge issue—and I think we just absolutely need to do it.

Going to Senator Mikulski's point, I also think it ties into teacher burnout, because the truth of the matter is that part of it is the paperwork. You are absolutely right. I hear about that all the time. But I also think the teachers just feel like sometimes it is a matter that salaries are not necessarily that high, school districts are now

having to make horrible tradeoffs where they are cutting here, cutting there, prekindergarten programs are not what they should be, buildings are dilapidated, there is no money—it is just a lot more of a comment that we have to make. And frankly, this Leave No Child Behind Act has a great name, but the resources are not there. The funding is not there. We have not received the funding that we need from this administration.

So I am counting on you, given the great testimony you have given today, to change all that right away and make everything right. [Laughter.] That is it.

Mr. PASTERNACK. Thank you, Senator Wellstone.

The CHAIRMAN. Mr. Pasternack, thank you very, very much for being here and for a very impressive and thoughtful series of responses to the questions. You have obviously given these issues a lot of thought and have come to this with very broad personal experience as well.

I think all of us feel enormously reassured as we go forward in terms of trying to develop this legislation. We are going to be calling on you frequently for your help and assistance.

Thank you very much for your appearance.

Mr. PASTERNACK. Senator, I would just like to thank you and Senator Jeffords and the other members of the committee for your legacy of support. Clearly, the work that you have done has dramatically improved the quality of life for people with disabilities in this country, and on their behalf, I thank you very much.

The CHAIRMAN. Thank you very much.

We welcome our next witness. Lilliam Rangel-Diaz is a board member of the National Council on Disability, an independent Federal agency representing people with disabilities. Ms. Diaz also serves on the Advisory Board of the Center for Child Development and Preschool Inclusion at the University of Miami.

A recognized expert in the field of special education, Ms. Diaz is also the mother of five children, including a child with developmental delays.

Good morning. Thank you very much for being here. We look forward to your testimony.

STATEMENT OF LILLIAM RANGEL-DIAZ, MEMBER, NATIONAL COUNCIL ON DISABILITY, WASHINGTON, DC

Ms. RANGEL-DIAZ. Good morning, Chairman Kennedy and distinguished members of the committee.

Good morning, children and parents. Thank you for being here today to remind us that you are the consumers and that this is all about you.

Thank you for inviting me to participate in this hearing. I am a proud member of the National Council on Disability, and I am humbled to be here today on its behalf. I am also most proud to be "mom" to six wonderful boys, two of them with disabilities, and to serve the families of children with disabilities in my community as a professional advocate.

As an independent Federal agency, the NCD's charge is to make recommendations to the President, Congress, and Federal agencies on equal opportunity for all individuals with disabilities. We wel-

come the opportunity to share our recommendations about IDEA with you this morning.

Unfortunately, students with disabilities and their advocates continue to fight some of the same battles that were fought in Brown v. Board of Education to put an end of the myth that "separate is not equal." Congress crafted the precursor to IDEA in 1975 to halt these practices. If IDEA were faithfully implemented and enforced across the country, it would work well. However, 27 years later, we are still seeking solutions.

NCD has identified four critical issues in the implementation of this civil rights law—monitoring and enforcement, full funding, discipline, and other representation of students form culturally divers backgrounds. Most of our comments this morning will be on the first—monitoring and enforcement—for we believe it to be the key to all others.

In January 2000, NCD released "Back to School on Civil Rights," reporting on a study that established how the Federal system of monitoring and enforcement has been working in enforcing the basic requirements of IDEA—FAPE, LRE, IEP, transition, general supervision, procedural safeguards, and protection in evaluation of student with disabilities.

The study found every State and the District of Columbia out of compliance with the law to different degrees. Eighty percent of the States failed to ensure compliance with FAPE; 78 percent failed to ensure compliance with procedural safeguards; and 72 percent failed to ensure compliance with the least restrictive environment, thereby unnecessarily relegating the students to segregated settings.

We found students from diverse populations disproportionately represented in separate classrooms. Basically, we found that too many students did not receive FAPE; were not educated in the least restrictive environment—meaning inappropriate placements in separate, segregated settings or the lack of services for students served in regular classrooms; did not receive related services reflected in their IEPs; could not access transition services, and did not receive procedural safeguards and protections.

We also found that the real enforcers of the law have been parents, and as I will discuss later, they are not provided the tools they need to do this important work.

We have other studies as well. In a Social Security Administration Commission study on the implementation of transition mandates, postsecondary education, and employment outcomes, we found poor graduation rates, low employment rates, low postsecondary education participation, and an increasing number of youth stuck on the Social Security benefit rolls.

At the same time, we identified a host of effective practices and research that should be more widely utilized, as well as promising Federal initiatives that deserve more support.

Our follow-up activities have included collaboration with OSEP, supporting a group of stakeholders who are reviewing OSEP's continuous monitoring improvement system and recommending performance benchmarks and enforcement triggers.

An NCD Youth Advisory Committee informs us on the needs of you with disabilities, particularly related to IDEA.

Parents of children with disabilities are enthusiastic supporters of the law. They think it is a good law, but they also outline problems that emphasize the importance of strong Federal enforcement. When students do not receive IEP services and supports, they cannot achieve outcomes. Students categorically and unnecessarily placed in restrictive educational settings are stigmatized and have difficulty learning. Under such circumstances, school systems do not maximize the use of scarce Federal education dollars.

We understand the need to explore the question: Doesn't such a high level of noncompliance point to the fact that it is clearly a bad law that States cannot comply with and whose time for change has come?

However, from our work, we can only conclude that this is not the case. We believe that altering the basic educational rights in IDEA would devastate the promise of FAPE for students with disabilities. From Back to School, we know that 20 percent of the States are in compliance with FAPE. What is their story?

The same applies to LRE. WE need to look to the 28 percent of the States that were found to be in compliance for guidance. There are beacons out there that we need to follow. The issue is not the law. Our data clearly identify the major issue—that implementation of IDEA has been inconsistent and lacking any real teeth.

Currently, OSEP relies on compliance plans and technical assistance for States found out of compliance with IDEA. There are no clear objective criteria for additional enforcement options for States that persist in substantial noncompliance. Without standards defining limits and providing appropriate sanctions, the incentives for corrections are not compelling enough to stop the cycle of noncompliance. The result is devastating for students and their families, who continue to be denied the protections of this civil rights law.

My written testimony contains several recommendations that NCD is making.

I appreciate the opportunity to be here today and welcome any questions.

Thank you very much.

[The prepared statement of Ms. Rangel-Diaz may be found in additional material.]

The CHAIRMAN. I want to thank you very much for giving focus and attention on the noncompliance. This is really an extremely important aspect. You also observed other features in terms of funding and discipline and the other cross-cultural kinds of issues. But compliance is obviously a key aspect, and we tried in the last reauthorization to provide some ways of doing this, which have not been successful, through the Department of Education being able to go to the Justice Department to get them involved, and they have not used any of these tools.

I do not know if you have a sense that the tools that we provided are not good, or they have not been utilized. Could I hear you on that, please?

Ms. RANGEL-DIAZ. I would be happy to. That is one of my favorite subjects.

It is not that they are not good; it is that they have not been utilized. We strongly believe at NCD and through the work that we

have done that there is an inherent conflict of interest in having the Department of Education be the agency that provides technical assistance to States and school districts on the implementation of the law and also being the agency required to enforce the law, which we have found has not been done very well.

So one of our recommendations is to expand the role of the Department of Justice. We ask that Congress authorize and fund the Department of Justice to independently investigate and litigate IDEA cases as well as to administer a Federal system for handling individual complaints. I hope this answers your question.

The CHAIRMAN. So you think that if the Justice Department independently did a review, this would be a way of proceeding to ensure the monitoring and also the accountability?

Ms. RANGEL-DIAZ. This is what we think. We also think that the Departments of Education and Justice should together develop national compliance standards and improvement measures and enforcement sanctions to be triggered by specific indicators of a State's failure to ensure compliance and that it is really important that the stakeholders are involved in the development of this national compliance, of course, including parents and youth with disabilities.

We recommended around these activities for a State-level technical assistance network, self-advocacy, and monitoring and training for students, parents, and other partners, and low-cost legal services for families, and that there be an increase of 10 percent whenever Part B of IDEA is increased for these specific activities related to enforcement.

The CHAIRMAN. Well, you make a very, very important point, and that is that even if we get the other provisions right, if we do not get this one right, we are not really doing our job. Whatever we do, whether in the funding or in the discipline or the other kinds of cross-cultural issues, education competency of special ed teachers, parental involvement or any of the others, unless we have enforcement, then it is really an empty promise.

This is a very important and significant study that you have done, with very important and significant recommendations, and we want to try to ensure that whatever we do here, we have the kind of effective accountability that you feel is necessary to make sure that we have compliance. This is very important subject matter, and you have served us very well in your presentation, and we are going to be looking forward to working closely with you to try to get it right. So thank you.

Senator Wellstone?

Senator WELLSTONE. Ms. Rangel-Diaz, thank you for your testimony.

I agree with what Senator Kennedy said. I think your words that, "altering the core educational rights in IDEA would devastate the promise of a free and appropriate public education for students with disabilities," ring loud and clear, and I thank you for it.

Do you have some ideas about how we could better reduce the overidentification of children with disabilities?

Ms. RANGEL-DIAZ. If IDEA were faithfully implemented, that would definitely take care of the overrepresentation. If we were to use the protections available for children with disabilities in the

evaluation process, it would take care of decreasing the overrepresentation. If we use the evaluation tools that are available and develop those that we may need to develop to truly evaluate children who have limited English proficiency and who belong to diverse cultural groups, we will be decreasing the overrepresentation of children in special education.

Senator WELLSTONE. And the other question I have for you—I absolutely share your commitment to the core rights that are provided under this legislation. I am also persuaded that teachers do spend too much time on paperwork and not enough time with the students.

Is there a way to reduce the paperwork without sacrificing the core rights of the children or the students?

Ms. RANGEL-DIAZ. We live in an era of technology, and I think we need to use the technology that we have available to us to make sure that children's outcomes to not suffer because of paperwork.

I must say that I live in Miami, FL, and I must live in a different world, because I do not see our teachers spending that much time doing paperwork. I think that if teachers are trained, and principals understand, and we spend the time really implementing IDEA, there is not really that much paperwork.

Senator WELLSTONE. Thank you.

Mr. Chairman, we have yet another panel, and I do not want them to run out of time and all of us have to go vote or whatever, so I will conclude my questioning.

I want to thank you. I believe that your testimony is extremely important, and I thank you.

The CHAIRMAN. Thank you very, very much.

Ms. RANGEL-DIAZ. Thank you very much.

The CHAIRMAN. We will now ask Valerie Findley if she would be good enough to come up. Senator Harkin gave a very stirring introduction of you.

Then, we welcome Bob Runkel, who is Montana State Director of Special Education in Helena, MT; Bob Vaadeland, who is Superintendent of the Minnewaska Area Schools in Glenwood, MN; and Kim Ratcliffe, who is Director of Special Education for Columbia Public Schools in Columbia, MO.

STATEMENTS OF VALERIE FINDLEY, PARENT, DES MOINES, IA; ROBERT RUNKEL, ADMINISTRATOR, DIVISION OF SPECIAL EDUCATION, HELENA, MT; ROBERT VAADELAND, SUPERINTENDENT, MINNEWASKA AREA SCHOOLS, GLENWOOD, MN; AND KIM RATCLIFFE, DIRECTOR OF SPECIAL EDUCATION, COLUMBIA PUBLIC SCHOOLS, COLUMBIA, MO

Ms. FINDLEY. Bad timing—my daughter Louisa was going to sit up here with us and may return any minute.

The CHAIRMAN. It has been a long morning. She has been enormously patient. All these children have been.

Ms. FINDLEY. She has done a very good job.

Chairman Kennedy and other distinguished members of the HELP Committee, I want to thank you for the opportunity to speak to you today.

Although Senator Harkin's introduction was certainly glowing, I am not an expert on all the technicalities of each section of IDEA,

but I am, like most parents, an expert on the strengths and the needs of my own daughter, and that is what I will speak to today—our family's experience with IDEA and special education services.

How do you relate 9 years of joy, grief, confusion, and success in just a few minutes? I would like to start off by helping you know my daughter a little. Louisa's favorite things are swimming, horseback riding, and eating foods. She loves spicy and sour things; her favorites are guacamole and lemon meringue pie and garlic bread. She loves to dance with her daddy, and she loves to sing with mom, which beats me.

She has an infectious laugh; she is very sociable; and she has been described by some as a "love machine"—she just makes you want to cuddle.

Louisa has a very small verbal vocabulary with words including "go", "more", "cold" and my favorite, "Mamama."

Louisa uses a wheelchair for mobility; she uses hearing aids and wears glasses, and she receives the majority of her nutrition through a gastrostomy tube. She wears braces on her legs for some of her activities, and she uses switch-controlled deices for basic communication, choice-making, and to entertain herself, as well as to help out with simple chore at home.

Although she often appears inattentive, do not let her fool you. Louisa is very aware of what is going on around her, and she will do her best to make known her wants, her needs, her interests, and her frustrations.

Every journey has a beginning. Ours started when, during a healthy pregnancy, I suddenly developed toxemia. Louisa underwent a series of prenatal tests, and it was determined that she had fluid that had accumulated in her lungs and was experiencing fetal distress. At that time, she was delivered by emergency C-section a little over 7 weeks prematurely. During the delivery, Louisa aspirated meconium, and because of the immature development of her lungs, suffered brain damage.

She spent the next 2½, almost 3 months, of her life in the intensive care units of two hospitals in Des Moines, where she was born, and in Omaha, NB, where she was life-flighted after 3 days. While she was at the medical center in Omaha, it was determined that she had what would be considered a Type 2 cerebral palsy, and we were told at that time that Louisa would probably have difficulty with gross motor skills, things like walking and being able to dress herself.

When Louisa was returned to the hospital in Des Moines, our home town, we realized that her challenges were going to be much more severe and lifelong. Our family was moving into uncharted territory.

Since then, Louisa has been given additional diagnoses of mental retardation, cortical visual impairment, central auditory processing disorder, and being chronically adorable. [Laughter.]

When Louisa first came home from the hospital still on oxygen, we immediately began to seek out information and support for what we knew was going to be an entirely new journey for all the members of our family. When we left the hospital, we really received very little information or resources about where to go and find out how to help Louisa best.

One of the places where we looked to educate ourselves in order to help her achieve the best outcomes and the fullest and most satisfying life possible was to our education system and Iowa's Early Access Program.

At the age of 5 months, Louisa began receiving Part C early intervention services through the Des Moines School District, first at home and later in her day care setting. I will never forget the first two women that we encountered. They walked through our door and changed our lives. Jean Linder was an occupational therapist and Georgia Woodward an early childhood special education teacher. They inspired and supported us through the nearly 3 years that we worked with them. Over cups of tea in our living room, they worked with Louisa and provided our family with information, strategies, and the moral support that helped us move from broken dreams to new hope and understanding.

Through the Individualized Family Service Plan, or IFSP process, the helped us to identify our family's and Louisa's needs and strengths and secured the coordinated services and resources we would require. The whole notion of coordinated services was mentioned a couple of times earlier today, and I want to stress how very, very important that is, that education systems are working with medical systems, are working with public health systems, are working with other systems of community support for families raising children with disabilities..

While in the early access Part C process, our family was allowed to retain our privacy and as much normalcy as possible—which is not an easy thing when you have therapists, respite care workers, teachers, all sorts of people coming into your home. These individuals, like many who have followed, served as the guideposts along our way. One of the most important things they taught me was that we were Louisa's advocates, that we would be required to speak for her and defend her rights to secure the services she would need in order to reach her fullest potential and a meaningful life. I will be forever indebted to them for their honesty and compassion.

I believe that extending the IFSP process through at least age 5 would be a good thing, as the family-centered approach to service coordination is valuable during this time of early intervention.

When Louisa was 2 years old, she was registered on our State's deaf-blind registry. This gave us access to our Deaf-Blind Project staff, who provided technical assistance to families and school staff in order to address the very unique challenges that children with both vision and hearing impairments face.

When Louisa was still a baby, we were provided with strategies for sensory integration, communication by touch cues, and even tips for creating a home environment that would encourage her to use and maximize her vision and hearing.

When Louisa was 3, she attended and inclusive preschool in a shared program that included both typically developing neighborhood children, other children with disabilities, and a Head Start program. She remained in this setting for 3 years, receiving early childhood education and related services to work on goals that were identified through the Individual Education Plan, or IEP, process.

One thing that families with children with disabilities face and has also been mentioned is the very difficult time of trying to find preschool and day care settings for our children. I hope that is something that we can work on more and more in the future.

As Louisa was ready to transition to kindergarten, we visited principals and staff at three neighborhood schools closest to our home as well as a private school for children with disabilities in order to determine which setting would be most beneficial for her. We decided that Hillis, where she currently attends, was the place for Louisa. We were most impressed by the welcoming attitude of the principal, Larry Streyffeler, and the other staff there. He did not flinch when we described Louisa and the services she would require, which are considerable. And he let us know that together, we would do whatever it takes to ensure Louisa a positive school experience.

Another factor of our choice was the physical accessibility of Hillis School. We realized that under IDEA, we would have an opportunity to press that issue if the school that she was supposed to go to had not been accessible, but you have to choose your battles, and that was one that was easy to make at Hillis.

