

NEWS BRIEFS



United States Senate Subcommittee on the Handicapped

1981

June 19, 1981

97-1-1

The status of the many and varied proposals presently being considered by the Senate is of great concern to all of us who support services for disabled persons. In an effort to provide information to you, The Senate Subcommittee on the Handicapped is publishing "News Briefs" to keep you current with our activities. We hope you will find the Newsletter of interest and we welcome your comments and suggestions.

Sincerely,

Lowell Weicker, Jr., Chairman
Subcommittee on the Handicapped

The Senate Labor and Human Resources Committee will recommend to the full Senate that PL 94-142, "The Education of All Handicapped Children Act", be retained as a categorical program rather than become part of an education block grant proposal now under consideration by Congress. The Committee decided to take the action at the urging of Senators Lowell Weicker, Chairman of the Subcommittee on the Handicapped, and Robert Stafford, Chairman of the Subcommittee on Education, the Arts and Humanities. The Committee's decision was preceded by extensive negotiations between the two Senators, Committee Chairman Orrin Hatch, and the Administration, and was part of a larger compromise worked out on funding levels for major social programs, including those which effect disabled Americans.

PL 94-142, enacted into law in 1975, mandates that all children with disabilities receive a "free appropriate public education" in the least restrictive environment appropriate to their needs. The law is generally considered to be landmark legislation and contains a number of provisions designed to protect disabled school children. Before the compromise was reached, Weicker expressed fear that due process safeguards would be abandoned and that the whole federal commitment to education of disabled children would go by the wayside if special education services were consolidated under the block grant

proposal now being considered by the Senate.

The Labor and Human Resources Committee also acted last week to establish authorization levels for all federal programs under its jurisdiction. Authorization levels set the funding ceilings below which the Appropriations Committees in the Senate and House must stay when they take up actual funding of federal programs later this fall. The authorization levels for most major social programs were reduced by as much as 25 percent as part of the Committee's budget reconciliation process under which each Congressional committee must review the authorization levels to insure they are consistent with those set forth in the first concurrent budget resolution adopted by Congress in mid-May. In real dollar terms, the Labor Committee reduced the authorization levels for all social programs under its jurisdiction by over \$11.0 billion.

However, The Committee accepted the Subcommittee on the Handicapped's recommendation to "flat fund" or hold most programs affecting the disabled at the pre-recission FY 1981 spending levels for the next two years. The only two exceptions were the State Grant components of the federal special education and rehabilitation programs, which will be increased by 5.2% and 10.4% in FY 1982 and 1983 respectively over FY 1981 pre-recission levels. Programs to be flat funded over the next two years include: Special Education (except for its State Grant component), the Developmental Disabilities Program, Gallaudet College, National Technical Institute for the Deaf, The American Printing House for the Blind, the Committee for the Purchase from the Blind and Severely Handicapped and the Office of Civil Rights, DHHHS. The following chart shows the authorization levels for all programs affecting the disabled for the next two years:

PROGRAM	1981	1982	1983
Education	\$1026.5 *	1149.95	1198.0
Rehabilitation	967.56	1009.26	1054.16
Gallaudet College	50.0	50.0	50.0
NTID	20.3	20.3	20.3
American Printing House for the Blind	5.0	5.0	5.0
Cmte for Purchase from the Blind	.5	.5	.5
Developmental Disabilities	61.0	61.0	61.0
Office of Civil Rights	<u>19.0</u>	<u>19.0</u>	<u>19.0</u>
TOTALS *(millions)	\$2150.	\$2315.	\$2408.

NEWS BRIEFS

U.S. SENATE
SUBCOMMITTEE ON THE HANDICAPPED
Chairman: Senator
Frank Lautenberg
Members: Senator
Carmichael
Senator Harrison Williams
Senator Thomas Eagleton

United States Senate Subcommittee on the Handicapped
1000 Senate Office Building
Washington, D.C. 20510



July 3, 1981

97-1-2

SENATE AND HOUSE TAKE FINAL ACTION ON RECONCILIATION;
SET AUTHORIZATION LEVELS FOR PROGRAMS AFFECTING THE DISABLED;
CONFERENCE ACTION EXPECTED BY END OF JULY

Completing their work before leaving for the July 4th recess, the Senate and House of Representatives adopted two fairly similar sets of authorization levels for major federal programs benefitting the nation's 36 million disabled citizens. Congress took their actions on the programs as part of their work on budget reconciliation under which Congressional Committees were required to reduce spending levels for most programs under their jurisdiction. This was to bring them into conformance with those embodied in the first concurrent budget resolution adopted by Congress in mid-May. The House and Senate votes last week dealt with the authorized spending reduction recommendations made by each committee for federal programs under its jurisdiction.

The Senate accepted the recommendations of the Senate Labor and Human Resources Committee to "flat fund" or maintain most programs affecting the disabled at the pre-recission FY 1981 levels for the next two years. Under the Senate's action, all such programs, including special education and vocational rehabilitation services, will remain categorical programs rather than be consolidated into block grants as the Administration had originally proposed. The Committee "deliberately refrained" from including programs for the disabled in its block grant proposals, according to Committee Chairman Senator Orrin Hatch, "because the issues involved...are especially delicate and require more consideration". The Senate also agreed to a Committee request to increase the authorization levels for the State Grant components of both the special education and vocational rehabilitation programs by 5.2% and 10.4% over the FY 1981 pre-recission levels for 1982 and 1983 respectively.

In the House, authorization levels for all such programs were approved through FY 1984. The House also agreed with the Senate that special education, vocational rehabilitation, and the Developmental Disabilities programs be retained as categorical programs. There had been some concern that the House might move to consolidate one or more of the programs into a block grant to the States. Congressman James Broyhill of North Carolina, in fact, offered an amendment which would have repealed the DD program. But Broyhill subsequently withdrew his amendment from consideration and the program was reauthorized for another three years as part of Gramm-Latta II, the budget package approved by the House.

In respect to the actual authorization levels themselves, the House authorized \$1,112.1 million for special education (including the program's State Grant component) for FY 1982 and 1983. The House's allotment for special education is \$37.8 million below that of the Senate's in FY 1982 and \$85.9 million below the Senate authorization level for 1983. The difference between the House and Senate authorization levels for these two years is directly proportional to the differences in the House and Senate allotments for the program's State Grant component. All other program component authorization levels approved by the House are the same as those set by the Senate.

The House also came in below the Senate in terms of the authorization it passed for vocational rehabilitation. The house approved authorization levels for the program of \$844.9 million and \$910.3 million for FY 1982 and 1983 respectively. These spending levels fall below Senate authorization figures for the two year period by \$164.1 million in FY 1982 and \$143.7 million in the following fiscal year. As with special education, the House authorization for the VR program's State Grant component is also significantly less than that of the Senate's.

As reported above, the House also established authorization levels for the DD program for the next three years. In doing so, it funded the program at \$51 million, \$10.1 million below the Senate approved spending ceiling of \$61.1 million for both FY 1982 and 1983. The great difference between the House and Senate figures is again in respect to the program's State Grant component. Under the Senate spending ceiling, the States would receive \$43.1 million in federal funds to provide direct services to developmentally disabled individ-

uals. The House would provide \$8.1 million less to the States to deliver the same services. These and all other differences between House and Senate authorization levels will be resolved by conferees from both Houses after Congress returns from recess July 8th.

The following table shows the differences between House and Senate authorized spending levels for the three major federal programs for the disabled for FY 1982 and 1983.*

PROGRAM	FY 1982		FY 1983	
	SENATE	HOUSE	SENATE	HOUSE
<u>EDUCATION (PL 94-142)</u> (in Millions)				
State Grant	\$969.8	932.	\$1017.9	932.
All Other Authorities	180.1	180.1	180.1	180.1
<u>REHABILITATION</u>				
State Grant	899.	714.5	943.9	774.5
All Other Authorities	110.186	130.4	110.156	135.8
<u>DEVELOPMENTAL DISABILITIES</u>				
State Grants	43.1	35.	43.1	35.
All Other Authorities	18.	16.	18.	16.

*FY 1984 is not included in this table because while the House set authorized spending levels through 1984, the Senate only established authorizationa for the next two fiscal years.

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Lowell Weicker, Chairman
Jennings Randolph, Ranking Member
Robert Stafford
John East
Donald Nickles
Harrison Williams
Thomas Eagleton

United States Senate Subcommittee on the Handicapped
1013 Russell Senate Office Bldg
Washington, D.C. 20510



1981
The Interim Year
Of The Disabled Person

JULY 30, 1981

97-1-5

SENATE AND HOUSE SET AUTHORIZATION LEVELS FOR PROGRAMS AFFECTING DISABLED; GO WITH HIGHER SENATE FIGURES FOR SPECIAL ED. AND VOC. REHAB.

Senate and House conferees met last week to iron out differences between authorization levels for federal programs contained in the Senate and House reconciliation bills approved earlier this month. Conferees for the Senate Labor and Human Resources Committee and the House Education and Labor Committee, which both have jurisdiction over most human service programs specifically affecting the disabled, made no cuts to most major programs for the disabled. In fact, House conferees agreed to "recede" to, or accept the higher Senate figures as recommended by Handicapped Subcommittee Chairman, Lowell Weicker.

In respect to special education, the conferees agreed to recommend to their respective Houses that a spending ceiling be established for the program at \$1149.9 million for FY 1982 and \$1198 million for FY 1983. As part of this agreement, conferees for the House will recommend to their House colleagues that they accept the Senate figures for the State Grant component of the program which are \$37 million and \$85 million higher than the House's for FY 1982 and 1983 respectively.

The conferees took similar action in respect to vocational rehabilitation by again going with higher Senate figures for most of the program's components including its State Grant component. In real dollar terms, the spending ceilings for the program were set at \$1009.1 million for FY 1982 and \$1054 million for FY 1983. Under the terms of the agreement, up to \$899 million in FY 1982 authorization monies and \$1054 million FY 1983 authorization monies would be made available in the form of federal financial support of State VR efforts. Additionally the conferees increased funding levels for Independent Living Centers by \$1.4 million over the Senate figure for both FY 1982 and 1983 to \$19.4 million.

The conferees also authorized \$8 million for the Projects with Industries component of the program which was \$2.15 million greater than what the full Senate set aside for PWI earlier this month.

In other action, Senate and House conferees also reached major compromises on funding levels for the nation's two higher education institutions for the deaf, Gallaudet College in Washington, D.C. and the National Technical Institute in Rochester, New York. In its reconciliation bill, the Senate authorized \$50 million for Gallaudet while the House came in at \$61 million for both fiscal years. After considerable debate, however, the conferees agreed to recommend setting the authorization level at \$52 million for the college. The House also had authorized \$52.8 million to the Senate's \$20.3 million for the National Technical Institute for the Deaf. With some give and take on both sides though, the conferees agreed to provide not more than \$26 million to NTID for each of the next two years. Once the work of all conferees is completed, the Senate and House are expected to vote on their recommendations just before adjourning for the August summer recess. When Congress comes back into session a month later, it will then take up work on the actual appropriation process.

The following table sets forth the authorization levels for major program components affecting the disabled agreed to by Senate and House conferees:

PROGRAM	FY 1981 ACTUAL	FY 1982 AUTH'ZED	FY 1983 AUTH'ZED
SPECIAL EDUCATION (GRANT TO STATES)	874.5	969.9	1017.9
VOCATIONAL REHABILITATION (GRANTS TO STATES)	854.0	899.0	943.0
INDEPENDENT LIVING CENTERS	18.0	19.4	19.4
PROJECTS WITH INDUSTRY	5.8	8.0	8.0
NATIONAL INSTITUTE OF HANDICAPPED RESEARCH	35.0	35.0	35.0
DEVELOPMENTAL DISABILITIES	61.0	61.0	61.0

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Staff:
Joseph Kunkin, Member
Katie Storer
John East
Donald Nickles
Hanson Williams
Thomas Eagleton

United States Senate Subcommittee on the Handicapped
103 Russell Senate Office Bldg
Washington, D.C. 20510



1981
The International Year
Of The Disabled Person

OCTOBER 2, 1981

97-1-4

ADMINISTRATION NOMINEE PLEDGES SUPPORT FOR SPECIAL ED & REHAB LAWS

Confirmation hearings on Jean S. Tufts to be Assistant Secretary for Special Education and Rehabilitative Services were held by the Senate Labor and Human Resources Committee on Tuesday, September 22. Tufts, the President's choice to administer the nation's special education, vocational rehabilitation and federal handicapped research programs, was closely questioned by Committee Chairman Senator Orrin Hatch and Subcommittee on the Handicapped Chairman Senator Lowell Weicker, Jr. Mrs. Tufts, a former New Hampshire teacher and rehab center executive, and past National School Board Association President, stated her opposition to the repeal of the federal special education and vocational rehabilitation laws (PL 94-142 and PL 95-602). However, Mrs. Tufts reversed testimony given to Congress earlier this year, by stating she was now in favor of reducing federal funding for these programs. Senator Weicker indicated his opposition to Mrs. Tufts' position on these funding cuts.

Committee action on Mrs. Tufts' nomination has been suspended at the request of Senator Weicker.

FY 1982 APPROPRIATION DECISIONS NOW BEING MADE

When the new federal fiscal year begins on Thursday, October 1, 1981, Congress will proceed along several paths to try to provide the dollars necessary to run the government in FY 1982. The Senate Appropriations Subcommittee for Health & Human Services is marking up their recommendations, many of which represent additional cuts for handicapped programs. The Labor-HHS-Education Subcommittee, which has jurisdiction over special education, vocational rehabilitation and other

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handicapped programs, has generally recommended funding levels for these programs at slightly less than FY 1981 actual levels with several relatively small programs (i.e. Developmental Disabilities) reduced more substantially.

As this issue of NEWS BRIEFS is written, Congress has also enacted a Continuing Resolution. This Resolution continues federal programs at FY 1981 levels until November 20 when the Appropriations Committee actions are expected to be completed. Congress has also received the President's most recent (9/24) recommendations for FY 1982 appropriations, which will receive very careful consideration.

A comparison of the various funding levels being considered, plus FY 1981 actuals and FY 1982 authorized ceilings is outlined below:

<u>PROGRAMS</u>	<u>FY 1981 ACTUAL</u>	<u>FY 1982 AUTHORIZED</u>	<u>* FY 1982 CONTINUING RESOLUTION</u>	<u>FY 1982 SEN. APPROPRIATION SUBCOMMITTEE RECOMMENDA'TN</u>	<u>FY 1982 PRESIDENT' RECOMMENDA</u>
SPECIAL EDUCATION (Grants to States)	\$874.5	\$969.9	\$874.5	\$900.0	\$649.1
VOCATIONAL REHABILITATION (Grants to States)	854.0	899.0	854.0	854.0	768.0
INDEPENDENT LIVING CENTERS	18.0	19.4	18.0	18.0	14.2
PROJECTS WITH INDUSTRY	5.5	8.0	5.5	6.8	**
N'TL INSTITUTE OF HANDICAPPED RESEARCH	29.8	35.0	29.8	29.8	31.2
DEVELOPMENTAL DISABILITIES	59.4	61.0	59.4	50.25	33

* Continuing Resolution in force until November 20, 1981.

** PWI included in general category of "Service Projects" in the President's Budget at \$24.87 million. In FY 1981 Service Projects were funded at \$29.86 million.

NOTE: CONTINUING RESOLUTION AND PRESIDENT'S RECOMMENDATION FIGURES ARE ESTIMATES AS OF OCTOBER 1, 1981, AND ARE SUBJECT TO CHANGE.

NEWS BRIEFS

U.S. SENATE
SUBCOMMITTEE ON THE HANDICAPPED
1000 NEW YORK AVENUE
WASHINGTON, D.C. 20540
Phone: (202) 512-2000
Fax: (202) 512-2000

United States Senate Subcommittee on the Handicapped
1000 New York Avenue, N.W.
Washington, D.C. 20540



NOVEMBER 24, 1981

97-1-5

SENATE VOTES ADDITIONAL \$69.8 MILLION IN SPECIAL ED; \$44.8 MILLION IN VOC. REHAB; AND \$10 MILLION FOR DD STATE GRANTS; PRESIDENT VETOES RESOLUTION.

The Senate approved two amendments offered by Senator Lowell Weicker, Chairman of the Subcommittee on the Handicapped, to provide for full funding of the State Grant components of both the Special Education and Vocational Rehabilitation programs at levels authorized in the Omnibus Reconciliation Act. The Senate Appropriations Committee had recommended to the full Senate that only \$900 million of the authorized Special Ed. State Grant monies and \$854.2 million of those authorized for State Grants to VR agencies be appropriated.