So Louisa was enrolled in a regular kindergarten classroom. On the last day of school that year, Louisa came home with her first invitation to a birthday party. Such joy. Our Louisa would have friends in her life. We were worried about that.

Louisa is now in the third grade where she continues to be included in the general education classroom with friends she has known since kindergarten. Her classroom teacher has the support of a special education teacher who is assigned to the entire classroom, as well as two one-on-one half-time associates who assist Louisa personally with her schoolwork, transfers, and personal cares, and work with the other children in the classroom when Louisa is occupied with her peers or is doing therapeutic services.

Louisa has an extensive IEP team, including her father and me, the principal, her classroom teacher, a special ed teacher, the associates, a physical therapist, an occupational therapist, a speech and language pathologist, a vision itinerate teacher, a member of the district's assistive technology team, a district special education consultant. Her IEP team has also included a school psychologist, social workers, Louisa's horseback riding therapist, her respite care worker, and anyone who has played a role in her life.

The IEP process is working for my child. It allows our team to paint the entire picture of Louisa for school programming. It has confirmed to me the importance of partnerships. The older she gets, the more important it is that we build on Louisa's capacities and capabilities and not just those things she cannot master.

It is even more important that the players who are involved in painting this portrait are looking at her from several angles. I have been impressed with the teamwork and commitment of the district and school staff that we have worked with.

Challenges with multiple disabilities can hide true abilities and talents. Cognitive evaluation of children who are hampered by severe physical and communication impairments is often difficult, and we as parents have asked that when conclusive evaluations

have been impossible, that Louisa be given the benefit of the doubt. This has been the foundation of our IEP process.

IDEA provides the entitlement of every child to a free and appropriate education in the least restrictive environment. IDEA calls for the continuum of services and access to the general education curriculum. Not all kids will succeed in the same way or at the same pace, but they can all benefit from the educational experience, gleaning those things that impact their lives.

The original focus of the law was to create access to educational opportunities for students with disabilities. It is also a civil rights law. All kids need to experience school and extracurricular activities that promote peer relationships, respect for differences, and the pride that comes from extending a helping hand to others.

Louisa loves school and is in turn well-loved by her classmates and other students. Her peers take turns being Louisa's helper because everyone wants to be her special friend. Staff have related that Louisa's presence in the classroom has been a motivation for children who have behavioral issues. Being allowed to help Louisa is used as a reward for these kids' good behavior in class. I think that is a wonderful way for Louisa to contribute.

Louisa's favorite classes are music, PE, and art. She also enjoys reading the spelling list to her peers with the help of a switch-controlled tape recorder. Her friends include her in their play at recess, clamor to sit next to her at lunch, and often have wonderful ideas for accommodations in the classroom so that Louisa will not feel left out of things. For the last 2 years, Louisa has also attended a half-day summer school program where her IEP activities are continued.

Louisa receives support from her related services staff on either a direct or consultative basis, with most services integrated into the daily class schedule so that she can participate in regular classroom curriculum activities with her peers while working on her own IEP goals. I acknowledge that this can be a challenge sometimes as we strive to balance Louisa's needs with the needs of the other children in the classroom, but I have been overwhelmed with relief and delight when parents of the other children have approached me to say that their son or daughter often talks about Louisa and how much their child appreciates and enjoys her. I have several times experienced them thanking me for her being there, as they feel that her presence is a positive thing and has helped their own children be more kind and accepting human beings.

IDEA ensure that an array of service options are available based on the unique and individual needs of the child, determined with the input and expertise of the child's parents or guardians. The IEP process ensures that parents have the opportunity to participate as equal partners in decisions being made. An "M.O.M." is recognized as equal in expertise to a Ph.D. or a master's of education when it comes to the determination of appropriate services and placement for our children.

I realize that Louisa and our family have been very, very lucky to have had the opportunity and the overwhelmingly positive experience that we have had. I think one of the factor is that we live in our capital city and have lots of resources available to us. I real-

ize that families in some other areas have not fared so well, and when we are talking about IDEA, I think we need to remember that it is not the law that is broken; it is the funding that needs to be in place that will allow for proper implementation.

I also realize that we have been lucky because we have gained and understanding of our rights as parents and our daughter's right to a free and appropriate education.

My most important and best-loved job is parenting, but I have also been able to work with hundreds of other Iowa families who have children with special needs. My own area of expertise is community-based family support services, but when I speak to family members who have issues about special education implementation or ideas about what is going on in their school and ways to make it better, I often consult with our Parent Training and Information Center, which we share an office with. Promoting parent participation and parent-professional partnership is crucial to the success of our children. When problems occur, we should encourage mediation and resolution of the dispute at the lowest level. Resolution facilitators should be available to all families as a vital component of due process.

Lawsuits should be the last resort. We have been hearing this morning about the prevalence of lawsuits, but I think what we need to realize is that lawsuits are always the last resort of parents when things are not happening according to the law, and the law is there to protect them.

It is hard to imagine that only a generation ago, many children did not have the opportunity to go to school at all, were routinely institutionalized, or had no other option than "special" or segregated schools and classrooms. Many students had disabilities that were not identified, and they struggled and failed in a system that was not meeting their unique needs. These children were frequently subjected to cruel taunts and insults, told they were stupid and that they simply needed to try harder. I know because two of them were my siblings.

My brother Hank, who is 11 months older than I, and my sister Audrey, who is 2 years younger than I, both had learning disabilities, including dyslexia. In addition, my brother Hank had only partial hearing in one ear and had lost the use of one eye as the result of an accident. These challenges also affected his learning.

When Hank was held back to repeat kindergarten, our parents enrolled him in a parochial school though we were not Catholic, and they got him tutors for extra help. They worked very hard at trying to help him with reading and math and basic learning.

The next year, when he returned to public school, he and I were now in the same grade and would continue throughout our schooling years. Because learning came easy to me, it was heartbreaking to watch my brother struggle in class and to hear our peers make fund of him, call him "Dummy" and "Cyclops" and other mean things. I knew he was smart. I knew he was kind.

Senator WELLSTONE. Ms. Findley, your testimony is so powerful, but I have one worry. That is if we have a vote, and all of us have to leave, the committee will then disband. So I might ask you if you could quickly bring it to a conclusion. It is very powerful, and I

hate doing what I am doing, but I am just worried that we will have to leave before we have heard from everyone.

Ms. FINDLEY. I understand completely.

Senator WELLSTONE. And I thank you for your eloquence.

Ms. FINDLEY. You bet.

The story of my brother and my sister, to make a not very long story even shorter, is that their experience was not a good one in school. They wound up going to private school in Florida, a residential school, very expensive, very difficult for our family to be broken up in order for them to have the opportunities that they needed to have.

When Public Law 94-142 was passed in 1975, it was a huge victory and a time of celebration in our household, but it was too late for my brother and my sister. My brother went on to have much difficulty in life, and I believe sincerely that it was as a result of his early experiences as a child and a complete erosion of his own self-esteem.

A success story that I would like to relate is that when my sister graduated from high school, her high school counselor told her that she should very seriously consider food service as a career because that was one of the few things that she would be able to succeed at. My sister now has a master's degree in counseling psychology. She is a licensed marriage and family therapist, and she has gone back to the Learning Disabilities Conference to provide a measure of hope to those families and children.

We have to be careful when we are defining the goals of education. I have heard people say that productive, contributing citizens should be the end result of the investment of public education dollars—but how do we define "productive"?

Louisa has provided our family with a gift we never could have anticipated. She has helped us and other members of our community to grow and become better people through understanding her unique and sometimes hidden gifts and contributions. That is why we are here today, to maintain an educational system where truly no child is left behind.

On behalf of Louisa, Hank, Audrey, my mom and dad, and every other parent and child with special needs in America, I want to thank you for listening, for keeping the faith in our kids, and for pursuing excellence in an educational system that serves and includes all children.

And if I may have your indulgence, I think Louisa has a short message she would like to express.

Ms. FINDLEY. [via voice-assistive device]. Hello. My name is Louisa. Thank you for inviting my family to come here today.

I am in the third grade at Hillis School with all of my friends, and I really love it.

Ms. FINDLEY. Thank you.

Senator WELLSTONE. Thank you, Louisa, and thank you, Ms. Findley.

I know that you came by van a long way as a family, and I think you have spoken for many, many families all across the country. As you well know, with Senator Harkin who serves on this committee, you do not have a stronger champion.

[The prepared statement of Ms. Findley may be found in additional material.]

Senator WELLSTONE. We will hear from all of you and then go to questions, hopefully.

Mr. Runkel?

Mr. RUNKEL. Thank you, Mr. Chairman and members of the committee, and our families, and Louisa.

I would ask that you please include my written statement in the record.

Senator WELLSTONE. We will do so.

Mr. RUNKEL. My name is Robert Runkel. I have served as the administrator of the Division of Special Education for the State of Montana since 1987. I also currently serve as president of the National Association of State Directors of Special Education.

I appreciate the opportunity to appear before this committee and share my thoughts and recommendations for the current reauthorization of IDEA. In the short time that I have this morning, I want to take a moment to honor the efforts of this committee, the involvement and support of parents, and the quality and dedication of teachers and related service providers.

Let me begin by emphasizing that special education is not a sperate system of education; it is a service provided to students. I ask your help to craft legislation so that every child will have the opportunity to achieve his or her potential through a seamless education system that supports learning for all children.

IDEA 1997 refocused efforts on accountability for outcomes with students with disabilities. I cannot emphasize enough how valuable it has been for children with disabilities to be included in each State's accountability system. However, in our efforts to focus on outcomes, it is important to remember that results of academic achievement tests tell only part of the story. While State standards measured by achievement tests have great value, it is important that these tests are kept in balance with a number of other key outcome indicators.

The system of special education includes tens of thousands of parents, teachers, and administrators working together to prepare our students for a bright future. Children with disabilities are now included more than ever with their nondisabled peer group.

Important procedural legal protections contained in the law are being implemented, and parents are now more involved in important decisions regarding their children's services. This is both gratifying and commendable.

The basic principles of IDEA are sound. There are, however, a few areas that we need to address that I believe would produce improved outcomes for our students. For many school-age children with mild disabilities, or at least, less visible disabilities, eligibility for special education is determined on a "wait to fail" model. Too many of our children need to be so far behind before they are able to access the services that they are likely to never catch up.

And for the sake of reporting requirements, we continue to find it necessary to label our children. Labeling can reduce expectations, affect the self-concept of the child, and change the dynamics of the relationships between people. It is just too easy to blame lack of

success on the characteristics of the student instead of the effectiveness of the services offered.

Often, our parents and students do not understand the need for the label or the necessity for waiting for failure—nor do I. It is time that our children have rights without labels.

The day has come for our special ed system to allow our children to access on-time delivery of services based on educational need. I would respectfully suggest that the reauthorization of IDEA is the appropriate time to reexamine the fundamental concept of how and when children become eligible for services.

Montana's State and local education agencies, like many State and local education agencies around the country, faces significant funding issues that can and should be addressed through reauthorization. Let me mention a few.

First, full funding of IDEA. I want to particularly thank the members of this committee for their strong support last year for an IDEA full funding amendment that Senators Hagel and Harkin offered to the No Child Left Behind Act. In Montana, a State that has significant economic challenges with low salaries and a low tax base, the failure of present law to provide this level of funding is particularly onerous.

Local Montana school district financial contributions to special education have grown by over 900 percent in the past 10 years. I will be thrilled to go home tomorrow with the news of this week's progress toward full funding.

Next, maintenance of fiscal effort. The value of increased funding to Montana schools is tied directly to the need for more flexibility in the area of maintenance of fiscal effort. Montana educators feel strongly that added flexibility is necessary to rebalance the relative local, State, and Federal partnership in covering the costs of special education.

Next, the cap on administrative expenses. The cap on administrative expenses is limiting States, especially small States, in their ability to guarantee quality education services to each and every child with a disability. I urge you to allow State education agencies to use up to 15 percent of Part B funds for technical assistance and direct support to schools, and up to 5 percent for administrative expenses.

Finally, as far as money is concerned—Medicaid. Better linkages between IDEA and the Medicaid program must be established. The Centers for Medicare and Medicaid Services should be required by law to work with the Department of Education on policies and procedures that will enable school districts to be reimbursed for services more consistent with the Federal, State, and local partnership.

I am pleased with the emphasis of the Bush Administration on early identification and intervention. The Part C Infants and Toddlers Program and Part B Section 619 Preschool Programs clearly support this priority and deserve to be well-funded.

It is critically important that the new early intervention programs in the No Child Left Behind Act are coordinated with the early childhood programs in IDEA. Federal education programs supporting early childhood development and programs supporting academic progress for school-age children must include common data definitions, common procedures for collection of information,

and common reporting and analysis of program effectiveness. Schools simply cannot afford multiple accountability and school improvement activities for each Federal program.

Coordination in these areas will result in a reduction in paperwork for both State and local education agencies.

And, speaking of paperwork, our current preoccupation in special education on process has contributed to the paperwork burden you hear so much about. Much of our paperwork burden is due to the need for documenting compliance with regulations. I believe that the paperwork burden can be reduced and still retain all the rights and protections of current law.

Because so many of our colleagues share this concern, the National Association of State Directors of Special Education will be convening a meeting of its members and other stakeholders this spring to come up with specific suggestions for a reduction in paperwork. We invite your involvement in this effort and will of course share the results with you.

Today represents an opportunity to take a good law and make it better; an opportunity to establish a true financial partnership between schools, the State, and the Federal Government; and an opportunity to move forward to a unified education system for all children.

Thank you for your time this morning. I would be pleased to answer your questions.

Senator WELLSTONE. Thank you, Mr. Runkel. Spoken like a true educator. I got exactly what you wanted to emphasize.

[The prepared statement of Mr. Runkel may be found in additional material.]

Senator WELLSTONE. I talked with Senator Bond, and what I will do is take a point of personal privilege and introduce Bob, and then, I know that Senator Bond would like to introduce Ms. Ratcliffe.

I have about 80 students from Minnesota waiting for me, so I am going to excuse myself, and what we will do is hear the testimony and then, if there are any questions, we will get them to you in writing. Everything you have said will be on the record.

Is that all right with you, Kit?

Senator BOND. Yes. I think under the current time situation, yes, because we all have some deadlines.

Senator WELLSTONE. And Bob, I could actually give you a big introduction, and then I could take a lot of time, but from Minnesota—do I need to say anything else? And superintendent of Minnewaska School District, which is in west-central Minnesota, with about 1,600 students. Bob is a special education teacher and director and has a 27-year career. He has done a lot of different work in this field.

We welcome your testimony and thank you for coming—and thanks to all of you, actually for being here.

Mr. VAADELAND. Thank you, Senators.

It is with great pleasure and humility that I come before you today to bring some thoughts and perspectives from a rural school administrator regarding the current Individuals with Disabilities Education Act.

In my opinion, this Act has had a great impact on services to children over the years, and without it, I believe with emphatic conviction that many children in years past would not have been and even today would not be the benefactors of specialized services needed to meet their individual needs.

This is not to say, however, that everything is or always has been perfect in regard to implementation. However, by taking the available opportunities to analyze the positive results of the Act along with the glitches that appear along the way, I believe very strongly that we can all work together to improve services for children with disabilities.

My career as a special educator began in 1975, the year after the original Public Law 94-142 was enacted by Congress. Since that time, I have observed many changes in the provision of special education services for children with disabilities.. As a special education instructor with licenses in learning disabilities, mild to moderately impaired, and emotional-behavioral disorders, I had the opportunity to get involved with the day-to-day tasks of pre-referral, referral, assessment, identification, IEP program development, implementation, and program review. These steps were all completed under the jurisdiction of the due process laws as originally written into the original public law and yet refined over the years for greater clarification.

Following my original experiences working the law as a special education instructor, I then had the opportunity to work with nearly 30 school districts in southwest and west-central Minnesota in multiple capacities. To clarify, over the past 27 years, I have served not only as a special education coordinator but also as a special ed director, an elementary principal, and for the past 12 years, as a superintendent. In addition, I have also served as president of the Minnesota Administrators for Special Education and presently represent the Minnesota Association of School Administrators on the State Special Education Advisory Committee.

From a very personal perspective, I know that this Act has had a great impact on the provision of special education services to children identified with disabilities. I can recall a group of seven young men in a rural Minnesota school district that I had the opportunity to work with a number of years ago who had a variety of needs.

The young men's identified disabilities varied from mild to moderate cognitive impairments to learning disabilities to those with emotional-behavioral disorders. There were times when I questioned that I was truly able to meet their diverse needs based on the variety of identified handicapping conditions. However, in the end, these students completed their high school education and graduated. The difference that these services made to them personally was exemplified by one graduate in particular who wrote to me following his graduation and said: "Thank you. I could not have done it without you." Touching, yes, but I knew that the services that this student had received had made a difference.

I also recall two other young high school students in years past who had not only cognitive impairments but also some very involved physical impairments that required developmental adapted physical education, along with related services such as occupational therapy and physical therapy.

These particular children also had cerebral palsy and had both required rhizotomy surgeries on several occasions. I cannot say enough about the strides that both of these young individuals made due to the provision of specialized special education services. I particularly recall when one of these young individuals, a young lady, walked forward and presented her work experience employer with an award of appreciation for supervising her on a job site.

A second such occasion occurred when she walked forward and received her high school diploma. That is truly when it hit me that the services provided to her as a result of IDEA had made a great impact. The heartfelt thanks from the parents upon this young lady's graduation were also overwhelming as they publicly thanks us while tears trickled down their cheeks.