With the passage of the special education amendment, an additional \$69.8 million in federal funds was to be made available to the States and local school districts in FY 1982 to carry out the provisions of the Education for All Handicapped Children Act.

Weicker's amendment raising the appropriation level for the State Grant component of the federal VR programs would have provided for \$44.7 million in additional monies be made available to the States to be used to cover direct services and administrative costs associated with their respective State VR agencies. In offering the amendment, Senator Weicker noted that an average of \$73 million is saved annually in entitlement spending for persons rehabilitated in any given year. He observed that each federal dollar spent on vocational rehabilitation today is an investment in the future which will allow "disabled Americans to work and... be participating, contributing members of society-- not just for their own good, but for our own as a government and as a people."

The Senate also approved an amendment offered by Senator Orrin G. Hatch, of Utah, Chairman of the Labor and Human Resources Committee to increase FY 1982 funding for the Developmental Disabilities Program to the full \$61 million authorized. The Hatch Amendment would have restored some \$10 million proposed to be cut from DD by the Appropriations Committee.

Following the President's veto of Monday, November 23, the Congress passed a stopgap measure to keep the government running until Dec. 15th at last years' (FY'81) levels. Between now and December 15 both houses of Congress will be working to fashion permanent funding legislation which can be enacted into law for FY 1982. As the new legislation is being considered, Senators Hatch and Weicker will continue to press for full funding of the above programs.

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WEICKER TO FILE AMICUS BRIEF WITH THE U.S. SUPREME COURT IN SUIT CONCERNING RIGHTS OF RETARDED PEOPLE TO EDUCATION & HABILITATION.

Senator Lowell Weicker, Chairman of the Senate Subcommittee on the Handicapped, will file in the next few weeks, an amicus curiae brief with the United States Supreme Court in Romeo vs. Youngberg, a case involving Nicholas Romeo whose lawyers contend has been abused and deprived of treatment while a resident of the Pennhurst State School and Hospital in Pennsylvania. Weicker will file the friend of the court brief in response to another brief submitted by the Attorney General of Connecticut, and co-signed by 19 other states. The Connecticut brief alleges that retarded citizens living in state institutions such as Pennhurst have no other rights but to receive a minimum level of custodial care. It also argues that states are under no legal obligation to provide such institutionalized residents with education or habilitative services, and questions the value of such services. Commenting on the Connecticut brief, Weicker said, "The State Attorney General's decision to urge the U.S. Supreme Court to deny basic human rights to retarded citizens is the most disgusting display of human indifference in recent memories."

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LEGISLATION PLANNED TO RESTORE FUNDS
FOR VR SERVICES FOR SSI, SSDI BENEFICIARIES

Senators Alan Cranston and Lowell Weicker will introduce legislation in the Senate to continue the long-standing commitment of the federal government to providing rehabilitative services to those currently on SSI or SSDI by providing additional monies to the states to pay for such services. Cranston and Weicker joined forces this summer in offering an amendment to the reconciliation package which would have accomplished the same results by continuing the flow of dollars from the Disability Insurance Trust Fund for VR services. The amendment failed to pass the Senate by a vote of 49 to 47.

Agreement was later reached as part of reconciliation conference committee deliberations to allow Trust Fund monies to be spent on rehabilitation services for SSI and SSDI clients who showed promise of being able to engage in competitive employment or some form of "substantial gainful employment." Such funds can only be spent after an individual has successfully participated in a rehabilitation program over a nine month period. Because states are unlikely to be able to finance the up front cost of such services, the Cranston/Weicker bill cuts the 9 month delay in federal payments to 60 days. The bill would also provide for the use of general revenues to pay for rehabilitation services for SSI/SSDI recipients. Unless the Cranston/Weicker bill is enacted state VR programs will effectively lose some \$119 million or 12% of the federal dollars available in FY 1981, even if the VR State Grant is funded at FY 1981 levels of \$854 million.

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United States
of America

Continuation of Senate Proceedings of October 22, 1981
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Congressional Record

PROCEEDINGS AND DEBATES OF THE 97th CONGRESS, FIRST SESSION

Vol. 127

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No. 15

Senate

INTERNATIONAL YEAR OF DISABLED PERSONS

• Mr. WEICKER. Mr. President, although these have been a challenging, even a trying, first 10 months of this session for those of us on the Subcommittee on the Handicapped, I consider myself most fortunate to have become its chairman during this, the International Year of Disabled Persons (IYDP) at a time when Congress, the Nation, and the world community at large are being called upon to become more aware of the needs, aspirations, and abilities of the estimated 500 million disabled people throughout the globe today.

During this year of budget slashing, when so many programs for disabled Americans were scheduled to be drastically cut back or completely eliminated, the U.N.'s declaration and observance

of 1981 as the Year of the Disabled helps serve to remind many of us in the Senate of the vital role the disabled have to play in our society, and to further strengthen our resolve to work to preserve those programs and services which are, in turn, so vital to their development.

Margaret Mead once observed that one of the best ways to judge a society is to see how it cares for its disabled members. While this was certainly true up to very recently, I think that Dr. Mead would have agreed with me that, in the 1980's and beyond, the correct criteria to judge a society by in this regard is not in the way that it cares for individuals with disabilities, but in the way it assists such individuals to become independent and productive members of that society.

This, then, is the significance of International Year of the Disabled Person. IYDP should not be viewed merely as a 12-month observance period. Rather, it should be more properly viewed as the opening of a new era in terms of the way we perceive disabled people. And, I am pleased to be able to report that this is the exact task which the U.S. Council for the International Year for the Disabled Person has taken. By adopting as its basic modus operandi the theme "Meeting the challenges through partnerships" the U.S. Council is insuring that the work which is initiated this year will continue on well into the future. The problems faced by America's estimated 36 million disabled citizens are particularly complex ones and so, too, are their eventual solutions. If they are to be adequately addressed at all, then, they must be dealt with in the type of comprehensive approach which the U.S. Council has initiated here.

I am especially pleased and heartened by the Council's work with the private sector in the country. Business and industry need to be made full fledge partners in the effort to assist disabled Americans into the mainstream of our society. As President Reagan observed last February in his proclamation declaring 1981 as the International Year of the Disabled Person, the "disabled represent one of our most underutilized national resources." They will likely continue to remain so until the business community recognizes, in the words of a recent IBM public service advertisement, that the disabled worker is "as capable as other workers, as reliable, as ambitious, and just as likely to succeed."

Considerable progress has already been made in this regard. Corporations such as IBM have taken the initiative and are finding innovative and cost effective ways of eliminating architectural, transportation and employment barriers, which have for far too long stood in the way of disabled Americans, keeping them from taking their rightful place in our Nation's work force. Such firms are finding out for themselves just how true the IBM P.S.A. rings; and I am wholly confident that once other firms learn of the many benefits that come from employing physically and mentally disabled workers that they too, will be recruiting more and more such workers as time goes on.

The private sector cannot be expected to do the whole job itself, however. The problems of the disabled are just too complex to expect one sector of our society to solve alone. As the resolution of the distinguished Senator from Kansas recognizes, the Federal Government also has a special role to play in promoting the integration of the disabled into the mainstream. Just as it is wrong to assume that any one sector of society can solve all of the problems facing the disabled, it is wrong to assume that any one branch of the Federal Government has all of the answers to these problems.

In adopting this resolution directing the President to implement the goals and objectives of the International Year of the Disabled Person, we should not allow ourselves to believe for a single second that our responsibility to strive toward those same goals and objectives has in any way been reduced. In declaring 1981 as the International Year of the Disabled Person, the United Nations set forth the following goals and objectives to be achieved throughout the world:

UNITED STATES MISSION

The mission is to promote the full participation in the life of our society of American citizens with physical or mental disabilities building on the progress of the past decade we will work together with private and governmental organizations to strengthen public understanding of the still unmet need and potential contribution of these 36 million people. We will foster the partnership of Americans from all walks of life in furthering the following long-term national goals of and for citizens with disabilities:

Expanded Educational Opportunity;
Improved Access to Housing, Building and Transportation;

Greater Opportunity for Employment;
Greater Participation in Recreational, Social and Cultural Activities;

Expanded and Strengthened Rehabilitation Programs and Facilities;

Purposeful Application of Biomedical Research Aimed at Conquering Major Disability Conditions;

Reduction in the Incidence of Disability Through Accident and Disease Prevention

Increased Application of Technology to Ameliorate the Effects of Disability; and

Expanded International Exchange of Information and Experience to Benefit All Disabled Persons.

(Adopted by the U.S. Council for IYDP and the United States Government's Federal Interagency Committee for IYDP.)

Congress, as that body which establishes national policy, has a role to play to insure that each of these nine goals and objectives are achieved both here in the United States and, to the maximum extent feasible, in the world community at large. The Congress, in fact, has a very special role in expanding educational opportunities, increasing access and strengthening rehabilitation programs and services.

Congress has after all been the one which has taken the initiative in each of these areas and passed such landmark legislation as the Education for All Handicapped Children Act, the Rehabilitation, Comprehensive Services and Developmental Disabilities Act of 1978, and the Architectural Barriers Act of 1968. In adopting Senator Dole's resolution, it

is imperative that we each take this opportunity to recommit ourselves to the goal of enabling the estimated 36 million disabled Americans to enter the mainstream and live happy, productive lives, for as the President observed in his February proclamation:

All of us stand to gain when those who are disabled share in America's activities.

NEWS BRIEFS

Lowell Weicker, Chairman
Jennings Randolph, Ranking Member
Robert Stafford
John East
Donald Nickles
Harrison Williams
Thomas Eagleton

United States Subcommittee on the Handicapped
108 Russell Senate Office Bldg
Washington, D.C. 20510



DECEMBER 18, 1981

97-1-6

SENATE ACCEPTS HOUSE CONTINUING RESOLUTION WITH 4% CUTS IN VOC.REHAB., SPECIAL ED., AND D.D. FUNDING LEVELS FOR F.Y. 1982

ON DEC. 11TH, THE SENATE PASSED THE HOUSE VERSION OF A CONTINUING RESOLUTION, IN EFFECT UNTIL MARCH 31, 1982, WHICH CUTS AN OVERALL 4% OFF OF THE APPROPRIATION LEVELS FOR ALL MAJOR PROGRAMS EFFECTING DISABLED AMERICANS FROM THE FUNDING LEVELS CONTAINED IN THE YET TO BE APPROVED LABOR-HHS-APPROPRIATION BILL.

As reported in the November 24th issue of NEWS BRIEFS, Senator Lowell Weicker, Chairman of the Subcommittee on the Handicapped, was successful earlier in gaining approval of two amendments to provide for funding of the State Grant components of both the Special Education and Vocational Rehabilitation programs at their full FY '82 authorization levels as contained in the Omnibus Reconciliation Act. Senator Orrin Hatch, Chairman of the Labor & Human Resources Committee experienced similar success at that time in securing full funding of the Developmental Disabilities program at the \$61 million level authorized in the Reconciliation Act.

The baseline figures to be used in determining the 4% overall cuts in the funding levels of the three major federally-funded human development programs for the disabled, will therefore, include the higher Weicker/Hatch numbers. The Continuing Resolution provides, however, that while 4% will be cut from each account reductions of up to 6% may be made in the program lines which make up that account. Thus, in terms of Special Education, \$43.420 million must be cut from the program's total funding level of \$1,085.5 million in order to achieve the overall 4% cut. The Department of Education has the

discretionary authority to decide upon the composition of the program's 4% reduction level. In determining the make-up of the overall reductions, the Department could reduce spending by the required \$43.420 million by either cutting all of the program's sublines by the full 4%, or cutting some sublines more than others up to 6%. The same process applies to the Vocational Rehabilitation and Developmental Disabilities Programs.

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APPROPRIATION FUNDING LEVELS UNDER THE CONTINUING RESOLUTION

SPECIAL EDUCATION	RECONCILIATION CEILING	FISCAL 1981 ACTUAL	CONTINUING ^① RESOLUTION (INCLUDES 4% CUT)
State Grants	\$969.8	\$874.5	\$931.10
Preschool Incentive	25.0	25.0	24.0
Deaf/ Blind	16.0	16.0	15.36
Severely Handicapped	5.0	4.4	2.88
Early Childhood	20.0	17.5	9.60
Regional Sec/Post	4.0	2.9	2.88
Innovation/ Dev.	20.0	15.0	7.20
Media Services	19.0	17.0	11.52
Regional Resource	9.8	7.7	2.88
Recruitment/ Info.	1.0	.7	.72
Personnel Development	58.0	43.5	33.60
Special Studies	2.3	1.0	.48
<u>VOCATIONAL REHABILITATION</u>			
State Grants	\$899.0	\$854.3	\$863.04
Service Projects	28.1	29.9	23.89
Independent Living	19.0	18.0	17.28
Training	25.5	21.7	19.20
National Institute of Handicap Research	35.0	29.8	28.56
National Council on Handicap	.256	.2	.197
<u>ACCOUNT TOTALS</u>	<u>RECONCILIATION</u>	<u>FISCAL 1981 ENACTED</u>	<u>CONTINUING ^② RESOLUTION (INCL. 4% CUT)</u>
SPECIAL EDUCATION	\$1149.9	\$1025.2	\$1042.2
VOCATIONAL REHABILITATION	\$1006.8	\$953.8	\$952.2
DEVELOPMENTAL DISABILITIES	\$61.1	\$59.4	\$58.57

① This column assumes a 4% across the board cut in all programs.

② This column of totals is certain under the Continuing Resolution.

NOTE: Reductions in any line may be up to 6% in order to effect the overall 4% cut reflected in the Account Totals.

Lowell Weicker, Chairman
Robert Stafford
John East
Donald Nickles



Jennings Randolph, Ranking Member
Harrison Williams
Thomas Eagleton

United States Subcommittee on the Handicapped

108 Russell Senate Office Bldg.
Washington, D.C. 20510
Robert R. Williams, Editor

February 10, 1982

97-2-1

BUDGET MESSAGE GOES TO CONGRESS

February 8-- President Ronald Reagan sent his budget message to Congress today for FY 1983, along with a request for a further eleven percent recission in the State Grant component of the Vocational Rehabilitation in current 1982. The President's budget proposal continues his budget-cutting program and calls for deep cuts in funding levels for all major domestic human development and education programs, including those aimed at assisting disabled individuals to gain a greater degree of independence and economic self-sufficiency. The Administration also intends to send legislation up to the Hill in the next four weeks, which will provide a blueprint in bill form of the direction in which it would like to take in respect to the three major federal categorical grant programs affecting the disabled, special education, vocational rehabilitation and developmental disabilities. Such legislation will call for consolidating such programs by means of the creation of a block grant to the states in one instance, and what are being termed as "special purpose funds" in two other cases.

Funding requests from the Department of Education, for example, urge that funds for preschool programs, Part B State Grants (PL 94-142) and Title I (PL 89-313) be "folded" into just such a special purpose fund. Under the Department's proposal, such a fund would: (A) have less federal monies in it to start off with than the three entities currently are funded at as categorical programs; and (B) force state and local education agencies to compete with each other for their portion of previously earmarked funds. Specifically, the plan calls for the reduction of the overall spending level for the three entities combined from the current \$ 1.1 billion level to \$.771 billion in FY '83 or by some 30 percent. Such a cut represents the largest portion of proposed spending reductions in the

BUDGET MESSAGE continued.

Such cuts and program changes as those described above, if approved by Congress, would likely have significant negative effects upon the ability of state and local communities to provide "free appropriate public education" to the nation's estimated 4 million physically and mentally handicapped, learning disabled and emotionally disturbed schoolchildren as mandated by PL 94-142. Reacting to the proposed budget cuts and program changes, Senator Lowell Weicker, Chairman of the Subcommittee on the Handicapped, said, "It will be a very sad day indeed if we ever reach the point when we can no longer provide quality education to America's schoolchildren, disabled and able bodied alike." Weicker went on to say, however, that he was confident that "the Administration's proposals" in respect to the special education program "will be resoundingly rejected by Congress, given that the majorities in both houses are on record as being in full support of the program." The Senator's statement was in reference to two letters written by Representative Austin Murphy, Chairman of the House Select Education Committee, and Weicker himself to the President prior to the budget message expressing support for PL 94-142. The letters were co-signed by 59 Senators and 285 House members respectively. The Senate letter urged the President to stand firm by his campaign pledge to work to ensure the success of PL 94-142 by "advocating full funding" of the statute "and opposing any changes" in the act itself "which would dilute the effectiveness of the present program."