One final example is that of a very young child who was diagnosed very early with "autistic-like" tendencies, who had a habit of being very withdrawn as well as exhibiting perseverating behaviors. Through early intervention services, however, with a great team of early childhood special education professionals, this student made unbelievable strides and was able to move with much greater ease into a transition kindergarten program and did so with success. In this particular situation, the parents were so pleased with the services that had been provided that the family even delayed a move which was a career advancement for the parent in order to continue receiving the benefits.

These are only several examples of the times when we knew that the specialized special ed services had made a difference and that, had it not been for IDEA, these ultimate successes may not have occurred.

A final comment to make under this section before looking into some of the existing problems of the Act is that in my opinion, most schools really do try to do the best they can to educate all children in the least restrictive environment. In my world, that means educating them as close to their homes, to their peers, and to their communities as entirely possible. Although this is not always possible, I can think of very few situations where this is not at the forefront in the decisionmaking process.

I know there are examples where cessation of services or simple discontinuance of appropriate services is suggested and implemented. However, I would have a very difficult time finding superintendents in my peer group who believe in their hearts that it is the best for students. For this reason, the concerns of exploring avenues of appropriate service provision are of great concern.

These successes, however, did not occur without consternation at times and without some frustrations with program implementation which still need to be addressed. I would like to take just a couple of minutes and this opportunity to address those areas, with some suggestions for improvement into the current law.

In most instances, schools will do the best they can to provide appropriate special education services based on identified needs in order for the child or children to receive the appropriate benefit from their educational programs. These types of services sometimes requested, however, are viewed by schools as noneducationally-related and beyond the scope of FAPE. In some instances, it has be-

come the school district's responsibility to provide a service whether or not it is viewed as a school's obligation.

While examples are few, and most parents and school districts have positive relationships, the fear of litigation when these types of differences arise is threatening to staff and causing some of them to look at other alternatives in education. This impacts a district's ability to recruit and retain staff.

The State Special Education Advisory Committee in Minnesota, along with the State Special Education Department, have been studying this problem in depth over the past several years, and a number of State and local initiatives are being implemented to address these concerns. For example, schools have begun to offer signing bonuses, extended contracts without classroom assignments, State aid reimbursements for clerical staff, increased staff development opportunities for all staff, and electronic options to enhance communications between families and districts. In essence, increased options for alternative dispute resolution systems and improved staff training would help to ease concerns regarding due process requirements.

A second item I would like to address is the process of complaint investment as well as avenues to avoid hearings as a result of the complaints.

It is the view of many that this system works very well. In 2001, for example, the number of hearings across the Nation totalled 3,020. This statistic, when compared to the 6.2 million children on IEPs, is not staggering. In comparison to these national percentages, Minnesota only had 10 hearings based on 110,000 IEPs. This may be due in part to the fact that in Minnesota, there is an initial step of informal conciliation. It has been my personal experience to approach situations from a perspective of "What can we do to make this work out?" This is different from taking a stand that agreement cannot be reached.

By approaching situations like this and exploring avenues for agreement, I was personally fortunate to never be involved in a hearing. The channels of communication opened by this type of process have been very rewarding and helped to implement IDEA with greater ease.

This conciliation step, however, is not a requirement of IDEA. Based on the current status of IDEA, a parent may file a complaint at any time, at which point an investigation begins to unfold. It is my perspective that if IDEA could be changed to incorporate conciliation or other informal dispute resolution processes, it would significantly reduce the number of complaints and hearings. It is also my perspective that the steps would help to work through difficult situations with much greater ease.

A second step that could help to strengthen IDEA would be to institute an enhanced mediation process. In initiating this, a greater understanding of the perspectives of both school and the parents would be the end result.

Another promising example is that in Minnesota, we are piloting facilitated IEPs, where a State-trained independent facilitator actually facilitates the IEP meeting. We think this could be a huge step in reducing adversarial situations and litigation and help the process become more user-friendly for everyone involved.

A third item I would like to briefly touch on is that of interagency collaboration in regard to the provision of services. As it presently stands, school districts are the payer of last resort, meaning that the present Act allows for an unequal sharing of responsibility when it comes to service provision.

Just as educational systems are strapped to stretch their ability to provide services to clients, so are health, welfare, and rehabilitation. It is the district's perspective, however, that the services which could often be provided by some of these agencies should be provided under their jurisdiction and, more appropriately, at their expense, based on the expertise of the service they can provide.

Based on the present IDEA language, school districts are obligated to provide services even if it is believed that they do not have the dollars to pay for them. I also believe that this premise should hold true for all agencies involved in interagency collaborative agreements. As a collaborative group, agencies should collectively become the payers of last resort. A model for this is the Minnesota Part C model, in which there is a goal to reach interagency funding from birth to 21. Minnesota presently has a birth to 5 mandate in place as well as a birth to 9 interagency mandate in place by this coming summer. This exemplary model, if implemented by all interagency collaboratives, could help to spread the costs, which now often become the responsibility of one single agency.

Senator WELLSTONE. Thank you so much for your testimony.

[The prepared statement of Mr. Vaadeland may be found in additional material.]

Senator WELLSTONE. Senator Bond?

Senator BOND. Thank you very much, Senator Wellstone.

It is my pleasure to present a very good friend, Dr. Kim Ratcliffe, who is Director of Special Education, Columbia Public Schools in Columbia, MO.

A 30-year veteran in the field of special education, she began her career in 1971, 4 years before the original special education language at the Federal level was passed and a couple years before we passed our special education bill that I signed into law as Governor of Missouri.

Dr. Ratcliffe has many, many qualifications, including a master's degree in learning disabilities, a degree in special education administration, a doctorate in educational leadership and policy analysis with a focus on special education. She serves as a special education administrator but also as an adjunct professor at both the University of Missouri and at Stevens College.

She is a trained hearing officer and mediator for the State. She has served on a variety of panels, committees, and has received distinguished service awards, and is the first recipient of the Outstanding Special Education Administrator Award given by the Missouri Language and Hearing Association.

Dr. Ratcliffe is the mother of three children, two of whom have educational disabilities and receive services through the public schools.

Kim, I have read your testimony with great interest; I trust that my colleagues will, as well as your summary of it today. You have been an invaluable advisor and counselor to me, and you have been a great advocate for children with special needs and their families.

We are not going to have time for questions, but perhaps in your remarks, you might tell us just a little bit about the Missouri School Board Association's Special Education Advocacy Council and why it was formed and what you are doing with that.

With that, Dr. Ratcliffe, welcome to Washington.

Ms. RATCLIFFE. Thank you. I would like to say thank you to you and to other members not in attendance at the moment, and all of those in the gallery behind me.

I will speak to the Missouri School Board Association Special Education Advocacy Group. This is a group that came about 3 years ago as a result of networking among colleagues in the State who had been in special education for a number of years. Many of us had been there to push for the original legislation, out there, getting kids with disabilities to come to school, and were practitioners, as teachers, psychologists, speech therapists. We had lived the law for 27 years to be exact, and we were very concerned because we saw today as the best of times and in some ways the worst of times in that 27-year period for special education.

We are in positions today where we do not have quality people to hire. I have 50 positions that I fill every year. I have over 400 position in my district, but I have 50 places that I have had to fill every year for the last 4 or 5 years, and I do not have applicants for those positions. Last year alone, the special school district in St. Louis had more vacancies for special education teachers than were produced by every college within the State of Missouri. Those educators simply do not exist today.

We have to analyze why that is happening. If we do not have quality teachers, we can turn out the lights and go home when it comes to educating children with disabilities.

So I would like to direct my remarks this morning in an abbreviated fashion—I know everyone has time constraints. I would like to draw your attention to this booklet. Many of you know this; you recognize the small print which Government documents have. You recognize that they usually come in multiple columns and extremely small print. I want you to focus on the fact that this is the law that Congress built.

These documents are the regulations that define the law that Congress built.

This document represents a State plan which is individually approved by the Office of Special Education Programs. It describes how States will comply with the regulations that define the law that Congress built.

This represents a local compliance plan that each public board of education in the Nation must approve to affirm that they will fully implement the State plan, which is there to describe and ensure compliance with these regulations that define the law that Congress built.

Then, we have a set of standards. They are monitoring standards, very detailed, that outline procedures for the purpose of examining districts to determine if they are following their local compliance plans, which conform to the State plan, which describes how the States are going to comply with the regulations that define the law that Congress built.

Special education teachers, regular education teachers, public school administrators, counselors, and parents are expected to know and understand the details of these manuals. As you have heard from a prior panel member, the States in this Nation are not in compliance with that. I can agree with my colleague to the left that we are doing our very best. What you need to understand is that children with disabilities in this Nation are community members. They are people we go to church with. They are people who are friends of our children. They are our friends. They live next door to us. We are committed to the success of those children at school. We are committed to them being functioning, contributing members of our society. We want them to stand shoulder-to-shoulder in high achievement with all children in this Nation. That is our commitment as public school administrators and as regular and special teachers.

Today, our hands are tied behind our backs. We are still in the ring, fighting, but our hands are tied behind our backs. What are we going to do to change that situation?

First of all, paperwork mandated by the Federal law and regulations must be significantly reduced in volume and complexity. The paperwork burden is fundamentally detracting from the education of students with disabilities. At times, the process is so burdensome that changes that could benefit a student are simply not made—and I have given an example of that in my written testimony.

The focus should be on normalizing communications between parent and teacher as much as possible as they are striving to provide for the unique and sometimes changing needs of students with disabilities.

Another problem with the complexity of the regulatory aspects of the IEP process is the time it takes teachers, counselors, therapists, and administrators away from the instructional focus of education. School officials know that one of the characteristics of outstanding schools in this Nation is the amount of time that school staff spend on instruction. Pulling school staff out of classrooms for all the meetings required by the current special education process significantly decreases the time that special and regulator educators spend in direct instruction.

With increased accountability for the progress of students with disabilities, there is a need and a desire on the part of teachers to have updated research-based training on effective practices. Students benefit when regular and special education teachers have time to be trained together and time to collaboratively plan instruction to meet the needs of students with disabilities. The possibility for these opportunities is significantly diminished by the ongoing need to do compliance training and fulfill obligations under the IDEA.

No. 2, we must revise due process procedures to include regulations that promote trusting, positive, long-lasting relationships with parents and prevent catastrophic drain of finite resources. Reform needs to occur when a law is so vaguely written that litigation is required to give it definition. The IDEA is such a statute. Due process is a brutal system; it paralyzes the educational system, it paralyzes individuals. The focus is shifted from the child to the bat-

tle. The cost of litigation is extraordinary in terms of time, money, personnel resources, and relationships.

Under the IDEA, there is no safeguard for frivolous lawsuits, although the vast majority of children with disabilities are served successfully through collaborative teamwork between parents and teachers. A single due process hearing can cost a district in excess of the year's instructional budget even when the district prevailed and was found at no fault.

It is imperative that the IDEA is fully funded. Many times, the cost of specialized instruction, equipment and materials is significant. Special education services frequently constitute an entire infrastructure, as Mrs. Findley has described from her experiences. Districts embrace the concept of leveling the playing field to allow students with special needs an equal opportunity for high student achievement. Without adequate funds and relief of procedural excesses, limited funds will quickly dissipate, ultimately resulting not only in a lack of sufficient resources for students with special needs but also diminish regular teacher resources, materials, and equipment. All students suffer under this reality, for the majority of our students with special needs spend the majority of their educational day in regular classrooms with nondisabled peers.

An additional strain on teachers and drain on resources comes as a result of public schools being the only zero-reject agency in this Nation. Suggestions for collaboration are fine in spirit but insufficient in practice. Other agencies must share in the mandated responsibilities to serve children in their areas of expertise. I have also spoken to examples of this in my printed text.

All of the issues that I have mentioned today impact on the decisionmaking of teachers staying in the field. I have never in my career experienced a teacher who left special education because of the children. They leave because of the system.

Special education works well for the vast majority of students with special needs. We must preserve what works and fix what does not through common sense reform.

Thank you for this opportunity to discuss this very important issue.

[The prepared statement of Ms. Ratcliffe may be found in additional material.]

Senator BOND. [presiding]. Dr. Ratcliffe, thank you very much for that very, very telling testimony. Anyone who wonders why quality teachers are leaving the field needs to look at the demonstration that you gave us.

I will urge all of my colleagues on the committee to review the oral and written testimony of all the witnesses, because you have given us some very real concerns that we must address.

I was stunned to read Dr. Ratcliffe's analysis of how difficult it is to make a minor, common sense change in an IEP. On page 7 of your testimony you say that just preparing one IEP per student in the Columbia School District results in a yearly equivalent of 89,375 hours of lost instructional time, the equivalent of 78 years of school instruction. Obviously, we are going to have to do something so that the time can be spent on serving the children directly and less time on the paperwork, or we are going to lose even more quality teachers.

To all of you, our sincere thanks for your great interest and commitment and for joining us here today. This should give us a lot of things that we must think about and consider in reauthorization.

Thank you very much, and on behalf of the chairman, I now adjourn the hearing.

[Additional material follows.]

ADDITIONAL MATERIAL

PREPARED STATEMENT OF ROBERT H. PASTERNACK

Good morning Mr. Chairman, Mr. Gregg, and members of the Committee.

Thank you for inviting me here today to talk with you about implementation of the Individuals with Disabilities Education Act (IDEA). I am pleased to be here with you, and would like to thank you for joining the President and supporting, in a bipartisan way, the landmark legislation to reform elementary and secondary education, the No Child Left Behind (NCLB) Act. I look forward to working with you in the future to develop legislation to reauthorize the IDEA.

Over the past twenty-five years, the IDEA has successfully ensured that children with disabilities have access to a free appropriate public education. Prior to the IDEA, in 1970 for example, schools in America educated only one in five students with disabilities. Many States had laws excluding certain children with disabilities such as those who were blind, deaf, emotionally disturbed, or mentally retarded from school. Over one million students with disabilities were excluded from public schools altogether, and an untold number of students had disabilities that were never detected or were incorrectly diagnosed. Almost 200,000 children diagnosed with mental retardation or mental illness were institutionalized.

Today, the overwhelming majority of children with disabilities about 96 percent learn in regular schools with other children rather than in State institutions or separate facilities. Three-quarters of students with disabilities now spend at least 40 percent of their day in a regular classroom with their non-disabled peers, instead of in separate rooms. Half of the students with disabilities spend 80 percent or more of their day in regular classrooms. Additionally, more students with disabilities than ever before are participating in the same State, district-wide, and national standardized testing programs as other students. College enrollment rates among students with disabilities have more than tripled in twenty years. Young adults with disabilities are employed at higher rates, and in more competitive jobs, than their older counterparts who didn't have the benefit of the IDEA, although unemployment rates for adults with disabilities remain unacceptably high.

This list of accomplishments reflects the dedication of lawmakers, educators, parents, and the students themselves, to ensuring that all students with disabilities receive a high-quality education that prepares them for post-secondary education, good jobs, and a productive and independent life. However, despite the many accomplishments of the IDEA over the last twenty-five years, many challenges remain. As with any successful program, the IDEA must evolve to meet changing needs and new demands. Although the 1997 amendments included many important and needed changes , I believe that we have learned much since then. We must use these lessons to guide our approach to improving results for students served though the IDEA.

We know that we will never improve outcomes for students with disabilities by focusing on special education alone. We must look at the whole education system, and see whether we are providing the right services to the right children, at the right time, in the right settings, and with the right personnel to achieve the right results. What happens in the regular classroom is vitally important for all children, including those with disabilities.

That is why I am so excited about the sweeping reforms made the NCLB Act and its impact it will have on students with disabilities. From the Reading First Program, which will help States implement scientifically based reading programs for all students, to the Title I accountability provisions that, for the first time ever, will truly hold States and school districts accountable for the annual progress of all students, including students with disabilities, the NCLB Act makes great strides in improving educational opportunities for students with disabilities and holding schools specifically accountable for their achievement. NCLB also focuses on professional development to ensure that all students, including students with disabilities, are taught by highly qualified teachers. This will enable us to focus our attention in special education where it should be on providing high-quality special education services to those students whose disabilities prevent them from responding to scientifically based instruction delivered by highly qualified teachers. With these and other changes to the Elementary and Secondary Education Act of 1965 (ESEA) in place, we must now turn our attention to the IDEA and determine what we need to do to further improve that law.

IMPLEMENTATION ISSUES

In reviewing the challenges of implementing the IDEA, there are several major issues that present themselves.

We know that having highly qualified and well-trained teachers and administrators is central to providing appropriate services to children with disabilities. Both regular and special education personnel must be well prepared to meet the challenges of educating students with disabilities in both regular and special education.

Recently, the President launched an initiative to provide a high-quality teacher in every classroom in America. Over the next decade, school districts will face the daunting challenge of attracting a greater quantity of people to the teaching profession while also ensuring teacher quality. The NCLB Act provides States and localities multiple tools to help them improve teacher quality. We must continue to improve professional development and teacher quality for both general education and special education teachers. Under the IDEA, we must examine our Part D programs to ensure that we are able to help improve the education that aspiring teachers are provided at the college and graduate level as well as examine our professional development programs to ensure that these programs use sound research as the foundation to help existing teachers gain the needed skills to provide a high-quality education.