In respect to the Vocational Rehabilitation Program, the Administration is again proposing that substantial cuts be made in FY '83 federal funding levels for rehabilitative and independent living services for disabled individuals. Specifically, the White House is requesting that funding for the program be reduced from its present FY '82 level of \$952.1 million to \$650.0 million or by just under a third of this year's level. A large portion of this overall reduction, some 32 percent of it in fact, would, if Congress

BUDGET MESSAGE continued.

approves the President's budget cuts in this area, come out of the state grant program and would be reduced from \$863.0 million this year to \$579.5 million in the next fiscal year beginning October 1. The Administration is also expecting to effect additional cost reductions by consolidating service projects, independent living and training into a broader grant authority to the states entitled special purpose fund. Under such a consolidation plan, approximately \$16.6 million would be cut from this year's total funding levels for the three programs (\$60.3 million) leaving \$43 million in the new special purpose grant authority. Lesser cuts have also been requested by the Administration in the funding levels for the National Council on the Handicapped (2 percent reduction) and the National Institute on Handicapped Research (7 percent reduction). Please see chart for further details. (Attached)

In addition to requesting such cuts in the funding levels for VR as those just described, the Administration has proposed that responsibility for administering the program be transferred from the Department of Education to the Department of Health and Human Services beginning in FY '83. Finally, it should be noted that on top of the cuts in federal spending on rehabilitative services which it is requesting be made in the FY '83 budget, the Administration has asked Congress to approve a rescission of \$91.1 million from the state grants portion of the program for the remaining six months of the current fiscal year.

Under the Developmental Disabilities Program the budget proposal of State Grants and Protection Advocacy funding for FY '83 is \$32 million, representing a \$17 million reduction in the total funding level of these activities over the FY '82 level. In addition, the President's proposal enfolds two Developmental Disabilities activities, (University Affiliated Facilities and Special Projects) into a consolidation of "Social Services Discretionary Activities Fund". Other programs funded in this account include Child Welfare Research, Child Abuse Projects, and Adoption

BUDGET MESSAGE continued.

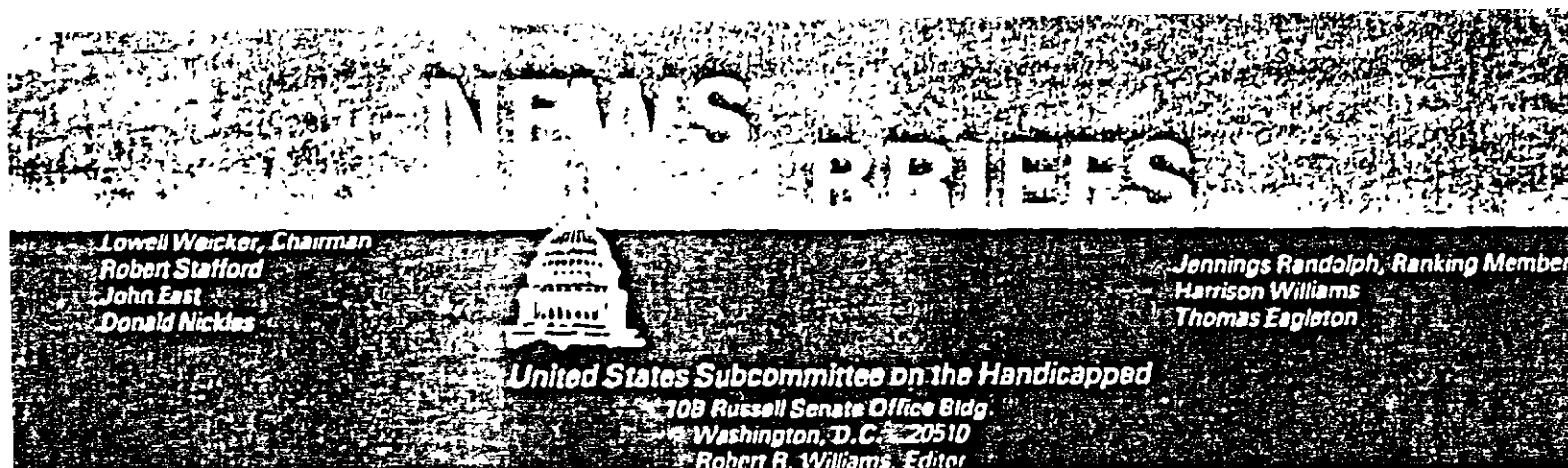
Opportunities. The FY '83 funding level for all these activities under "Social Services Discretionary Activities Fund" is \$31 million. The proposal calls for the specific amounts for each activity to be determined later "based upon the development of a comprehensive research plan and the quality of project applications submitted in response to the research plan."

* * *

President's Proposed Budget

	FY '82 Approp. Cont. Res. (expires 3/31/82)	FY '82 Funded Level with Rescissions	FY '83 Budget	
(Dollars in Thousands)				
<u>Rehabilitation Services:</u>				
Basic State Grants	\$863,040	\$771,869	\$579,536	
Service Projects	23,894		} 43,780	*1
Independent Living	17,280			
Training	19,200			
National Council on the Handicapped	197		193	
National Institute for Handicapped Research	28,560		26,491	
<u>Developmental Disabilities:</u>				
State Grants & Protection and Advocacy	49,133		31,977	
University Affiliated Facilities	7,200		}	*2
Special Projects	2,350			
<u>Education for the Handicapped:</u>				
State Assistance:				
State Grants Program	931,008	672,436	} 771,685	*3
Preschool Incentive	24,000			
P.L. 89-313 State Grant	146,520	116,160		
Deaf-Blind Centers	15,360		} 73,983	*4
Severely Handicapped Projects	2,880			
Early Childhood Education	9,600			
Regional Vocational, Adult & Post-Secondary Programs	2,832			
Innovation & Development	7,200			
Media Service & Captioned Films	11,520			
Regional Resource Centers	2,880			
Recruitment & Information	720			
Special Education Personnel Development	33,600			
Special Studies	480			

- *1 In the President's proposed legislation, Service Projects, Independent Living, and Training would be consolidated into a fund entitled Special Purpose Fund beginning in FY 1983.
- *2 Under the President's proposal, funding for these two activities would be transferred to an account entitled Social Services Discretionary Activities in FY 1983. Other programs that are also funded by this account are Child Welfare Research, Child Abuse Projects, Other Research, and Adoption Opportunities. The FY 1983 funding level for this account is \$31 million. Since this account did not exist in FY 1982, comparative funding levels for this account cannot be determined at this time.
- *3 In the President's proposed legislation, State Grants Program, Preschool Incentive, and P.L. 89-313 State Grants would be consolidated into a fund entitled Special Education Block Grants in FY 1983.
- *4 In the President's proposed legislation, these ten categorical programs would be consolidated into a fund entitled Special Purpose Fund in FY 1983.



March 12, 1982

97-2-2

BUDGET COMMITTEE URGED TO MAINTAIN AUTHORIZED FUNDING LEVELS

Senators Weicker and Stafford, Handicapped and Education Subcommittee Chairs, urge the Budget Committee to maintain authorized funding levels for Education and Handicapped programs at those levels contained in the Reconciliation Act of 1981.

Senators Lowell Weicker and Robert Stafford have sent a letter to Senator Pete Domenici, Chairman of the Senate Budget Committee recommending that the authorization levels for most education programs and those benefitting disabled Americans be maintained at or above current policy levels for FY 1983, as contained in the Omnibus Reconciliation Act of 1981. The Weicker/Stafford letter, which was co-signed by Senators Randolph and Pell, Ranking minority member on each Subcommittee, offered such a proposal as an alternative to the deep cuts in the funding levels called for by the President in his Budget Message to Congress in January. (See "News Briefs" 2/10/82). Specifically, in respect to programs for the disabled, the Weicker/Stafford recommendations would provide for increased funding for these programs, over those levels proposed by the Administration.

In respect to Special Education, for example, the Administration has requested that \$845.6 million be authorized for the entire program in FY'83, beginning October 1. If eventually approved by Congress, the Weicker/Stafford recommendations would, on the other hand, authorize the program at \$1,198 million or by some \$332.6 million above the Administration's level. The recommendations would also maintain the full categorical authorization level of \$1,017.9 million for the state grant component of the Special Ed program. This contrasts sharply with what the Administration has proposed which is to consolidate the state grant portion with the Preschool and Title I programs, and fund the three programs

combined at \$771.6 million next year. Similarly, in respect to the Vocational Rehabilitation and Developmental Disabilities programs, the Weicker/ Stafford recommendations would keep the authorization levels for the two at those contained in the Reconciliation Act.

	CONT. RES. (expires 3/31/82)	ADMINISTRATION'S '83 Budget Request	WEICKER/STAFFORD Recommendations
SPECIAL ED			
State Grants	\$931.0	\$771.6 (a)	\$1,017.9
Preschool Incen. PL 89-313	4.0		25.0
State Grant	146.5		
Deaf-Blind	15.3	73.98 (b)	16.0
Severely Handi- capped Proj.	2.88		5.0
Early Childhood Ed.	9.6		20.0
Regional Voc., Adult & Post-Sec. Prog.	2.8		4.0
Innovation & Devel.	7.2		20.0
Media Service & Captioned Films	11.5		19.0
Reg. Resource Ctrs	2.88		9.8
Recruitment & Information	.720		1.0
Spec. Ed. Personnel Development	33.6		58.0
Special Studies	.480		2.3

REHABILITATION SERVICES

Basic State Grant	\$863.0	\$579.5	\$943.9
Service Projects	23.9	43.8 (c)	32.1
Independent Living	17.3		19.4
Training	19.2		25.5
National Council on Handicapped	.197	.193	.256
National Institute for Handicapped Research	28.5	26.5	35.0

DEVELOPMENTAL DISABILITIES

State Grants + P&A	\$49.1	\$31.9	\$51.2
Univ. Aff. Facil.	7.2	(d)	7.5
Special Proj.	2.3		2.5

- (a) In the President's proposed legislation State Grant Programs, Preschool Incentive, and PL 89-313 State Grants would be consolidated into a fund entitled "Special Education Block Grants" in FY 1983.
- (b) In the President's proposed legislation these ten categorical programs would be consolidated into a fund entitled "Special Purpose Fund" in FY 1983.
- (c) In the President's proposed legislation Service Projects, Independent Living, and Training would be consolidated into a fund entitled "Special Purpose" in FY 1983.
- (d) Under the President's proposal funding for these two activities would be transferred to an account entitled "Social Services Discretionary Activities" in FY 1983. Other programs also funded by this account: Child Welfare Research, Child Abuse Projects, Other Research, and Adoption Opportunities. The FY '83 funding level for this account is \$31 million. Since this account did not exist in FY '82, comparative funding levels for this account cannot be determined at this time.

NEWS BRIEFS

Lowell Weicker, Chairman
Robert Stafford
John East
Donald Nickles

Jennings Randolph, Ranking Member
Harrison Williams
Thomas Eagleton

United States Subcommittee on the Handicapped

100B Russell Senate Office Bldg.

Washington, D.C. 20510

Robert R. Williams, Editor

APRIL 2, 1982

97-2-3

CONGRESS APPROVES CONTINUING RESOLUTION, CURRENT LEVEL FUNDING THROUGH SEPTEMBER 30, 1982 FOR SPECIAL ED., VOC. REHAB. AND D.D.

The Congress this week passed a continuing budget resolution providing for continued funding for government agencies and programs for the six remaining months in FY 1982 which ends September 30th.

In respect to Federal programs affecting the disabled American, the newly enacted legislation continues funding for such programs at the levels which they have been funded at since December '81. (See December 18, 1981 News Briefs for background information).

As regards the Special Education program, \$1,042.2 million will be available to fund the entire program. \$931.0 million of this amount has been appropriated for the State Grants component of the program and, thus, will be made available to states and local communities for their use in carrying out the provisions of PL 94-142, "The Education of All Handicapped Children Act." Funding levels for all other components of the program are listed in the table on the reverse side.

\$952.2 million has also been appropriated for the vocational rehabilitation program. Some \$863 million of this will be made available to the States to assist them in providing employment training and related assistance to disabled adults. Another \$17.28 million will also be made available to the States for their use in providing independent living services to the severely handicapped. The Developmental Disabilities program, in turn, will be funded at \$58.57 million for the remainder of FY 1982.

NEWS BRIEFS (Cont.)

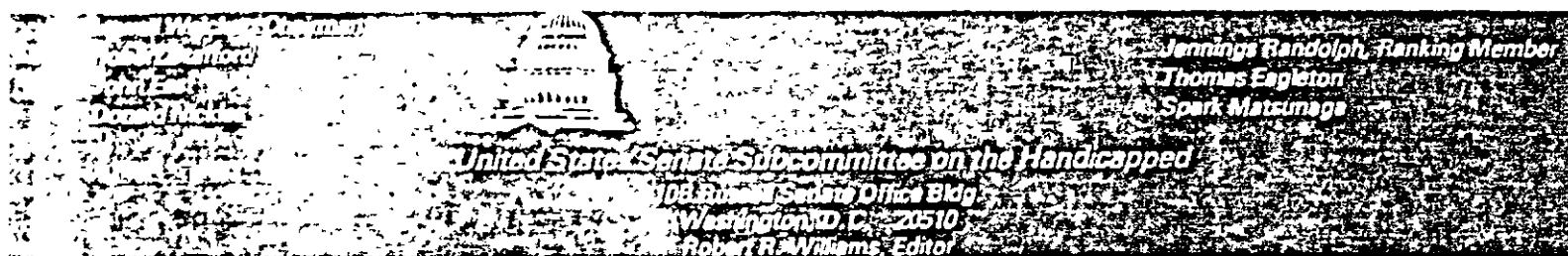
APPROPRIATION FUNDING LEVELS UNDER THE CONTINUING RESOLUTION

<u>SPECIAL EDUCATION</u>	<u>RECONCILIATION CEILING FY'82 (FY '82)</u>	<u>FISCAL 1981 ENACTED</u>	<u>FY 1982 CONTINUING RESOLUTION</u>
State Grants	\$969.8	\$874.5	\$931.10
Preschool Incentive	25.0	25.0	24.0
Deaf/Blind	16.0	16.0	15.36
Severly Handicapped	5.0	4.4	2.88
Early Childhood	20.0	17.5	9.60
Regional Sec./Post	4.0	2.9	2.83
Innovation/Devel.	20.0	15.0	7.20
Media Services	19.0	17.0	11.52
Regional Resource	9.8	7.7	2.88
Recruitment/Info.	1.0	.7	.72
Personnel Development	58.0	43.5	33.60
Special Studies	2.3	1.0	.48

VOCATIONAL REHABILITATION

State Grants	\$899.0	\$854.3	\$863.04
Service Projects	28.1	29.9	23.89
Independent Living	19.4	18.0	17.28
Training	25.5	21.7	19.20
Ntl. Inst. of Handicap	35.0	29.8	28.56
Research			
Ntl. Council on Handicap	.256	.2	.197

<u>ACCOUNT TOTALS</u>	<u>RECONCILIATION</u>	<u>FISCAL 1981 ENACTED</u>	<u>FY '82 CONTINUING RESOLUTION</u>
SPECIAL EDUCATION	\$1149.9	\$1025.2	\$1042.2
VOCATIONAL REHABILITATION	1009.2	956.0	954.1
DEVELOPMENTAL DISABILITIES	61.1	59.4	58.68



MAY 12, 1982

97-2-4

FEDERAL AGENCIES CONSIDERING MAJOR CHANGES IN REGS

FEDERAL AGENCIES ARE NOW CONSIDERING MAKING MAJOR CHANGES IN THE
IMPLEMENTING OF REGS FOR SECTION 504 & PL 94-142

The Departments of Justice and Education are now in the process of drafting regulations which, if allowed to go into effect, would significantly alter the impact of Section 504, the disability civil rights provision of the Rehabilitation Act, and PL 92-142, the Education of All Handicapped Children Act, respectively. The two agencies are undertaking to "deregulate" both laws as part of the Administration's overall plan to reduce the number of federal regulations which recipients of federal funds must comply with in order to receive such assistance.