The successful implementation of the IDEA is perhaps most critically dependent on the quality of the people who implement the principles contained in the law the teachers, para-educators, related service providers, and administrators, in cooperation with the parents and the students. Unfortunately, many regular and special education teachers, as well as the administrators and other school personnel who work with them, are often ill prepared to meet the needs of students with disabilities. We know that much more needs to be done to better prepare and support all the members of the learning community in their efforts to educate students with disabilities.

Accountability provisions have been strengthened in the IDEA over the years, but more needs to be done. The 1997 IDEA amendments required States to include students with disabilities in their State and district-wide assessments. Even so, the inclusion of children with disabilities in these assessment programs does not necessarily mean that these children are part of accountability systems that are designed to ensure improved results. The requirements in the NCLB Act present us a great opportunity to make sure that children with disabilities are part of these accountability systems. We must build on the accountability provisions enacted in NCLB to ensure that States and local school districts are accountable for results and that students with disabilities are included in rigorous assessments of student performance.

Closely linked to accountability is the issue of assessments. While the IDEA requires that children with disabilities be included in assessments, States and school districts have struggled to implement those requirements. We need to do more to provide research and technical assistance on alternate assessments and appropriate accommodations for children who need them. And, perhaps more importantly, we need to push for assessment tools that are created using universal design concepts that can significantly reduce the need for alternate assessments. Universal design, as applied to curriculum and assessments, means that materials and activities are designed to achieve their purposes for the widest possible range of students, including students with disabilities and other special needs. For example, curriculum and assessment materials can be designed for maximum flexibility, by allowing information to be presented in a variety of visual or auditory modes, and by designing assessment tools that are accessible for the widest variety of students (e.g., Braille).

Another important aspect of the 1997 amendments was the emphasis placed on access to, and participation and progress in, the general curriculum for children with disabilities. Those changes raised the bar by requiring school districts and States to provide meaningful access for children with disabilities to the general curriculum. However, we know that many regular and special education teachers are not well trained in how to make that happen. We need better research and better technical assistance to support the focus that the 1997 amendments placed on access to, and participation and progress in, the general curriculum. Much of what we have done so far has been targeted to the provision of reading and language skills, but we also must focus on math, science, social studies, and other areas of the general curriculum. Teachers need strategies that will enable children with different learning needs to benefit from instruction and participate and progress in the general curriculum to the maximum extent appropriate.

While we can point to lower dropout and higher graduation rates among students with disabilities as significant accomplishments for the IDEA, we still need much improvement in the transition from school to work and from school to postsecondary education for students with disabilities. The dropout rate for children with disabilities is still about twice that of their peers, and students with disabilities are still far less likely than other students to graduate from high school. Transition services,

which require coordination with other agencies and entities, are an implementation challenge, requiring serious study that may lead us to innovative, statutory solutions.

There are also a number of implementation issues around the identification of children with disabilities, including the disproportionate representation of minorities. We know that too many children are referred for special education services because of a lack of effective instruction and early interventions in general education classrooms. While many children are appropriately classified as having learning disabilities, we know, for example, that many are classified as such because of the lack of effective reading instruction using scientifically based instructional approaches in the regular classroom. Many children with learning and emotional disabilities are identified and served too late for services to lead to maximum positive results for these children. This, again, is an issue of providing special education services to the right children and having well-trained and qualified teachers and administrators who have the knowledge, skills, and supports to ensure that we are, in fact, serving only the right children those with disabilities who truly need special education services. We must make sure that no child is determined to be eligible for special education services merely because of a lack of good instruction or because our teachers and administrators do not have the skills, supports, and technical assistance needed to properly serve them in regular classrooms where they can learn to high standards.

I also want to address an implementation issue that is of concern to many parents, educators, and certainly to many of you. The discipline provisions of the IDEA are predicated on the concept that every child in every school has the right to be educated in a safe environment, and that school teachers and administrators have the tools necessary to keep their schools safe. As the law has been implemented since the 1997 amendments, it is evident that some of the current statutory and regulatory requirements may be too complicated or confusing and need to be reviewed.

More importantly, however, our experience with implementing these provisions has highlighted the overall need for schools and school districts to focus on improved classroom management, effective school-wide models of positive behavior strategies, and the use of functional behavioral assessments. As we have looked at the issue of discipline, we have learned that appropriate use of these strategies, models, and techniques has had significant results in reducing discipline problems for the entire school community and keeping students safe.

Next, I would like to discuss several issues relating to the implementation of Part C of the IDEA, which authorizes the Grants to Infants and Families program. I believe that the Part C program is a vital part of the IDEA which deserves thoughtful consideration as we move toward reauthorization of the statute. We know that early intervention in the lives of children with disabilities works and can result in more positive outcomes for a child later on. Still, I have a number of concerns with how the current statute is being implemented. We need to examine the appropriate balance between the States' need to access all revenue sources, such as public and private insurance programs, and the financial burden Part C services impose on some families. The requirements under the program for service coordination often present significant challenges that have not always been overcome. There are also IDEA Part C implementation challenges relating to how States identify infants and toddlers who could benefit from services, and how we can improve the transition of children with disabilities from the more family-centered Part C program to the Part B preschool program. We also know that the States have had difficulty in monitoring and measuring success of the Part C program. Finally, the IDEA's requirements toward providing early intervention services in natural environments has raised issues around home-based versus center-based services. I believe that we need to review these issues carefully and explore ways to improve the implementation of Part C, and improve this part of the law itself.

Finally, in the short time I have been on the job, I have spent a good deal of time asking questions of parents, advocates, students, teachers, principals, university professors, researchers and State directors of Special Education around the country. If, as some have argued, no State is in compliance with the IDEA, is it possible that we have constructed a statute and regulations where no State can be in compliance and where we are too focused on process and not enough on progress? Are we too focused on process and not enough on academic achievement? I think this may be the case. When the IDEA was first enacted, its primary purpose was to guaranteed access to education for students with disabilities. Today, I believe we need a stronger focus on how we can improve the academic achievement of students with disabilities.

I ask these questions to encourage all of us to think creatively and insist on a culture of accountability within the IDEA, that focuses on improved results and outcomes for students with disabilities receiving special education.

Building a culture of accountability within the IDEA is two-fold. First, we must continue to insist on holding school districts and States accountable for ensuring that children with disabilities have access to early intervention services and a free appropriate public education in the least restrictive environment. Second, we must also hold school districts and States accountable for the annual academic growth of students with disabilities. The provisions of the NCLB Act, supported by the changes we need to make to the IDEA, will ensure that the IDEA adheres to a culture of accountability. The question we must address over the next several months is how best to create this cultural change. I look forward to continuing that conversation with you in your efforts to reauthorize this critically important legislation.

CONCLUSION

Mr. Chairman, members of the Committee, I have touched on but a few of the issues that relate to the implementation of the IDEA and recognize that each of these topics deserves far more attention than I have given today in this statement. But I want to be clear in stating my belief that the IDEA is a law that has made, and must continue to make, a difference in the lives of our nation's children and youth with disabilities. It is time for all of us the Department of Education, the Congress, parents, and educators to take a serious look at the IDEA. We must look honestly to see what has worked well and what has not worked well. We must not hesitate to refocus the statute where necessary and where doing so will improve results for America's children. We must build on the gains made for students with disabilities in the NCLB Act. We must be bold in our solutions, committed to change areas that need improving, but steadfast where the law works well.

As you are aware, the President has established a Commission on Excellence in Special Education that is charged with collecting information and studying issues related to Federal, State, and local special education programs, with the goal of recommending policies for improving the educational performance of students with disabilities. I am pleased to sit on that Commission and think that this is another example of the Administration's desire to engage in the systemic reform of education by looking at all its facets, asking the tough questions that get us to the heart of the problems, and generating solutions that address the need for reform head on. When the Commission is finished with its work in July, we will have taken a thorough look at all facets of special education and am confident that the Commission's report will inform the proposals that are put together to reauthorize the IDEA.

Finally, I look forward to working with all of you in the years ahead. Your commitment to this important statute has lead to the education of millions of children with disabilities who otherwise might never have had the educational opportunities made possible by the IDEA. I hope that we can continue to work closely together to extend that legacy.

Thank you, and I welcome your questions.

PREPARED STATEMENT OF LILLIAM RANGEL-DIAZ

Good morning, Chairman Kennedy, Senator Judd and distinguished members of the committee. Thank you very much for inviting me to participate in this hearing. I am a proud member of the National Council on Disability, and am honored to be here today on their behalf. I am also most proud to be "mom" to six wonderful boys, two of them with disabilities, and to serve the families of children with disabilities in my community as a professional parent advocate. From personal and professional experience, I am happy to be this morning to talk about why we at NCD believe the IDEA is a good law and what we have found to be fundamental flaws in its implementation.

NCD is an independent federal agency representing all people with disabilities, regardless of severity, and from all cultural, racial and ethnic backgrounds. Council members are appointed by the President of the United States and confirmed by the U.S. Senate. Our charge is to make recommendations to the President, Congress and federal agency officials concerning ways to better promote equal opportunity for all individuals with disabilities. We view this testimony to be one way that we are fulfilling our responsibility to Congress.

Unfortunately, students with disabilities and their advocates continue to be fight some of the same battles that were fought in Brown v. the Board of Education. In 2002 students with disabilities are still discriminated against in our school systems. Congress crafted the precursor to IDEA in 1975 to halt these practices, and, if IDEA was faithfully implemented and consistently and effectively enforced across the

country, it would indeed halt the discrimination. However, twenty-seven years later we are still seeking solutions.

One might ask, "doesn't such a high level of non-compliance point to the fact that it is clearly a bad law whose time for change has come?" To the contrary, again, we believe it is a good law, with absolutely essential protections for students with disabilities. Altering the core educational rights in IDEA would devastate the promise of a free and appropriation public education for students with disabilities. While we will take you through startling non-compliance data, please let me point out that there is indeed compliance with the law and we believe where basic rights are implemented, the outcomes for students are good. We believe the issue is not the law. Our data clearly points to the same problem that families and other advocates have expressed concern about for over two and a half decades: enforcement and accountability. Never popular concepts, but ones, that are, nonetheless, essential to the implementation of any basic civil right.

My statement today and recommendations are based on a number of NCD reports and other activities focused on IDEA implementation.

In January 2000, NCD released its evaluation of federal enforcement of IDEA. Entitled Back to School on Civil Rights, this study evaluated federal monitoring and enforcement of basic IDEA requirements in the areas of free appropriate public education (FAPE), least restrictive environment (LRE), individualized education plans (IEP), transition services, general supervision, procedural safeguards and protection in evaluation of students with disabilities. It examined the major leadership role that the Department of Education is required to play with regard to IDEA. Our findings indicate that every state and the District of Columbia out of compliance with IDEA requirements: 90% of states failed to ensure compliance in the category of general supervision; 88% of states failed to ensure compliance with the law's secondary transition services provisions; 80% states failed to ensure compliance with the law's FAPE requirements; 78% of states failed to ensure compliance with the procedural safeguards provisions of the law; and 72% of states failed to ensure compliance with the placement in the LRE.

And, what is the result of this non-compliance and lack of enforcement? This study confirmed what children with disabilities and their families have repeatedly told NCD, namely, that too many students: (1) did not receive FAPE; (2) were not educated in the LRE meaning inappropriate placement in separate, segregated settings and a lack of services for students served in regular classrooms; (3) did not receive related services such as speech therapy, physical therapy, or psychological counseling as reflected in their IEPs; (3) had not been able to access critical transition services; and, (4) did not receive the benefits of procedural safeguards and protections in evaluation in some states. In addition the report told us that students from diverse backgrounds are disproportionately represented in separate educational settings.

NCD has also recently completed a study commissioned by the Social Security Administration on the status of the implementation of the IDEA transition mandates, as well as post-secondary education, and employment outcomes for 14 to 22 year old youth and young adults with disabilities. The study tells us that transitioning youth experience: (a) poor graduation rates from high school; (b) low employment rates after high school; (c) low post-secondary education participation; and (d) an increasing number of youth receiving Social security benefits and not leaving the benefits rolls. Again, we see lack of federal enforcement and accountability in IDEA transition service requirements.

In addition, NCD is working in collaboration with the Office of Special Education Programs (OSEP) and a group of stakeholders to review OSEP's Continuous Monitoring Improvement System, and develop recommendations regarding performance benchmarks and enforcement triggers.

And, NCD supports a Youth Advisory Committee (Advisory Committee) established as a non-paid advisory body to include youth and young adult perspectives in carrying out the mission of NCD. This is to ensure that NCD's activities and policy recommendations incorporate the needs of youth with disabilities, particularly as they relate to the implementation of critical civil rights legislation such as IDEA.

During IDEA reauthorization, NCD will use a variety of strategies to solicit community input. We will use this information to advise the Administration and Congress regarding issues that go to the heart of education reform for over 6 million students with disabilities and involve: (a) accountability in federal education spending, (b) achievement and progress in the K-12 arena, and (c) fidelity of implementation in all aspects of the IDEA entitlement program.

During the course of five studies on the IDEA, from 1989 to 2000, NCD learned that parents of children with disabilities are enthusiastic supporters of the law. They think it's a good law. They also told us there is room for improvement on the

basics, with enforcement and accountability being a major issue. If, as we found in NCD, 80% of the states fail to ensure compliance with the law's FAPE requirements, that tells us that 20% of the states are in compliance. What can we learn from those in compliance that will lead to the needed improvements? The same goes true for LRE compliance; we need to look to the 28% of the states that were found to be in compliance for guidance. Likewise, we need help from the 22% of the states that fully follow the procedural safeguard requirements. There are beacons out there that we need to follow.

Information from the NCD studies is readily available to you, and we trust it will useful to you during the reauthorization process.

WHAT DOES THIS MEAN FOR IDEA REAUTHORIZATION?

As a result of our work, NCD has identified four critical issues for reauthorization: (1) monitoring and enforcement; (2) full funding; (3) discipline; and, (4) eligibility and over-representation of students from culturally diverse backgrounds. Most of my comments this morning will be on the first, monitoring and enforcement, for we believe it to be the key to all others.

The findings of Back To School were not a surprise, but a confirmation and documentation of what so many have reported anecdotally for two decades or more, i.e., that the statute is strong, but implementation and enforcement are thin and inconsistent. When students do not receive the IEP services and/or supports for which they are deemed eligible, they cannot achieve outcomes. When school systems categorically and unnecessarily place students (particularly those from diverse backgrounds) in more restrictive educational settings, students will be stigmatized and will have difficulty learning. Under such circumstances school systems do not maximize the use of the scarce federal education dollars. Without clear and effective reforms in IDEA implementation, too many students with disabilities will continue to be left behind.

NCD RECOMMENDATIONS FOR REAUTHORIZATION

Monitoring and Enforcement. NCD findings indicate that over 25 years and and through several administrations, federal IDEA enforcement efforts have consistently lacked "teeth." When a state is found out of compliance with the Act, the Office of Special Education Programs works with the states on the development of a compliance plan and provides technical assistance on the implementation of that plan. This strategy has not solved the problems, especially when there are no clear, objective criteria for additional enforcement options. There are currently no clear and effective (positive or negative) for a state that continues substantial and persistent non-compliance. The result has been devastating for the students with disabilities and their families who are denied the protections of the law. Without standards that define the limits and provide appropriate sanctions, the incentives for corrections have not been compelling enough to stop the cycle of noncompliance.

NCD believes this issue has reached a crisis point, and we recommend bold steps to correct it.

1. The Department of Education should not be the sole enforcement agency. The Department has a long-standing and collaborative relationships with state education administrators. This is an important relationship that is jeopardized when the Department threatens sanctions. Partial solutions were included in the last reauthorization when enforcement authority was also given to DOJ, but only following referral of cases from the Department of Education. This has not worked for there have been no referrals to DOJ since that authority was added to the Act. To address noncompliance problems, NCD recommends an expansive role for DOJ. Congress should authorize and fund the Department of Justice to independently investigate and litigate IDEA cases, as well as administer a federal system for handling pattern and practice complaints filed by individuals.

2. The lack of national standards is at the root of the enforcement problems. NCD recommends that the Departments of Education and Justice be directed to develop national compliance standards, improvement measures, and enforcement sanctions that will be triggered by specific indicators and measures indicating a state's failure to ensure. Stakeholders, including students with disabilities and parents, should be consulted by the

Departments for consistency and clarity as they develop and implement a range of enforcement requirements.

3. Families members and students are very strong stakeholders in the enforcement of IDEA. In fact, as I pointed out earlier, they have been the true enforcers of the law. However, critical to their effectiveness is the availability of free and low

cost legal advocacy, through public and private legal service providers. Equally important are training and technical assistance programs for students to expand their self-advocacy skills. Finally, there are other important partners in this process; collaborative participation should be encouraged by special and regular education teachers and agents of relevant systems such as INS, child welfare and juvenile justice systems. NCD recommends that Congress authorize more funding for Department of Education-sponsored technical assistance programs to support the development of state-level technical assistance networks, self-advocacy and monitoring training for students and parents, other partners, as well as free and low-cost legal services for families. To fund these activities, we recommend IDEA include a formula that triggers additional funding (10%) every time IDEA, Part B is increased.

4. Culturally Appropriate Training Materials. NCD recommends that the law encourage Office of Special Education and Rehabilitative Services in the Department of Education to expand its initiatives to serve non-English speaking groups and/or people with limited English proficiency and create culturally appropriate training materials.