The Department of Justice is conducting its review of the current 504 Regs under Executive Order 12250, which assigns to the Department the responsibility for coordinating the implementation and enforcement of Section 504 as well as Title VI of the Civil Rights Act of 1964, and Title IX of Education Amendments of 1972. Thus far the agency has produced three separate drafts of proposed revisions in the existing 504 regulations. Although all three drafts have been given limited circulation both within and outside of the Federal Government, none of the drafts has been published for public comments.

Those familiar with the different drafts have expressed concern that the changes which they propose would, if enacted, substantially diminish the civil rights of disabled Americans. The third DOJ draft, for example, though it includes more of the basic language used in the existing regulations than was used in either of the two previous drafts, still excludes any mention of the applicability of 504 to the area of employment. Civil rights advocates are, therefore, urging

News Briefs 97-2-4

that the basic integrity of 504 be preserved. In comments marking the Fifth Anniversary of the signing of the current 504 Regulations, Senator Lowell Weicker, Chairman of the Senate Subcommittee on the Handicapped, stressed this same theme when he noted that "it is imperative" that Congress "remain especially vigilant in preserving and maintaining the integrity of...Section 504".

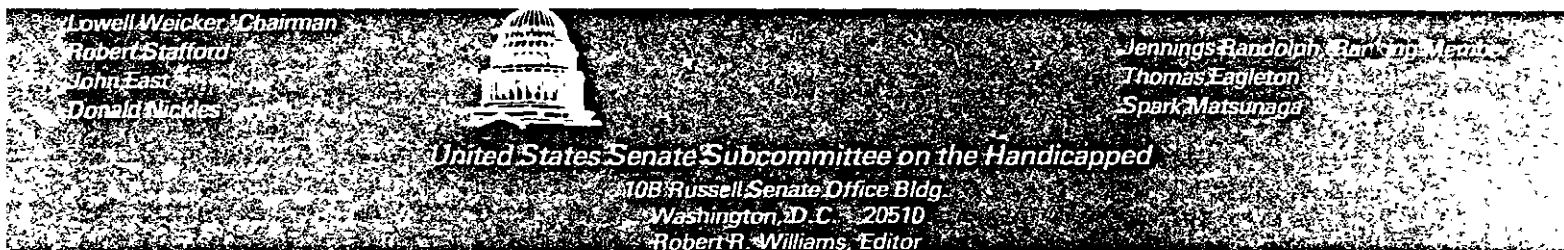
The long expected attempt by the U.S. Department of Education to restructure the present regulations governing PL 94-142, The Education of All Handicapped Children Act, is now likely to be published in the Federal Register by mid June. It is understood that present Department of Education plans call for a 90 day review and comment period during which public hearings will be held at 8-9 sites throughout the country.

While the final draft of the regulations has not yet been made available, earlier drafts included major weakening of handicapped children and parents' rights.

To secure a copy of the final draft when available, and/or to volunteer for participation in the regional hearings, write to:

Ms. Shirley Jones
U.S. Department of Education
Special Education Programs
400 Maryland Avenue, S.W.
Donahue 4030
Washington, D.C. 20202

* * * * *



June 14, 1982

97-2-5

NATIONAL COUNCIL ON THE HANDICAPPED RELEASES 1982 ANNUAL REPORT

The National Council on the Handicapped, created by Section 400 of the Rehabilitation, Comprehensive Services and Developmental Disabilities Amendments of 1978, is the primary federal advisory panel charged with reviewing and providing input on all federal programs and policies affecting disabled Americans. The Council released its Annual Report for 1982 earlier this spring. Senator Lowell Weicker, Chairman of the Subcommittee on the Handicapped, has placed a condensed version of the Report in the Congressional Record. For your information, a copy of the condensed version, as it appears in the Record follows:

EXECUTIVE SUMMARY

This report to the President, the Congress, the Secretary of Education and the Secretary of Health and Human Services from the National Council on the Handicapped complies with requirements of Section 401(6) of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 (P.L. 95-602, amending the Rehabilitation Act of 1973).

The Act requires that the Council submit a report by March 31 of each year, containing a report on the activities of the Rehabilitation Services Administration (RSA) and the National Institute of Handicapped Research (NIHR), a statement on the status of research concerning handicapped persons in the United States, and such recommendations as the Council considers appropriate.

The report contains four sections and six appendices. Section One describes activities and accomplishments of the Council during the year 1981, and sets the stage for the rest of the report. Section Two briefly highlights programs of RSA and NIHR. Section Three identifies several topics which were of major concern to the Council over the year, many still unresolved, and comments on each issue. Section Four relates to the status of research concerning handicapped people, and includes summaries on ten topics judged to be timely and illustrative of the goals of NIHR and of the wide range of research activities in the field. The appendices may be useful as references. The first two supply information about the National Council, (A) its membership and committee structure and (B) its bylaws. Appendix C

supplies the agenda and a brief synopsis of the forum held in May, 1981 on "The Place of Disabled Persons in our Economy." Appendix D contains the Council's "Statement of Policies Governing NIHR," which was developed during 1981 and approved in September. Appendix E contains a map which shows the location of major centers funded by NIHR during 1981, including new awards. Appendix F supplements the status of research report, and includes a list and summary of RSA/NIHR sponsored "State of the Art" workshops and lists the RSA/NIHR supported Institutes on Rehabilitation Services and Institutes on Rehabilitation Issues held during the years from 1973 to the present.

This executive summary highlights some of the major points which appear in greater detail in the body of the report. Of the many topics addressed by the Council during the year, those which are particularly germane to the policymaking process are emphasized in this summary.

MAJOR ACTIVITIES DURING 1981

During 1981, the National Council on the Handicapped (NCH) channeled its energies toward establishing written policies for NIHR, toward developing a process for working with NIHR in setting annual funding priorities, toward initiating interactions with its constituencies, and toward becoming informed in a systematic way about the wide range of federal programs affecting handicapped people. The Council also developed its first Annual Report, established its bylaws and an organizational structure for accomplishing its work through committees

and task forces, held a public forum, and took steps toward more fully meeting its assessment and advisory responsibilities with respect to rehabilitation services. One Committee of the Council met several times with the RSA Commissioner or his designee and with leaders of 21 national organizations toward this end. The Council's first forum was held in May, 1981, and plans were made for four forums during 1982. Another Committee of the Council met jointly with officials of NIH and the Director-Designate of NIHR concerning mutual interests in research relating to handicapped people. Informational panels served to bring the entire Council together with policy makers in government and with leaders of organizations outside of the public sector.

One of the major undertakings of the Council during 1981 was the development of a "Statement of Policies Governing the National Institute of Handicapped Research." The Council believes that its duty to establish general policies of NIHR called for an explicit statement. Appendix D contains the statement itself, which includes sixteen policies related to program, and nineteen policies related to operations and procedures. The statement is cited throughout the body of the report.

Priorities of NIHR have been another matter consuming Council attention in 1981. Implementation of the original long-range plan would have required annual appropriations at levels two or three times those experienced by NIHR. Selected priorities thus have been announced annually, with the understanding that awards would usually be for multi-year projects and programs. The question of how the Council would influence priorities was resolved through a great deal of Council-Institute interaction and cooperation. Timeliness, protection of confidentiality to protect the fairness of competition, and avoidance of actual or apparent conflict of interest on the part of Council members have been issues faced during the year. A special ad hoc task force of NCH members who are not grantees or potential grantees worked with NIHR staff in shaping priorities which NIHR would announce for uses of 1982 and 1983 funds.

RECURRENT CONCERNS OF THE NATIONAL COUNCIL ON THE HANDICAPPED

Among the many topics covered by the NCH during 1981, a dominant subject was the current and potential impact of executive and legislative proposals relating to the future structure of programs concerning handicapped people. In a May 1981 letter to the President of the United States, to the leadership of Congress, to the Secretary of Education, and to the Secretary of Health and Human Services, the Council offered its continuing support to the Administration and conveyed the following specific recommendations:

- (1) That a strong federal role in assuring a free appropriate education and adequate medical care for all handicapped children be maintained;
- (2) That the programmatic integrity of the state rehabilitation programs be protected and that there be maintained a federal agency with specific primary responsibility for assisting states in this activity;
- (3) That some measure of priority in respect to eligibility for social services be maintained for aged, blind and disabled persons with low income;

(4) That the planning, coordinating and advocacy provisions of the Developmental Disabilities Assistance and Bill of Rights Act be preserved;

(5) That the federal entity responsible for support and promotion of applied research and development related to counter-dependency services and devices for handicapped people be maintained and strengthened; and

(6) That practical aid for families caring for a handicapped member, mediated by community based agencies, public and private, be made a priority of this Administration.