5. Over-representation of Students from Diverse Backgrounds in Special Education. We echo the multiple concerns expressed over the past few years about the serious problems caused minority students who are wrongly placed in special education. These problems were verified in our Back To School on Civil Rights report through testimony of parents at public hearings, consultation with special education advocates serving rural, Native American, and other communities around the country, as well as studies by various government and advocacy organizations. It is useful to note that the most recent 2001 report of the National Academy of Sciences entitled, Minority Students in Special and Gifted Education, echoes these findings. We know you are committed to addressing this issue and NCD stands ready to help.

6. Funding and Discipline. Full funding and discipline are issues that are new to no one in Congress following last years prolonged debates on these two issues. We voice the concerns of individuals with disabilities, their families, and their advocates across the country about inadequate funding for special education. NCD urges Congress to adopt mandatory funding in keeping with the original commitment from the Federal government to fund 40% of the per pupil cost of special education.

We are alarmed that the discipline of students with disabilities has become such a controversial issue. The law as currently written includes a strong and effective balance of protections for students and the school system. The recent GAO study on discipline and IDEA confirms our position. NCD strongly recommends that the current provisions on the discipline of students eligible for Part, B IDEA remain unchanged.

7. Professional Development. Teachers are still not receiving adequate training in special education issues. NCD recommends an increased authority for personnel preparation funding, with assistance to states to increase the mandated level of college-level teacher training 'special education' coursework beyond the all too general 'Introduction to Special Education' undergraduate-level course for all teacher preparation programs.

Again, I want to thank you for the opportunity to share these thoughts with you today on behalf of the National Council on Disabilities. NCD stands ready to provide you with any assistance that might be useful to you as you move through the reauthorization process.

STATEMENT OF A VALERIE FINDLEY

Chairman Kennedy and other Distinguished Members of the HELP Committee: I want to thank you for the opportunity to speak to you today. Though I am not an expert in the technicalities of each section of IDEA, I, like most parents am an expert on the individual strengths and needs of my child and so our family's personal experience with special education is what I will speak to.

How do you relate nine years of joy, grief, confusion and success in just a few minutes? I'd like to start off by helping you know my daughter a little. Louisa's favorite things are swimming, horseback riding, and tasting foods—she loves eating spicy or sour things (garlic bread, guacamole and lemon meringue pie are her favorites). She loves to dance with her Daddy and sing with Mom. She has an infectious laugh, is very sociable, and has been described as a "love machine". She has a small verbal vocabulary including "go", "more", "cold", and "Mamama"—my favorite word! Louisa uses a wheelchair for mobility, wears hearing aids and glasses and she receives the majority of her nutrition through a gastrostomy tube. Louisa wears braces on her legs for some activities and uses switch-controlled devices for choice making, entertainment and basic communication, as well as to help out at home with simple chores. Though she often appears non-attentive, don't let her fool you—Louisa is

very aware of what occurs around her, and though she needs extra time to respond, she will make her needs, her interest, her frustrations and her amusement known.

Every journey has a beginning. Ours started when during a healthy pregnancy I suddenly developed toxemia from causes we will never understand. After a series of prenatal tests determined that Louisa was experiencing fetal distress and fluid in her lungs, Louisa was born by emergency C-Section seven weeks prematurely. During the delivery, Louisa aspirated meconium, which along with immaturity of her lung development resulted in a lack of oxygen and her brain being damaged. Louisa spent her first two months of life on a respirator in the neonatal intensive care units of hospitals in both Des Moines and Omaha, where she was transported by life flight when she was three day old. While at the Medical Center in Omaha she was diagnosed with microcephaly and Cerebral Palsy. We were told that Louisa would likely have problems with gross motor skills, things like walking and dressing herself. Upon her return to the hospital in Des Moines, we began to understand that her life challenges would be more extreme and our family was moving into uncharted territory. Louisa has since been given additional diagnoses of mental retardation, Cortical Visual Impairment, Central Auditory Processing Disorder and being chronically adorable.

When Louisa first came home from the hospital at three months old, still on oxygen, we immediately began to seek out information and support for what we knew was going to be an entirely new adventure for our family, hoping to educate ourselves as to Louisa's future needs, exploring all avenues in order to help her achieve the best outcomes and the fullest and most satisfying life possible. One of the first places we looked to was the education system and Iowa's Early Access program.

At the age of five months, Louisa began receiving Part C Early Intervention services through the Des Moines School District, at first at home and later in her day care setting. I will never forget the first two women we encountered: Georgia Woodward, an early education teacher, and Jean Linder, an occupational therapist who inspired and supported us throughout the nearly three years we worked with them. Over cups of tea, in our living room, they worked with Louisa, and provided our family with information, strategies and the moral support that helped us move from broken dreams to new hope and understanding.

Through the Individualized Family Service Plan (IFSP) process they helped us identify our family's and Louisa's strengths and needs and secured the coordinated services and resources we would require. They explained Louisa's rights to a free and appropriate education in the least restrictive environment. This was accomplished in a way that allowed our family to retain our privacy and as much normalcy as possible, not an easy thing when you have therapists, respite care workers, and others involved in your life and in your home. These individuals, like many who have followed, served as the guideposts along our way. One of the most important things they taught me was that we were Louisa's advocates, that we would be required to speak for Louisa and defend her rights to secure the services that she would need in order to reach her fullest potential for a meaningful life. I will be forever indebted to them for their honesty and compassion. I believe that extending the IFSP process through at least age five would be a good thing, as the IFSP family-centered approach to service coordination is invaluable during this time of continued early intervention.

When she was 2 years old, Louisa was registered on the state Deafblind registry. This gave us access to our Deafblind Project staff who provide technical assistance to families and school staff in order to address the unique challenges that children with both vision and hearing impairments face. When Louisa was still a baby, we were provided with strategies for sensory integration, communication by touch cues, and even tips for creating a home environment that encourages her to use and maximize her vision and hearing.

When Louisa was three she attended an inclusive pre-school in a shared program that included both typically developing neighborhood children, other children with disabilities and a Head Start program. She remained in this setting for three years, receiving early childhood education and related services to work on goals identified through the Individual Education Plan (IEP) process.

As Louisa was ready to transition to kindergarten, we visited principals and staff at the three neighborhood schools closest to our home, as well as a separate school for children with disabilities, in order to determine which setting would be most beneficial to her. We decided that Hillis was the place for Louisa. We were most impressed by the welcoming attitude of the Principal, Larry Streyffeler. He didn't flinch when we described Louisa and the services she would require, and let us know that together we would do "whatever it took" to ensure Louisa a positive school experience. Another factor was the physical accessibility of the building, which we realized was an issue we could press had we chosen another school set-

ting, but not having to face that challenge made Hillis an even more attractive choice. Louisa was enrolled in a regular kindergarten classroom. On the last day of school that year, Louisa came home with her first invitation to a birthday party. Such joy! Our Louisa would have friends in her life.

Louisa is now in the third grade where she continues to be included in the general education classroom with friends she has known since kindergarten. Her classroom teacher has the support of a special education teacher who is assigned to the class, as well as two half-time one-on-one associates who assist Louisa with her schoolwork, transfers and personal cares, as well as supporting other students when Louisa is occupied with her classmates or working with her therapists. Louisa has an extensive IEP Team, including her father and I, the principal, her classroom teacher, the special ed. teacher, her associates, as well as her physical therapist, occupational therapist, speech and language pathologist, vision itinerate, a member of the district assistive technology team, a district special education consultant. Other team members have included a school psychologist, the state DB specialist, her Hippotherapy (horseback riding) therapist, a district audiologist, the district special education supervisor, the case manager for her Medicaid Home and Community Based Services Waiver and her Supported Community Living helper (a Waiver provider).

The IEP process is working for my child. It allows our team to paint the entire picture of Louisa for school programming. It has confirmed to me the importance of partnerships. The older she gets, the more important it is that we build on Louisa's capacities and capabilities and not just those things she cannot master. It is even more important that the players who are involved with painting this portrait are looking at her from several angles. I have been impressed with the teamwork and commitment of the district and school staff that we have worked with. Challenges with multiple disabilities can hide true abilities and talents. Cognitive evaluation of children who are hampered by severe physical and communication impairments is often difficult and we, as parents, have asked that when conclusive evaluations have been impossible Louisa be given the "benefit of the doubt". This has been the foundation of our IEP process.

IDEA provides the entitlement of every child to a free and appropriate education in the least restrictive environment. IDEA calls for the continuum of services and access to the general education curriculum. Not all kids will succeed in the same way, or at the same pace, but they all can benefit from the educational experience, gleaning those things that impact their lives. The original focus of the law was to create access to educational opportunities for students with disabilities. It is also a civil rights law. ALL kids need to experience school and extracurricular activities that promote peer relationships, respect for differences and the pride that comes from accomplishment and extending a helping hand.

Louisa loves school and is in turn well loved by her classmates and other students. Her peers take turns being Louisa's helper because everyone wants to be her special friend! Staff have related that Louisa's presence in the classroom has been a motivation for children who had behavioral issues. Being allowed to help Louisa is used as a reward for these kids' good behavior in class. I think that is a wonderful way for Louisa to contribute! Her favorite classes are music, PE and art. She also enjoys "reading" the spelling lists to her peers with the help of a switch-controlled tape recorder. Her friends include her in their play at recess, clamor to sit next to her at lunch and often have wonderful ideas for accommodations in the classroom, so that Louisa will not feel left out of things. For the last two years, Louisa has also attended a half-day summer school program for six weeks in June and July, where her IEP activities are continued.

Louisa receives support from her related services staff on either a direct or consultative basis, with most services integrated into the daily class schedule so that she can participate in regular classroom curriculum activities with her peers while working on her own IEP goals. I acknowledge that this can be a challenge sometimes, as we strive to balance Louisa's needs with the needs of other children in the classroom, but I have been overwhelmed with relief and delight when parents of other children have approached me to say that their son or daughter often talks about Louisa and how much their child appreciates and enjoys her. I have several times experienced them thanking me for her being there, as they feel that her presence is a positive thing and has helped their own children be more kind and accepting human beings.

IDEA ensures that an array of service options are available, based on the unique and individual needs of the child, determined with the input and expertise of the child's parents or guardians. The IEP process ensures that parents have the opportunity to participate as equal partners in decisions being made. An M.O.M. is recognized as equal in expertise to a Ph.D. or M.Ed. when it comes to the determination

of appropriate services and placement for our children. I realize that Louisa and our family have been very lucky to have had the overwhelmingly positive experience that we have, and also know that part of that comes from having an understanding of our daughter's rights and our rights and responsibilities as parents.

My most important and best-loved job is parenting, but I have been lucky to be able to also work with hundreds of other Iowa families who have children with special needs. My area of expertise is community-based family support services but when I speak to family members who call for information or have questions about special education and IDEA implementation, I often refer them to the staff at Iowa's Parent Training and Information Center and our state Parent-Educator Connection Project for technical assistance. Promoting parent participation and parent-professional partnerships is crucial to the success of our children. When problems occur, we should encourage mediation and resolution of the dispute at the lowest level. Resolution facilitators should be available to all families as a vital component of due process.

It is hard to imagine that only a generation ago many children didn't have the opportunity to go to school, were routinely institutionalized or had no options other than "special" schools or segregated classrooms. Many students had disabilities that were not identified or who struggled and failed in a system that was not meeting their unique needs. These children were frequently subjected to cruel taunts and insults, told they were stupid, that they simply needed to try harder. I know this because two of them were my siblings.

My brother Hank, eleven months older, and my little sister Audrey, two years younger than me, both had learning disabilities, including dyslexia. In addition, Hank had only partial hearing in one ear and had lost one eye in an accident and so had physical challenges that also affected his learning. When Hank was held back to repeat kindergarten, our parents enrolled him in a parochial school, though we were not catholic, and hired a tutor for extra help. The next year, when he returned to public school, Hank and I were now in the same grade. Because learning came easy to me, it was heartbreaking to watch my brother struggle in class and to hear our peers make fun of him, calling him "dummy" and "Cyclops" and other mean things. I knew he was smart and he was so kind—he was always explaining neat things he had discovered when we took hikes in the park behind our house, he was a wonderful artist and could play the piano by ear as I plodded through my lessons. Audrey fared better because she had less apparent learning problems when young, she was good at "faking it", and was well liked by her teachers and classmates—she was a little cutie pie and fit in socially. She has related to me how terrified she was each day to go to school, afraid that her friends would find out she was "stupid", because she thought that she was.

When Hank was thirteen and Audrey ten, my parents enrolled them for three years in a residential school for children with learning disabilities in Florida. This was very expensive, but they had experienced too much frustration and hurt, it was their last resort. My parents, tireless advocates for their own and other children, were founding members of the Iowa Association for Children with Learning Disabilities who participated in hearings like this one, to support creation of an equal educational opportunity for all children. When PL94-142 was passed into law in 1975, it was a time of celebration in our household—but it was a bittersweet victory. It was too late for Hank, and Audrey would graduate one year later, with her high school counselor advising her to consider food service as a career, as that was one of the few things she could succeed at. I am happy to report that after seven years of hard work, with accommodations provided by her community college and universities, my little sister completed her Master's degree in Counseling Psychology and is now a Marriage and Family Therapist, who has spoken at several learning disabilities conferences to provide inspiration and hope to parents whose children who are striving to learn.

Hank eventually dropped out of school, had trouble getting or keeping a job and was very depressed. He eventually pulled himself together with the encouragement of a wonderful and supportive wife. He is now a doting grandfather who still takes walks in the woods and shares his knowledge of nature and music and art. I am so proud of him and the man he has become, but feel much heartache knowing that his self-esteem and confidence was destroyed as he was growing up, because his disability was not recognized early, his learning needs were not met, and he was ridiculed and harassed by not only his peers, but his teachers when he was in school. This should never happen to another child.

We must be careful when defining the goals of education. I have heard people say that productive, contributing citizens should be the end result of the investment of education dollars. But how do we define productive? Louisa has provided our family with a gift we could never have anticipated—she has helped us and other members

of our community grow and become better people through understanding her unique and sometimes hidden gifts and contributions. That is why I am here today, with Louisa as witness that IDEA does work. We must maintain an educational system where truly NO CHILD IS LEFT BEHIND.

On behalf of Louisa, Hank, Audrey, my Mom and Dad and every other parent and child with special needs in America, I want to thank you for listening to my family's story, for keeping the faith in our kids and for pursuing excellence in an educational system that serves and includes ALL children.

PREPARED STATEMENT OF ROBERT RUNKEL

My name is Robert Runkel, and I am pleased to be here this morning in my capacity as Administrator of the Division of Special Education for the state of Montana. I have worked in the field of special education for 25 years, beginning as a school psychologist for rural schools on or near the Fort Peck Indian reservation in Montana. Since 1987, I have served as Montana's director of special education. I also currently serve as President of the National Association of State Directors of Special Education (NASDSE), the professional organization representing the state administrators of education programs for children and youth with disabilities in the 50 states and federal jurisdictions. My five years as a member of NASDSE's Board of Directors has afforded me the opportunity to learn much about the administration of special education programs in other states, and my testimony will reflect in some places general concerns of all state directors. In addition, recently a number of directors from small states have begun talking together to focus on issues that are specific to them, and my comments will reflect their concerns as well.

I appreciate the opportunity to appear before this Committee to talk about what is working and what is not working with the Individuals with Disabilities Education Act (IDEA), particularly in light of the changes that were made when the IDEA was last reauthorized in 1997. My testimony will include specific recommendations for the current reauthorization.

Late last year, families, service providers, policymakers and many others celebrated the 25th anniversary of the IDEA. In celebrating the advances made possible by this law, we recognized that special education is a complex system with many challenges. The major changes made in the 1997 amendments to the IDEA were necessary for individuals with disabilities to be able to fully participate in the educational process and achieve post-school success. At the same time, these changes significantly raised the bar of expectations for students, parents and schools.

My position as a state director of special education is to provide leadership to assist local school districts to meet these higher expectations. In order to be successful, a school district's enhanced special education system must (1) have effective collaboration with general education; (2) focus on student and system results; (3) ensure that there are sufficient numbers of properly trained teachers and other service providers; and (4) have sufficient funding from a partnership of local state and federal governments to provide the programs our children need and deserve. School districts must also address with assistance from their communities the specific challenges that students with disabilities face in transitioning from school to a post-school environment.

For over 25 years, the IDEA has provided important guarantees of access to public education for children with disabilities. Just as important, the law has helped to ensure that educational programs offered to students with disabilities are appropriate to their needs. Generally, children with disabilities are receiving the services they need to help them be successful and most parents are satisfied with the results.

The system of special education includes tens of thousands of parents, teachers, and administrators, working together to prepare students with disabilities for a bright future. Parents of children with disabilities are involved in their children's education, dedicated-compassionate professionals are providing high-quality services, and our children are receiving the benefit. Children with disabilities are now included more than they ever have been with their nondisabled peer group; the relatively recent focus on accountability is beginning to produce results; important procedural/legal protections contained in the law are being implemented; and parents are now more involved than ever in important decisions regarding their children's special education programs.

For the first time, the IDEA '97 refocused efforts on accountability for outcomes with students with disabilities. This was definitely a positive step for students with disabilities. Local school districts in Montana and local school districts in other states are working hard to include all students with disabilities in the general curriculum, assessment and accountability systems. My colleagues throughout the

country are adamant in their support for the inclusion of all students in state and local education agency accountability systems. The recently enacted "No Child Left Behind Act," with its emphasis on accountability, should help ensure that students with disabilities are included in state and local assessment systems.

At the same time, Montana's state and local education agencies, like many state and local agencies around the country, face significant issues that can and should be addressed through reauthorization. The following are specific issues that need to be addressed in the reauthorization of the IDEA:

FUNDING

There are several funding issues that must be addressed in the reauthorization of the IDEA. The following are the most critical:

1. The 40 Percent Promise

In regard to funding, I want to particularly thank the members of this Committee for their strong support last year for the IDEA full-funding amendment that Senators Hagel and Harkin offered to the "No Child Left Behind Act." I cannot overstate the need for increased federal funding for the IDEA. In Montana, a state that has significant economic challenges with low salaries and a low tax base, the failure of the present law to provide this level of funding is particularly onerous. Local Montana school district financial contributions to special education have grown by over 900 percent in the past 10 years. This growth shows the commitment of Montana schools to meet the needs of children with disabilities, but it also shows, in part, the effect of the unfulfilled "40 percent promise." Attached to my written testimony is a chart that dramatically demonstrates this impact.

The impact of substantial growth in local expenditures has had an adverse effect on the quality of education for all children, including children with disabilities. These necessary expenditures for special education have forced school boards to consider making cuts in everything from building maintenance to increasing class size. Fulfilling the "40 percent promise" would improve the quality and quantity of educational services available in public schools for all students. We have more than 400 local school districts in Montana, many of them in small, rural communities. Each school can tell its own story of the impact of the cost of special education on their district budget.

2. Distribution

In my state we have found that the current funding formula, based on census (85 percent) and poverty (15 percent), is an effective means for determining allocations of federal dollars to state education agencies. However, more flexibility is needed by states in their distribution to local districts.

3. Maintenance of Fiscal Effort

As much as Montana is in need of the 40 percent funding level, the value of the increased funding to schools in Montana is intricately tied to a necessary change in the law in the area of maintenance of fiscal effort. The maintenance of fiscal effort provision in current law limits the ability of federal funding increases to rebalance the relative state, local, and federal partnership in covering the costs of special education. Under current law, only 20 percent of any year's increase in federal special education funding can be treated as local funds for purposes of maintenance of fiscal effort. Montana educators feel strongly that this 20 percent limitation should be changed in order to provide more relief from the restrictions imposed by the provisions of maintenance of fiscal effort. The added flexibility is necessary to reverse the increases over the past decade in local expenditures for special education.

Many Montana schools are experiencing declines in student enrollment, resulting in declining general fund budgets. While maintenance of fiscal effort protects the special education portion of state and local general fund budgets, other areas of the budget are forced to absorb more than their share of cuts. Simultaneous to the cuts in the general fund budget, schools are experiencing growth in federal special education funding. This circumstance exacerbates the tension between special education and general education over limited resources and it triggers conflicts and jealousies between programs. These tensions and conflicts are already limiting Montana schools' ability to take advantage of recent increases in federal funds. This situation will be amplified if the "40 percent promise" is fulfilled without a corresponding and necessary change to maintenance of fiscal effort requirements of the law.

4. State Share of Funding

Additionally, the '97 amendments to the IDEA capped the state share of Part B funds. This has proved to be a significant problem for many states, but especially

in smaller states, such as Montana. Small states are capped at $500,000 (plus inflation) for administration of the IDEA . Yet, small states are expected to have in place the same infrastructure necessary to ensure accountability for results. This infrastructure includes systems for data collection, maintenance, analysis, and reporting of key outcome indicators.

With this background, I would like to propose the following changes:

1. Provide federal funding equivalent to the 40 percent full funding promised by the Congress when P.L. 94-142 was enacted.

2. Provide flexibility in maintenance of fiscal effort similar to the Hagel and Harkin amendment to the IDEA that was previously proposed during the debate on the "No Child Left Behind Act."

3. Allow state education agencies to keep up to 15 percent of a state's Part B funds to provide direct support and technical assistance to local education agencies and to conduct monitoring activities.

4. Allow state education agencies to keep up to an additional 5 percent of a state's Part B funds for administrative activities. At the very least, increase the minimum amount of funding for small states and federal jurisdictions to enable them to support their administrative services to local education agencies. I would propose that the minimum amount of funds available for administration should be increased from $500,000 (with inflation index) to $750,000 (with inflation index).

In addition to changes in the IDEA, it is important for Congress to address corresponding changes in the Medicaid program. States and, more importantly, local school districts are grappling with the complexities of the Medicaid system. Medicaid imposes such complexity in its policies, documentation, and billing procedures that states often have to resort to utilizing private firms just to understand what revenue is available. These procedures were often appropriately designed to avoid the potential for fraud and geared to working with corporations and individuals in private practice. More appropriate systems need to be designed so that they are tailored to the nature of shared governmental activities. As a result of current complexities, reimbursement procedures are not uniform throughout the country and this lack of uniformity has created widely varying Medicaid support between states. This results in variability between states in resources and services. The Centers for Medicare and Medicaid Services (CMS) should be required to work with the Department of Education on policies and procedures that will enable school districts to be reimbursed for services more consistent with a federal state and local partnership.

PAPERWORK

Our current preoccupation in special education on process has contributed to the paperwork burden that you hear so much about. Much of our paperwork burden is due to the need for documenting compliance with regulations. This comes in the form of creating a "paper trail" of notices, permissions, description of services, eligibility determination, and student goal statements. Most parents I know are more concerned about the benefit their child is receiving from the program than they are about the number of parental rights brochures they have received. Perhaps as our accountability system becomes stronger, we will have the opportunity to reduce the mountain of paper. Simultaneously, some parents fear that a paperwork reduction could mean the loss of certain procedural rights now afforded under the protections of the IDEA. It is our job to maintain the protections of the IDEA while solving our dilemma with paperwork.

I believe there are solutions that can retain all of the rights and protections of current law while dramatically reducing the paperwork burden. Because so many of my colleagues share this concern, the NASDSE will be convening a meeting of its members and other stakeholders this spring to come up with specific suggestions for paperwork reduction, and I would hope that you will allow the NASDSE to share the results of this effort with you.

BALANCED ACCOUNTABILITY

I cannot emphasize enough how important it is to focus on outcomes for students with disabilities. A local education agency can be in total compliance with every procedural step and still not guarantee positive educational outcomes for its students. That is why it is so important to continue to strengthen our focus on outcomes.

However, in our efforts to focus on outcomes, it is important to remember that results of academic achievement tests tell only part of the story. While I do not deny that state standards measured by achievement tests have great value, it is important that these tests are kept in balance with other key outcome indicators. Along with achievement scores, these outcomes include: graduation rates, dropout rates, numbers of discipline referrals, rates of employment following graduation, rates of

enrollment in postsecondary education programs, and parent and student satisfaction.

DISCIPLINE

Everyone seems to agree that the compromise discipline language included in the IDEA '97 is too cumbersome and too difficult to follow, let alone enforce properly. School personnel are frustrated with the complexity of the provisions and, therefore, they complain that students with disabilities cannot be disciplined even though they can. The process of disciplining students with disabilities must be simplified.

Many of my colleagues across the country agree with me, that no student should be denied access to educational services. Rather, we should afford all students the opportunity to engage in learning activities designed to enable them to progress in school. If this basic principle were followed, perhaps the complexity of the process and the double standard of treatment of students with disabilities could go away.

COORDINATION WITH EARLY CHILDHOOD PROGRAMS AND THE "NO CHILD LEFT BEHIND ACT"

I am pleased with the emphasis of the Bush Administration on early identification and intervention. The Part C Infants and Toddler Program and Part B Section 619 Preschool Programs clearly support this priority and deserve to be well funded. Two new programs Reading First and Early Reading First authorized by the "No Child Left Behind Act" have the potential to provide an infusion of both funding and new programs to help target this at-risk population. New Title I resources will clearly benefit our efforts to meet the academic needs of children. As we review the provisions of the IDEA, it is important, wherever possible, that the objectives and reporting requirements of these various federal programs complement one another.

Never has it been more important for federal programs supporting child development and programs supporting academic progress for school-age children to include common data definitions, common procedures for collection of information, and common reporting and analysis of program effectiveness. Schools cannot afford multiple school accountability and school improvement activities within the same school for various federal programs. Common standards must be applied to school improvement planning efforts and accountability in order to avoid contradiction, duplication of effort, and simply overwhelming people. Coordination in these areas will lead to a reduction in paperwork for both state and local education agencies and serve as a gentle reminder that special education is not a separate system of education it is a service provided to students.

COSTS RELATED TO RESOLUTION OF CONTROVERSIES

The rights and protections afforded by the IDEA are significant and must be preserved. They provide parents ample opportunity to influence important decisions regarding their child's education along with our local school personnel and the ability to appeal decisions that they do not agree with. These safeguards are intrinsic to ensuring students' needs are being met. It is often natural and appropriate to have disagreements. Further, we should not equate disagreements between parents and school personnel with noncompliance with the law. It is important to remember that the educational services and supports provided to students are meant to be individualized there is no "one size fits all," and I would strongly urge Congress to avoid mandating specific services for specific disabilities for the sake of avoiding controversy.

At the same time, there is little doubt that the extensive litigation surrounding the IDEA is extremely costly to both parents and school districts and states. These costs are draining resources from state and local education agencies that would be better spent on providing services to students and their families. Mediation was encouraged in the 1997 IDEA amendments and mediation efforts appear to be meeting with some success. We need to examine additional opportunities to resolve controversy at lower levels. Early assistance to parents by providing informal problem resolution through the state agency has been particularly effective in Montana. Some states could be interested in providing options for binding arbitration. Additional training in communication skills of collaboration between schools and families could also be part of the solution.

PERSONNEL

The quality and availability of special education personnel are critical issues demanding immediate attention. In Montana, we have approximately 70 people who are currently participating in our Special Education Endorsement Project. This

project is designed to respond to circumstances where schools were unable to hire a fully qualified special educator. For a small rural state to have this many teachers obtaining their special education credentials while teaching special education speaks to the importance of this issue.

Just as important as the move to inclusion in the classroom, we need to move to a system of personnel preparation that trains all teachers to work with students with special needs. At the same time, those teachers that are specially trained to work with students with disabilities need more familiarity with course content areas. Higher education teacher and administrative preparation programs must be restructured to meet current needs in schools. These issues can begin to be addressed in the IDEA through the Part D personnel preparation programs by providing grants coordinated with state agencies to institutions of higher education to meet training needs for serving students with disabilities. I also recommend that Part D include noncompetitive funds to states to provide inservice training and technical assistance to help states in maintaining qualified personnel at all levels.

PART D PROGRAMS

The Part D programs provide funding for personnel preparation, research, and technical assistance programs and provide critical support to schools in Montana. Montana is fortunate enough to have a state improvement grant. It is helping us focus on key strategies that will improve outcomes for children with disabilities. Unfortunately, Montana had to compete for this grant against other states. Since school improvement activities are necessary in all states, it seems wrong to selectively finance a state's school improvement effort. A stable formula-driven revenue source for all states is necessary to help states meet their obligation and to successfully engage in long-range improvement activities.

These programs provide the backbone of support for quality services under the IDEA. Of the many Part D programs that Montana benefits from, perhaps the one most worthy of mention is our Mountain Plains Regional Resource Center. Through this Center, Montana acquires specialized technical assistance that enables me to do my job in improving the quality of education for students with disabilities. It deserves and needs your generous support.

CONCLUSION

The history of special education has proven that the program is very effective in including students with disabilities in our public school system and while they are there, providing them a quality education. The future of our special education system will now depend on our ability to design a special education system that works in close coordination with services provided in general education. Special education needs to become more of a support structure to general education a system of services and not a place. Many of the problems of our present system are attributable to a legal/procedural emphasis and the separate or parallel structures we now offer in the delivery and design of our special education services. The "No Child Left Behind Act" will provide a safety net protecting our children from failing schools. Special education can be the safety net of services for children.

Unfortunately, our present system of special education is built upon a "wait to fail" model. Literally, our children need to be so far behind before they are able to access

the services of special education that they are likely to never catch up. And, for some reason, we continue to find it necessary to "label" our children. The act of labeling can reduce expectations, affect the self-concept of the child, and change the dynamics of the relationships between people. It is just too easy to blame a lack of success on the characteristics of the student instead of the effectiveness of the services offered. Often, our parents and students do not understand the need for the label or the necessity of waiting for failure. Sometimes neither do I. At our most recent special education advisory panel meeting, a parent told the story of how her child, in the middle of a special education IEP meeting, stated: "There's nothing the matter with me, it's who I am."

Perhaps the day has come that our special education system will allow our children access to services before they fail. Perhaps our students will be able to access services based on educational need alone and not some label. Perhaps someday our general education teachers will see the special education support system as critical to their success with their students.

To achieve these important goals, we need to listen to educators, parents, students, and the broader public. When teachers and parents are comfortable with the quality of services and the outcomes that they are producing, it seems silly to burden one another with meetings, documentation, signatures, notices, and so on. We

should honor the judgment of parents and teachers. At the first sign of a child falling behind, we must offer help.

I ask your help to craft legislation so that every child will have the opportunity to achieve his or her potential.

I thank you for this opportunity to appear before you today and will be glad to answer any questions that you might have.

PREPARED STATEMENT OF BOB VAADELAND

Good Morning! Chairman—Senator Edward Kennedy, Senators: Dodd, Harkin, Mikulski, Jeffords, Bingaman, Wellstone, Murray, Reed, Edwards, Clinton, Gregg, Frist, Enzi, Hutchinson, Warner, Bond, Roberts, Collins, Sessions, and DeWine, Assistant Secretary Pasternak, and other distinguished guests.

It is with great pleasure and humility that I come before you today to bring some thoughts and perspectives from a rural School Administrator regarding the current Individuals with Disabilities Education Act. In my opinion this act has had a great impact on services to children over the years, and without it I believe with emphatic conviction that many children in years past would not have been and even today would not be the benefactors of specialized services needed to meet their individual needs. This is not to say however, that everything is or always has been perfect in regard to implementation. However, by taking the available opportunities to analyze the positive results of the act, along with the "glitches" that appear along the way, I believe very strongly that we can all work together to improve services for Children with Disabilities.

My career as a Special Educator began in 1975, the year after the original Public Law 94-142 was enacted by Congress. Since that time I have observed many changes in the provision of Special Education Services for Children with Disabilities. As a Special Education Instructor, with licenses in Learning Disabilities, Mild to Moderately Impaired, and Emotional Behavioral Disorders, I had the opportunity to get involved with the day to day tasks of Pre-referral, Referral, Assessment, Identification, IEP Program Development, Implementation and Program Review. These steps were all completed under the jurisdiction of Due Process laws as originally written into the original Public Law, and yet refined over the years for greater clarification.

Following my original experiences working with the law as a Special Education Instructor, I then had the opportunity to work with nearly 30 school districts in Southwest and West Central Minnesota in multiple capacities. To clarify, over the past 27 years, I have served as not only a Special Education Coordinator, but also as a Special Education Director, an Elementary Principal, and for the past twelve years as a Superintendent. In addition to this, I have also served as the President of the Minnesota Administrators for Special Education, and presently represent the Minnesota Association of School Administrators on the State Special Education Advisory Committee.

From a very personal perspective, I know that this Act has had a great impact on the provision of Special Education services to children identified with disabilites. I can recall a group of seven young men in a rural Minnesota school district that I had the opportunity to work with a number of years ago, who had a variety of needs. The young men's identified disabilities varied from Mild to Moderate Cognitive Impairments, to Learning Disabled, to those with Emotional Behavioral Disorders. There were times when I questioned that I was truly able to meet their needs based on the variety of their identified handicapping conditions. However, in the end those students completed their high school education, and graduated. The difference that these services made to them personally was exemplified by one graduate in particular who wrote to me following his graduation, and said "Thank You, I couldn't have done it without you!"

Touching yes, but I knew that the services that this student had received, had made a difference.

I also recall two other young high school students in the past six years, who had not only Cognitive Impairments, but also some very involved Physical Impairments that required Developmental Adapted Physical Education, along with related services such as Occupational and Physical Therapy. These particular children also had Cerebral Palsy, and had both required Rhyzotomy surgeries on several occasions. I can't say enough about the strides that both of these young individuals made due to the provision of specialized Special Education services. I particularly recall when one of these young individuals, a young lady, walked forward and presented her Work Experience Employer with an award of appreciation for Supervising her on a job site. A second such occasion occurred when she walked forward and received her high school diploma. That's truly when it hit me that the services provided to

her as a result of IDEA had made a great impact. The heartfelt thanks from the parents, upon this young lady's graduation, were also overwhelming as they publicly thanked us while tears trickled down their cheeks.

One final example is that of a very young child who was diagnosed very early with "autistic like" tendencies, who had a habit of being very withdrawn as well as exhibiting perseverating behaviors. Through early intervention however, with a very good team of Early Childhood Special Education professionals, this student made unbelievable strides, and was able to move with much greater ease into a Transition Kindergarten program, and did so with success. In this particular situation, the parents were so pleased with the services that had been provided that the family even delayed a move, which was a career advancement for the parent, in order to continue to receive the benefits of these special education services.

These are only several examples of the times when we knew that the specialized Special Education Services had made a difference, and that had it not been for the IDEA, that these ultimate successes may not have occurred.

A final comment to make under this section, before looking into some of the existing problems of the Act, is that it is my opinion that most schools really do try to do the best they can to educate all children in the Least Restrictive Environment. In my world, that means educating them as close to their homes, to the peers, and to the community as entirely possible. Although this isn't always possible, I can think of very few situations where this isn't at the forefront in the decision making processes. I know that there are examples where "Cessation of Services" or simple discontinuance of appropriate service is suggested and implemented, however I would have a very difficult time finding Superintendents in my peer group that believe in their hearts that it's the best for students. For this reason, the concerns for exploring avenues of appropriate service provision are of great concern.

These successes, however, did not occur without consternation at times, and without some frustrations with program implementation, which still need to be addressed. I would like to take this opportunity to address just a few of those areas, with some suggestions for improvement into the current law.

1.) In most instances, schools will do the best they can to provide appropriate Special Education Services, based on identified needs, in order for the children to receive the appropriate benefit from their educational program. The types of services sometimes requested, however, are viewed by the schools as non-educationally related, and beyond the scope of FAPE (Free and Appropriate Public Education). In some instances, it has become the school district's responsibility to provide a service whether or not it is viewed as a school's obligation. While examples are few and most parents and school districts have positive relationships, the fear of litigation when these types of differences arise is threatening to staff and causing some of them to look for other alternative fields in education. This impacts a district's ability to recruit and retain staff. The State Special Education Advisory Committee in Minnesota along with the State Special Education Department have been studying this problem in depth over the past several years, and a number of state and local initiatives are being implemented to address these concerns. For example, schools have begun to offer signing bonuses, extended contracts without classroom assignments, state aid reimbursement for clerical staff, increased staff development opportunities for all staff, and electronic options to enhance communications between families and districts. In essence, increased options for alternative dispute resolutions systems and improved staff training would help to ease concerns regarding due process requirements.

2.) A second item I would like to address is the process of Complaint Investigation, as well as avenues to avoid hearings as a result of the complaints. It is the view of many that this system works very well. In 2001, for example, the number of hearings across the nation totaled 3020. This statistic when compared to the 6.2 million children on IEPs is not staggering. In comparison to these national percentages, Minnesota only had 10 hearings based on 110,000 IEPs. This may be due in part to the fact that in Minnesota there is an initial step of Informal Conciliation. It has been my personal experience to approach situations from a perspective of "what can we do to work this out?" This is different than taking a stand that agreement can't be reached. By approaching situations like this, and exploring avenues of agreement, I was personally fortunate to never be involved in a hearing. The channels of communication opened by this type of process have been very rewarding, and helped to implement IDEA with greater ease. This conciliation step, however, is not a requirement of IDEA. Based on the current status of IDEA, a parent can file a complaint at any time, at which point an investigation begins to unfold. It is my perspective that if IDEA could be changed to incorporate conciliation or other informal dispute resolution processes, that it would significantly reduce the number of complaints and hearings. It is also my perspective that the steps would help to

work through difficult situations with much greater satisfaction, and to enhance the implementation of IDEA. A second step that could help to strengthen IDEA would be to institute an enhanced mediation process. In initiating this, a greater understanding of the perspectives of both the school and the parents would be the end result. Another promising example is that in Minnesota we are piloting Facilitated IEP's, where a state trained independent facilitator actually facilitates the IEP meeting. We think this could be a huge step in reducing adversarial situations and litigation, and to help the process become more "user friendly" for everyone involved.

3.) A third item that I would like to touch on very briefly, is that of Interagency Collaboration in regard to the provision of services. As it presently stands, school districts are the payer of last resort, meaning that the present Act allows for an unequal sharing of responsibility when it comes to service provision. Just as educational systems are strapped to stretch their ability to provide services to clients, so are Health, Welfare, and Rehabilitation. It is the district's perspective, however, that the services which could often be provided by some of these agencies should be provided under their jurisdiction, and more appropriately at their expense based on the expertise of the service they can provide. Based on the present IDEA language, School Districts are obligated to provide services even if it is believed that they don't have the dollars to pay for them. I also believe that this premise should hold true for all agencies involved in Interagency Collaborative Agreements. As a collaborative group, agencies should collectively become the payers of last resort. A model for this is the Minnesota Part C Model, to which there is a goal to reach interagency funding from birth to 21. Minnesota presently has a birth to 5 mandate in place, as well as a birth to age 9 interagency mandate by this coming summer. This exemplary model, if implemented by all Interagency Collaboratives, could help to spread the costs, which now often become the responsibility of one single agency.

4.) A final item I would like to touch on is that of resources. Ever since the original Public Law 94-142 came into effect, it has been the intention of the Federal Government to fully fund Special Education, typically meaning the 40% of the excess cost for such services, which would achieve appropriate funding levels. The national per pupil expenditure has averaged $6,296 (for 1999-2000) for most students on an annual basis, with an additional $6,296 for identified Special Education students. Based on IDEA, if the 40% of the second $6,296 were to be paid out to states, it would mean an additional $2,518 per pupil. This is what would be considered "Full Funding" based on the agreement in the original Public Law 94-142, which was adopted in 1974 and scheduled for funding reality by 1982. To date, this is still only being funded at 15% to 17%, in order to meet the state and federal requirements of the law. As a result, state governments are annually being put in positions of allocating more state dollars to fund a program that is federally mandated. Due to the scope of how services have changed over the years, and the ages of the population of students who are receiving these services, we know that there are significantly many more students receiving Special Education service. We have many more children who are medically fragile, physically involved, and those with mental health needs, etc., that are utilizing an increased amount of funding for services they may require. I don't hear people saying that those services shouldn't be provided if they are necessary. I do hear them saying, however, that there should be an increase in federal support to meet the mandates of the federal law.

With this I am going to close my remarks. I want to take this opportunity to again thank Senator Kennedy and the distinguished committee members of this Health, Education, Labor and Pensions Committee for extending me this invitation to speak. I truly appreciate the opportunity given to bring not only my accolades for the law, but also some of the concerns, which I was also asked to express. Again, thank you!

PREPARED STATEMENT KIM GOODRICH RATCLIFFE

Good morning, Chairman Kennedy, Senator Gregg, Senator Bond and other distinguished members of the committee. I am honored and privileged to come before you today to speak on behalf of parents and their children with disabilities and public school educators of this nation. I come before you today as a parent and as an educator. I am a parent of two children who have had individualized education programs known as IEP's. They are representative of the majority of students with disabilities in this nation. One had an IEP for speech services while in elementary school. She required services for several years and was successfully remediated and no longer required special education services. The other daughter was diagnosed with epilepsy in infancy that resulted in educational diagnoses of speech/language disorder and learning disabled. She received multiple services and a change in the type of services as she progressed through school. She received speech therapy, occupational therapy, and specialized instruction in elementary school. As a secondary

student and college student, she required accommodations as outlined in a 504 Plan under Section 504 of the Rehabilitation Act of 1973 to address continued math deficiencies and ADD. I am proud to say she is graduating from college in May 2002. She exemplifies what the vast majority of children with disabilities have experienced in this nation-the IDEA works well for them.

As an educator, I come to you today with a historical perspective on special education. My career began in special education four years before the original statute, the Education for All Handicapped Children's Act, was passed in 1975. With the exception of leaves of absence at the birth of each of my three daughters, I have been either a teacher of children with disabilities or an administrator of programs for children with disabilities for the past thirty years.

I became a teacher of students with disabilities in 1971. I was there when Public Law 94-142 planted its roots firmly in the soil of prejudice. Before 1975, we as a people of this nation prejudged and unknowingly misjudged who could benefit from public education. In our ignorance of how to educate, we assumed that some children could not be educated. The original P.L. 94-142 was enacted to provide keys to the schoolhouse door. Today, the doors to the schoolhouse are opened wide to all children. Our reality is all children can learn. Early intervention services have provided a positive start for many young children with disabilities. Many children have received services that enabled them to return to the general education curriculum. IDEA has been very effective in supporting the educational needs of children with disabilities. It is time to embrace the spirit of the original statute and move forward with common sense reform. The original language of the statute that provided an impetus for change in the 1970's appears unnecessarily contemptuous of educators in the twenty first century. Dr. James Ritter, Superintendent of Columbia Public Schools, stated, "The perception communicated by the federal law (IDEA) is public schools would either under serve or stop serving students with special needs if the law was not forcing us to do otherwise. There could be nothing further from the truth. These are our children. We have the same hopes and dreams for them as all children in our community and the same commitment to excellence in education. The law perpetuates a gross misrepresentation of the commitment of the citizens of our community to leave no child behind."

The spirit of Public Law 94-142 must be preserved. Common sense reform of the IDEA must happen. It is long overdue. In a presentation by attorney Elena M. Gallegos of Walsh, Anderson, Brown, Schulze & Aldridge P.C. at the Education Law Association's 47' Annual Conference in Albuquerque, N.M. on November 17, 2001, she remarked on comments made by President Gerald Ford on December 2, 1975 upon his signing of P.L. 94-142. President Ford stated in part, "[T]his bill promises more than the federal government can deliver, and its good intentions could be thwarted by the many unwise provisions it contains." In the March 2002 Special Education Law Update, Ms. Gallegos points out the negative aspects of P.L. 94-142 observed by then-President Gerald Ford that have proven true: "There are other features in the bill which I believe to be objectionable and which should be changed. It contains a vast array of detailed, complex and costly administrative requirements under which tax dollars would be used to support administrative paperwork and not educational programs. Unfortunately, these requirements will remain in effect even though the Congress appropriates far less than the amounts contemplated in [the law]." President Ford's prophetic words have become the reality of public educators across the nation. Although Congress has been either unable or unwilling to financially support the original statute as envisioned by its creators, Congress must now strive to preserve what is working and remove the harm in the statute.

Paperwork mandated by the federal law and regulations must be significantly reduced in volume and complexity

The paperwork burden is fundamentally detracting from the education of students with disabilities. Teachers of students with disabilities have the same paperwork requirements as all teachers-i.e. lesson plans, grading papers, report cards, and normal written communication to parents. In addition, teachers of students with disabilities create individualized education plans, send legal written notices regarding the convening of IEP meetings, send written legal notices of any change in services or changes in placement, and document all written and/or verbal communication to parents. At times the process is so burdensome that changes that could benefit a student are simply not made. An example of the nature of the problem is demonstrated in the following scenario of an actual event. A teacher called her local director of special education to ask a compliance question. The teacher reported speaking with a parent about an academic problem her son with a learning disability was having. The teacher and the parent had put their heads together and came up with a possible solution-the special education teacher would pull the student

aside for an additional 20 minutes of one-on-one instruction two or three times a week as needed to pre-teach or re-teach vocabulary words. They were both excited about the possibility of reduced frustration on the part of the student and the potential for real academic gain. The question was whether the IEP team had to be reconvened or whether the agreement of the parent and teacher was enough. The common sense response would be to document the changes on the IEP and proceed. The reality is that the teacher must give the parent notice of the IEP meeting with all required components including a copy of Procedural Safeguards for Parents and Children under the IDEA. A properly constituted IEP team with all required members must be coordinated and an agreeable meeting time scheduled. The parent must take off work or otherwise arrange to attend the meeting. If an emergency should prevent the parent from attending on the scheduled day or time, another legal notice of a rescheduled meeting must be provided to the parent with a second copy of procedural safeguards. Once' at the meeting, if all members are in agreement with the parent and teacher to add some minutes of service, the IEP must be rewritten in its entirety to incorporate the change. If service minutes are changed even by one minute, a legal notice of change of services must be provided in written form to the parent complete with all required components. If the student was currently in a modified regular education placement and the additional minutes resulted in the total service minutes away from non-disabled peers totaling more than 21% of the time, a change of placement would be necessary. A change of placement requires consideration of a reevaluation. The team must complete all the paperwork necessary to document consideration of reevaluation and proceed with the evaluation if deemed necessary by the IEP team. An additional written legal notice is required to fully inform the parent in writing of that decision as well. The end result of a good idea shared in a ten-minute conversation between parent and teacher that could benefit a child's educational progress has now taken over two-and-a-half hours of meeting and paperwork time under the requirements of the IDEA. Is it any wonder that both parents and teachers, at times, say, "it just isn't worth the hassle?" Legally, the director could not have responded with the common sense answer of simply documenting the change agreed upon by the teacher and parent in the existing IEP. To meet the legal definition of a free appropriate public education, the district must meet both the excessive procedural and substantive requirements. We need to have the flexibility to change IEP's during the time span covered by the IEP without sending legal notices of a meeting, without convening the full committee or rewriting the entire IEP document. A recommendation for addressing the excessive time and paperwork burden illustrated in the above scenario would be to limit the requirement for a comprehensive IEP meeting to once annually. A parent and teacher could agree to make changes, if necessary, in a parent-teacher conference during the one-year period of the IEP. Any changes to which a teacher and parent agree can be documented in the existing IEP with parents receiving a copy of the changes. The focus should be on normalizing communications between parent and teacher as much as possible as they are striving to provide for the unique, and sometimes changing, needs of the student with disabilities.

Another problem with the complexity of the regulatory aspects of the IEP process is the time it takes teachers, counselors, therapists and administrators away from the instructional focus of education. Who is teaching the children during times when all of the staff are involved in marathon IEP meetings, diagnostic conferences, mediation, preparation and participation in due process hearings and other meetings required by the current special education process? No matter how good the substitute teachers are (if you can find one), they can never provide the quality of services provided by the child's special education teacher. School officials know that one of the characteristics of an outstanding school is the time the school staff spends on instruction. Pulling staff out of the classroom for all of the meetings required by the current special education process significantly decreases the amount of time special education teachers spend in direct instruction. Children with disabilities do not learn by simply being there. Children with disabilities require direct, personalized instruction. The child's teacher can best provide such instruction. An illustration of the extent of time away from instruction required to conduct one IEP meeting per year, of average length in time, for all children diagnosed with a disability in the Columbia Public School District totals 89,375 hours of lost instructional time or the equivalent of 78 school years of instruction.

Although the extent of the paperwork in special education varies from child to child based on the number of IEP meetings, reevaluations and notices that are relevant to an individual child's situation, it is the complexity of the paperwork that increases the frustration of teachers and parents and wastes valuable time and resources. The rules are too numerous. Even after extensive training, teachers find it necessary to stop and consult with a process coordinator or director of special edu-

cation to ensure compliant paperwork. Veteran teachers are as frustrated as novice teachers when the rules change frequently through litigation or changes are made at the federal or state level. At any point in time, administrators, process coordinators and teachers are uncertain how to properly complete the paperwork. This is equally as daunting to many parents.

With increased accountability for the progress of students with disabilities, there is a need and a desire on the part of teachers to have updated, research-based training on effective practices. Students benefit when regular and special education teachers have time to be trained together and time to collaboratively plan instruction to meet the needs of students with disabilities. The possibilities for those opportunities are significantly diminished by the ongoing need to do compliance training. The business of teachers is educating children. The tail is wagging the dog when the focus of education is directed toward paperwork rather than effective instructional practice. As examples of this reality, the Columbia Public Schools has a week of training for new teachers in the district prior to the beginning of school. It takes the entire allocated time for special educators to cover procedure mandated by IDEA. The district also schedules several release days throughout the year to allow for collaboration among educators. Out of necessity, special educators spend a majority of those days receiving compliance training. In addition to other mandated training, during the 2001-2002 school year the Special Education Department of the Columbia Public Schools provided 92.5 hours of optional training on a variety of topics dealing with compliance and best practice. Over 56% of the training options dealt with compliance issues and how and when to fill out required paperwork. Imagine the innovative instructional techniques that teachers could have learned in 92 hours of training if all sessions had targeted improvement of instructional practice. Imagine the potential for improvement in student achievement. The preamble to the IDEA may talk about the goal of focusing on student achievement but we are forced by the law to walk a different walk.

At the heart of appropriate education is a comprehensive evaluation resulting in an accurate diagnosis. This is a necessary but time-consuming process that, according to data compiled over the course of a year in the Columbia Public School District, takes between 55 and 87 man-hours per evaluation.

Of national concern is the over-identification of minorities in the total population of students with disabilities. Of a troubling nature to educators is the conflict between over-identification of minorities in special education and the need to ensure that every child receives and benefits from the services he or she requires.

An expressed concern has been the purposeful over-identification of students with disabilities in order to increase school district revenues. It is enlightening to look at data. In a district such as Raytown C-2, a suburban school district in greater Kansas City Metropolitan area, the district's sources of special education funding for the 2000-2001 school year were 8% Federal Part B receipts, 20% Missouri receipts, and 72% local receipts. In Missouri, the local tax rate is set by a vote of the patrons in the school district. For every dollar spent on a new child identified as eligible for special education, the district receives eight cents from the federal government, twenty cents from Missouri, and the other seventy-two cents comes from the local taxpayers. The local tax levy does not automatically go up each time a child is identified as having a disability. The needed dollars are taken out of the local tax dollars. Sometimes they are taken at the expense of other programs and services for students without disabilities. School districts operate in a limited resource model. There are only so many dollars available and an increase in cost in one area must be offset by a decrease in another area. There is no financial incentive to over-identify students as needing services under IDEA.

Procedural Safeguards for Parents and Children must be rewritten

Reform needs to occur when a law is so vaguely written that litigation is required to give it definition. The IDEA is such a statute. Due process is a brutal system. It paralyzes the educational system; it paralyzes individuals. The focus is shifted from the child to the "battle." The only ones ultimately benefiting are the lawyers. The cost of litigation is extraordinary in terms of time, money and personnel resources. Regulations need to be imposed on the right of due process in order to provide balance and protect the integrity of the system. Very few safeguards that exist in civil law proceedings regulate or protect due process under the IDEA.

Paramount to this matter is the lack of disclosure of issues. Although the statute is clear that parents must state their issues and propose remedies at the time of filing for due process, the regulations allow for the proceeding to move forward without doing so. It is not uncommon for parents to choose not to disclose issues and to proceed to due process with the district blind to the issues it must defend. In a recent lawsuit in Missouri, a district implored the parent to disclose their points of

disagreement and mediate a solution agreeable to both parties. The parent refused multiple attempts on the part of the district to address their dissatisfaction, including offers of mediation, and proceeded with the filing for due process. The parent continued to refuse disclosure of their issues of disagreement and the district was forced to prepare without knowledge of the matter to be resolved-an unnecessarily costly process. A set of issues was articulated on the first day of the hearing and additional issues were added throughout the proceedings. The parent stated she felt it was the hearing panel's responsibility to identify issues for the parent. Prior to any allegation being presented at a due process hearing, parents should be required to present their concerns in writing to the district and the school should have an opportunity to respond in the context of an IEP meeting.

Under the IDEA, there is no safeguard for frivolous lawsuits or harassment. Although the vast majority of children with disabilities are served successfully through collaborative teamwork between parents and teachers, a single due process hearing can cost a district in excess of a year's instructional budget even when the district prevails. Under the current process, an unfortunate situation with one parent, can adversely affect the quality of education for an entire community.

The increasingly excessive number of days a single due process can take has added to the prohibitive cost of the proceedings and the diverting of teachers' attention away from the instruction of children. Once again, a single child's situation can negatively impact a teacher's ability to consistently focus on the business of educating numerous children on his/her caseload. It is fair to speculate that in 1975 no one would have anticipated that the average due process hearing in the twenty-first century would take in excess of a week or two of testimony. Chief hearing officers should be trained to expedite the process, setting reasonable number of day limitations for each side to present their case. Stipulation of facts and uncontested exhibits should be presented for review by the panel without tedious and time-consuming review of each fact on each page. The toll that either the reality of a due process hearing or the fear of a due process hearing has on individual teachers is enormous. Teachers of students with disabilities enter the field because of their love for children and commitment to educating students with disabilities. A process that devalues their expertise and calls into question their professional judgment at every turn forces them to spend as much time documenting as teaching and creates an environment where teachers fail to risk on behalf of a child. It takes the joy out of teaching, destroys a teacher's quality of life and drives teachers from the field of special education. The contentious nature of due process destroys teacher-child relationships and parent-teacher relationships resulting in failure to trust for years to come. Qualified teachers committed to students with disabilities are indispensable in this nation. The IDEA is meaningless if we do not have qualified teachers in the classroom. Any aspect of the statute that operates to limit that pool has the opposite effect of that which the statute intended.

An additional area of concern under Procedural Safeguards for Parents and Children is the provision for an independent educational evaluation if a parent is in disagreement with a district's evaluation. The fact that parents do not have to disclose the area of disagreement does not allow a district the possibility of working with the parent to resolve differences. It has become for many a fight for a second opinion when there is neither disagreement nor reason to suspect the district's report to be incomplete or insufficient. This has resulted in the over testing of children adding stress to their lives and resulting in loss of educational instruction. According to the statute, the district has an option to take a parent to due process to defend its evaluation. This presents no real alternative for districts. The cost of a due process for the sole purpose of defending an evaluation could be $25,000 to $30,000. The cost of an independent evaluation is approximately $1500. Both are a needless drain on resources that could be better spent on personnel or material resources to enhance the education of children with special needs.

Parents, as well as district personnel, often criticize the distribution of procedural safeguards numerous times within a year as an example of either federal excess or as contributing to the uncomfortable feeling of a legal process as opposed to an educational practice. Such a procedure may have made sense in 1975 when the IDEA was initiated. It does not make sense in 2002. The IDEA procedural safeguards should be published annually for all parents, as are Section 504 and Family Educational Rights and Privacy Acts notices. It does not make sense to provide a 14-page statement of procedural safeguards multiple times during a single school year; at times it is required to provide them several times within weeks of each other. In addition to the expense to print and at times mail the extensive document, it often creates a sense of mistrust. An annual presentation of procedural safeguards reminds parents of their rights; multiple presentations of procedural safeguards in close succession breeds suspicion. Parents wonder why they are being told each time

they meet that they have the right to file a child complaint or go to due process if in disagreement with any aspect of their child's IEP. Procedural safeguards, as written, give the perception that special education is a hostile, confrontational, litigious process. Often at IEP meetings focusing on articulation disorders, parents have stated to the coordinator of speech/language services, "Are you a speech pathologist or an attorney? I can't believe we have to sign all of these papers to remediate a single error sound." Others question why we have to "destroy a tree" in order to provide services to their child.

It is imperative that the IDEA is fully funded and that districts are relieved of excessive paperwork and temporal obligations not clearly aimed at the target of student achievement

Many times the cost of specialized instruction, equipment and materials is significant. Districts embrace the concept of leveling the playing field to allow students with special needs an equal opportunity for high student achievement. Without adequate funds and relief of procedural excesses, limited funds will quickly dissipate ultimately resulting not only in lack of sufficient resources for students with special needs but also diminished regular teacher resources, materials and equipment. All students suffer under this reality for the majority of students with special needs spend the are fine in spirit but insufficient in practice. When money runs out in the budgets of agencies such as the Department of Mental Health and Division of Family Services, services are terminated. When an agency feels a family is not cooperating or staff of the agency is not trained to deal with a situation, families are turned away. Children are complex human beings. The well being of our nation tomorrow depends on the total well being of our children today. Children bring issues to school that are well beyond the scope of training for an educator. The concept of collaboration needs to be replaced with mandated services for children and shared partnerships with schools for the benefit of children. An example of the nature of the problem is demonstrated in the following scenario of an actual event. A young man was becoming increasing aggressive at home, school and in the community. His behaviors were dangerous to himself and endangered others. His parent, in collaboration with the school, admitted him for evaluation and treatment at a crisis treatment center operated by the Department of Mental Health. After 24 hours, the mental health worker called a meeting with the parent and special educator. The mental health worker reported they were unprepared and lacked specific training to deal with the severity of the condition of the child at the mental health center even on the lock treatment ward. Consequently, they would not be able to serve the child. The child returned home that evening and to public school the next day. The question is, "If agencies whose function it is to address the mental health needs of persons within a community are challenged beyond their expertise, what good does it do the child to be returned to a far lesser restrictive environment under the supervision, instruction, and care of those with little or no training in the area of mental health." This is clearly a case where mandated zero reject on the part of both agencies could potentially have resulted in a combined treatment-education plan to improve the mental health condition of the child and readiness for continued academic progress.

SUMMARY

Special education works well for the vast majority of students with special needs. We must preserve what works and fix what doesn't through common sense reform. The Achilles heel of special education is comprised of complex and inter-related issues. With our sites clearly set on student outcomes, the heart of the problem and the heart of the solution rest with preparing and retaining quality special educators in sufficient number to meet the needs of a diverse population of students with disabilities. Without the teachers, we can turn out the lights and go home. In October 2000, The Council for Exceptional Children (CEC) published a report entitled Conditions for Special Education Teaching: CEC Commission Technical Report. The informants represented a variety of stakeholders. The conclusions are enlightening. Special education teachers leaving the field combined with fewer pre-service teachers being interested in pursuing a career in special education is at crisis level in our nation. We must respond with real answers to real concerns. According to the CEC publication Bright Futures Technical Report-Part 5, No barrier is so irksome to special educators as the paperwork that keeps them from teaching. The overwhelming requirements of paperwork were ranked as the third most important concern (out of a list of 10 issues) coming in behind caseload and time for planning. While special educators understand the need for the IEP, both as an educational guide and legal document, they struggle with all the time the process requires.

As special educators we wear many hats. We are required to be case managers, consultants, classroom teachers, secretaries, and disciplinarians . . .

My frustration is trying to be "all things to all people". I am supposed to keep perfect paperwork, collaborate with regular educator teachers, train and grade peer tutors, keep in constant contact with parents, and still find time to teach my students! The most effective way for Congress to improve the quality of special education is to increase and protect the time special education teachers have for collaboration with regular educators and for direct instruction with children. This would go a long way toward insuring an adequate number of special educators in the future. Necessary components of the solution include:

Reduce the excessive paperwork burden that materially detracts from available planning and instructional time.

Provide full funding to employ a sufficient number of appropriately trained special educators and to purchase specialized materials and equipment without diminishing the quality of education for all children.

Revise due process procedures to include regulations (mandatory disclosure of issues, mediation, time limits and incentives for advocacy agencies to resolve issues) and protections (frivolous lawsuits, harassment, etc.) that promote trusting, positive, long-lasting relationships with parents and prevent catastrophic drain of finite educational resources.

Designate additional social service agencies, such as the Department of Mental Health, as zero reject agencies to act in partnership with public schools on behalf of children.

Continue to fund effective existing programs and encourage the creation of additional programs for children in poverty, or who are otherwise at-risk of failure in school, to prevent the over-identification of students with disabilities. Effective existing programs would include, but not be limited to, Head Start, Parents as First Teachers, First Steps, Title 1, and programs for migrant workers and homeless children.

PREPARED STATEMENT OF THE NATIONAL ASSOCIATION OF SCHOOL NURSES

The National Association of School Nurses, or NASN, is the professional nursing organization of over 11,000 nurses throughout the United States. NASN is dedicated to improving the health and educational success of children and youth in our nation. NASN supports the health and safety of children in schools throughout the United States. We submit this statement regarding reauthorization of IDEA.

There are currently 47,000 school nurses throughout the United States. School nurses are hired primarily through public Boards of Education. School nurses provide a variety of health care services to children in school, including the increasing number of children with disabilities who are in our schools today. NASN would like to make four recommendations regarding the reauthorization of IDEA:

1) The professional school nurse should be added, in name, to the related services section and included as part of the IEP;

2) Full funding of IDEA;

3) Early intervention and preschool services must be available to all eligible children; and

4) School nurse to student ratios must be reduced.

IDEA guarantees that eligible children with disabilities have the right to receive a free appropriate public education in the least restrictive setting. For an increasing number of children with disabilities, access to education is only achieved through the provision of necessary and frequent complex health services such as the administration of intravenous medications, nebulizer treatments, catherterization, tracheotomy care, gastrostomy care tube feeding, etc. These are complex procedures and cannot be safely or legally done by other personnel. Only qualified school nurses should perform these procedures.

NASN believes that children with disabilities and severe medical problems have the right to receive these specialized health services required to assure their inclusion and safety in the school environment by a nurse and not by other personnel. The recent Supreme Court decision of Garret F reiterates the school's responsibility to provide services for these children but has not adequately funded the process to do this. Although in this case the child required multiple services, the presence of a school nurse would allow a child with asthma to safely participate in all school activities, including a PE program. Recent newspaper headlines have shown the danger in allowing other individuals to give medications and perform special procedures for children with medical problems or disabilities. The rate of treatment errors rises when non-nursing staff delivers medications. The results of using non-nursing staff can have dangerous and life threatening consequences. NASN believes

that school nurses are a crucial component in the successful mainstreaming of children with disabilities in our schools.

1) NASN recommends that the professional school nurse be added to the related services section of IDEA and that the school nurse be included as part of the multidisciplinary team. Related services personnel, which school nurses would be defined under, are important members of the Individualized Education Program or IEP team. NASN believes that school nurses must be specifically included, in name—school nurse, under "related services personnel" and that a school nurse be part of the team that confers and constructs the IEP. This term should not be open for interpretation. It should clearly articulate the child's right to a school nurse.

In many jurisdictions, school nurses are not included in the IEP team. In some cases, the school nurse is not invited to attend. The law supports this exclusion by clearly stating the school district or parents may request the presence of related services personnel. In all too many cases, there is no school nurse at the school to invite. Individuals without requisite training and supervision put children with disabilities at even greater risk than their current status.

The school nurse is a crucial member of the multidisciplinary team that develops the IEP. The school nurse brings nursing expertise which is critical in determining the health services necessary for successful inclusion. Because children with chronic and special health care needs have unique health considerations, the individual assessment, planning, intervention and placement decisions in an IEP are critical in order for them to attend school and fully participate in educational activities, programs and learn. School nurses provide direct services from initial assessment and diagnosis to treatment and maintenance of health care for children who experience problems that interfere with their learning. The IEP process promotes individualizing educational approaches to the individual child. School nurses are experts in assisting teachers and parents in identifying problems, utilizing community resources and removing health barriers to learning within the community of education. School nurses are the link to the medical community. They speak the language of "education-ese" and "medical-ese". School nurses have an integral role in developing an IEP and in providing health care services under IDEA to students with disabilities and should be included as such.

2) NASN believes that IDEA should be fully funded. Congress enacted IDEA to ensure that states would educate all students with disabilities. Part B of IDEA authorized the federal government to pay up to 40% of the cost of educating students with disabilities. Congress has only funded up to 15% of the cost of educating students with disabilities. Funding for the infants and toddlers program has not even kept pace with inflation. Full funding would allow for the provision of needed services. Full funding should not weaken eligibility.

3) Early intervention and preschool services must he available to all eligible children.

Programs to allow states to create family-centered systems of services are necessary to ensure that infants, toddlers and preschoolers are prepared for school. The earlier a health or learning disability is found, the better the outcome will be for the child. States must have the ability to screen and identify children in order for this to occur. Increasing the number of school nurses that are present in preschool areas can provide valuable assistance to assure that disabilities are identified and that an appropriate plan is created for these children.

4) School nurse to student ratios must be reduced or learning will be further compromised.

NASN supports the 2010 objective for a school nurse ratio to students of 1:750. Some schools have caseloads of 1:14,000. It is not uncommon for a school nurse to be responsible for an entire county or district. Case loads of 1:3000 or 1:4000 are not uncommon. Given that a school nurse may be caring for a large number of children with disabilities that require intensive medical procedures, care and education will be compromised with case loads this high. High dropout rates among students with disabilities have been correlated with the shortage of qualified personnel. Part D personnel preparation have been cut or level-funded over the last five fiscal years and should be increased. Personnel preparation grants are crucial to ensuring an adequate supply of qualified personnel, such as school nurses.

NASN looks forward to working with Congress this year on the reauthorization of IDEA. Thank you.

PREPARED STATEMENT OF DONNA MARTINEZ

This is my son, Andres Martinez, but his family and friends call him Andy. Andy is 16 years old and a freshman in Fairfax County Public Schools, Centreville High School in northern Virginia. He is attending his neighborhood school. Due to IDEA,

the law that is in debate today, Andy has had the opportunity and the right to be with his neighbors and friends to go to the same school for his entire school career. He has had access and instruction in the same curriculum that his friends have had. Because of that, Andy is able to read, do algebraic equations, study world history, and be expected to know more than the McDonald's or Mall Curriculum.

Were it not for Early Intervention, Andy would have languished at home and I would never have developed the partnering skills I now have for being an active and integral element in the development of Andy's school program. Early Intervention assured us that he would develop more rapidly and be able to match the milestones that others his age were reaching naturally and without intense interventions. As a result of Early Interventions Andy was ready to join up with his Kindergarten friends and learn side by side with them, developing the relationships that mold an individual's character and personality.

IDEA has been the cause of Andy's successes in many other ways. We have moved school to school, district to district, state to state. Andy's IEP as defined by IDEA has been the cornerstone of his success. It insured that each transition to a new school would be a seamless one. And in those schools where it would appear the seams just might unravel as the director of Special Education would claim, "But we don't do that here," they soon discovered that indeed they do and do it well after some direction and practice as laid out in my son's IEP. We have never had to invoke our Due Process rights, but knowing that they were always an option, promoted, I feel a more proactive solution to the differences of opinions that on occasion threatened the successful completion of his IEP and school year.

IDEA has allowed not only Andy to be successful, but also the staff of professionals who support him. IDEA's authorization for Independent Education Evaluations for families who disagree with the school evaluations provided us with an in-depth and accurate information from which to develop a tremendous document that will direct Andy's education for the ensuing year. As a result of the accommodations for not only Andy, but the staff for further training and consultation in the area of Inclusion and adaptation, the staff is gaining valuable insight and instruction that will lead them to providing a curriculum that is based on best practices. This continued support for the people that direct my son's education has lead to exciting paradigm shifts and effected significant changes within the systems and structures of the school itself.

But now we face the dilemma of how to develop and sustain a responsive curriculum and education based upon this wonderful document. So that no child, including Andy, not be left behind, IDEA must be fully funded, as directed when initially designed. Without the full funding of IDEA we are burdened continuously with the concern that Andy has the staff supports, adaptations and assistive technology that allows him continued access to the general education curriculum, including and through his high school and early college years. Special Education Directors and Superintendents have become gatekeepers for the insufficient Rinds that effect Andy's access to the curriculum. New funding formulas must be put in place that will allow the flow of funding to be appropriated as was promised in a speedy and direct fashion.

Continued support in the area of training, not only for the direct teaching staff, but for the administrative staff as well is crucial. Administrators must realize that All means All. Their students with disabilities need to be counted and they need to be held accountable. Students must be counted in the classrooms, they must be counted for access to the books and materials from which to learn, and they must be accurately counted to show their successes.

I urge you and all on the committees and the floors of Congress to reauthorize IDEA and assure that Andy will indeed have the education that is his civil right.

[Whereupon, at 1:07 p.m., the committee was adjourned.]

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