Another recurring concern of the Council has been the regulatory reform activities of the federal government. The Council has been asked to review and comment on proposed regulatory actions for the Architectural and Transportation Barriers Compliance Board (ATBCB), the Education for All Handicapped Children Act (P.L. 94-142) and the Rehabilitation Services Administration. Briefings also were held on proposed changes in accessibility requirements by the Department of Transportation and on the effect of actual and proposed legislative and regulatory changes on programs administered under the Social Security Act. In each case, the primary concern on the part of officials representing the Administration has been the reduction of regulatory burden, complexity and cost; and strict adherence to legislative mandates. The Council has asked to be shown, but has not seen, evidence of a strong commitment to monitoring and supporting affirmative outcomes through technical assistance after the final regulations have taken place. The Council appreciates the unequivocal stand taken by the Administration in favor of a free and appropriate education for all school aged handicapped children. Nonetheless at the time the Council heard proposed regulatory changes of P.L. 94-142, it advised the Assistant Secretary for Special Education and Rehabilitative Services that it could not comment meaningfully on the proposals in the absence of a clearly articulated statement of mission and strategy for accomplishing its mission on behalf of handicapped school children. When a panel on Architectural Barriers informed the Council about an intended rescission of the ATBCB's regulations and the proposed elimination of the Board, the Council voted to communicate with the Congress its view that the Board should remain in existence, and later also supported the continuation of the Board's interim guidelines.

OTHER COUNCIL ACTIONS RELATED TO NIHR AND RSA

In reviewing activities of NIHR and RSA, the Council has taken issue with some grants management procedures expressed in Department of Education or OMB regulations, which in the Council's view, are not in the best interest of disabled people. Notable among the concerns expressed by the Council are the following:

Consideration of grant applicants' past records. Department of Education grant procedures (EDGAR) restricts NIHR's ability to consider an applicant's past record when evaluating grant applications. The Council considers the new procedures constructive in deflecting an earlier perception by professionals in the field that personal influence has played an undue role in the grant award process, but considers that too heavy a reliance on technical merits which

can be measured objectively and quantitatively may reward applicants who write well rather than those with demonstrated superior research performance or creativity. The Council believes that past record—good or bad—also is germane in evaluating grant applications.

Use of Discretionary Funds. The EDGAR regulations restrict the ability of the Commissioner to use discretionary funds. The Council acknowledges that by and large these regulations are appropriate, but believes that a limited amount of funds should be earmarked for the Commissioner to use at his discretion to support policy initiatives, as has been possible in the past.

Indirect Cost Rates. In light of NIHR's shrinking budget, the Council considers excessive the Department of Education's allowable indirect cost rates for grantees, especially as applied to NIHR. These rates are considerably higher than those allowed for the same grantees in previous years. Higher indirect costs result in reduced returns on NIHR's research and development dollars, since an ever increasing proportion is allocated to university overhead. It is within the authority of the Secretary of Education to request that OMB change or permit an exception to this policy. The Council has recommended that the Secretary and OMB consider permitting NIHR to set a ceiling on allowable indirect costs for its grants.

Site Visits. The Council has strongly recommended in its statement of policies governing NIHR that site visits be made for grants which will exceed \$1 million over the projected period of the grant. It remains unclear whether NIHR will be able to carry out the Council's directive on this aspect of the review process because of shrinking resources. In the Council's view, this would be penny-wise and pound-foolish.

Programmatic issues within RSA and NIHR have been called to the Council's attention through its forum and meetings. Issues related to RSA programs have been basic policy questions. Three are described in this Annual Report.

Client Services. One concern heard by the Council is that vocational rehabilitation agencies may be focusing less energy on client services than on the maintenance of the service delivery system. Any system the size and age of the VR system faces this potential problem and needs constant efforts to be vital and responsive to changing needs and client expectations. The Commissioner and the Council pledged to address and assess this question during 1982.

Service Equity. Disabled minority populations and persons who are severely and chronically ill most need access to rehabilitation services provided through state rehabilitation agencies. Clarification of more specific client service objectives in RSA's mission statement and policy initiatives would clarify the expected level of effort in this area.

VR Outcomes. The RSA Commissioner has expressed concern about an inadequate emphasis on client placement in competitive employment. The Council hopes to assist the Commissioner by suggesting appropriate means for improving placements and for accommodating greater numbers of severely disabled clients with fewer federal dollars.

A research related programmatic issue called to the attention of the Council during 1981 was the discontinuation for technical reasons of a publication called "The Informer." This was an information dissemination mechanism of NIHR's Rehabilitation Research and Training (R&T) Center program, conducted from one of the R&T Centers. The NCH has recommended that a replacement be initiated as soon as possible for this important medium.

When legislative opportunity arises, there have been a few sections of the Rehabilitation Act that the Council believes would be useful to clarify. These pertain to definition of handicapped individual for purposes of NIHR's mission, role of federal scientists in peer review, and interpreter services for post secondary education.

The above recommendations follow from discussion which appears in the body of the report, primarily on pages 28-37. A few other Council recommendations are interspersed with discussions in other portions of the report, and it is useful to cite them here. For example,

The Council supports the goals of the International Year of Disabled Persons and encourages continued federal efforts toward their attainment (page 3);

The Council recommends strengthening the linkages between NIHR and NIH (page 6); and

The Council recommends consolidating the number of annual reports required, since some are redundant (page 11).

Finally, the report on the status of research concerning handicapped people in the United States (Part Four of the Report) includes recommendations for future research on each of the selected topics. Since these summaries are already consolidations, they are not further condensed here. The specific topics addressed in the status of research report are listed in the Table of Contents.

This Executive Summary concludes with the philosophic comments which appears at the beginning of the Report. Quoting the Chairman of the Council, "Rehabilitation, like society as a whole, is deeply involved in the process of social change and ever changing value systems. Its research can no longer be the avocation of the few but must be a basic part of service program planning and development." The recognition of the linkage between services and research is a cornerstone of the Rehabilitation Act. Much progress has been made over the years in fostering the concept that research should enhance but not be subordinated to services and that a formal mechanism is needed to assure that constituencies such as consumer groups, clients, grantees and industry are consulted about the service and research programs designed to involve and serve them.

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NEWS BRIEFS

Lowell Weicker, Chairman
Robert Stafford
John East
Donald Nickles



Jennings Randolph, Ranking Member
Thomas Eagleton
Spark Matsunaga

United States Senate Subcommittee on the Handicapped

10B Russell Senate Office Bldg.
Washington, D.C. 20510
Robert R. Williams, Editor

June 28, 1982

97-2-6

CONFERENCE COMMITTEE RESOLVE DIFFERENCES IN FIRST BUDGET RESOLUTION: REPORT MEASURE BACK TO CONGRESS FOR FINAL APPROVAL

The House and Senate has accepted a Conference Committee Report on a First Budget Resolution for FY 1983. This marks the first step in the Congressional Budget process. The First Budget Resolution is meant to establish overall spending ceiling levels for federal programs. Grouped together in broad functional categories, or what the Budget Act refers to as "Functions", programs which serve similar purposes such as human service programs, are lumped together for budgetary purposes. The programs are then assigned one lump sum spending ceiling level in the First Budget Resolution. This is to establish large enough overall spending levels for Congress to work within throughout the rest of the Budget process. Now that the First Budget Resolution has been approved, Congress will go to work to establish the spending figures for individual programs.

Although there are no spending ceilings set for individual programs in the FY 1983 Resolution just approved, the funding assumptions which the measure is based upon indicate that programs for the disabled will be funded up to at least the FY 1982 level in FY 1983 as well, while most other federal human service programs are cut back. Additionally, the State Grant component of the Vocational Rehabilitation program will receive an 8% increase in its funding level.

* * *

U.S. SUPREME COURT HANDS DOWN ITS DECISION IN ROMEO;

FINDS CONSTITUTIONAL GUARANTEES SAFEGUARDING
RETARDED PERSON'S RIGHT TO MINIMALLY ADEQUATE CARE & TRAINING

The U.S. Supreme Court has handed down its decision in Youngberg v. Romeo, a case involving the right of Nicholas Romeo, a retarded resident of Pennhurst State School and Hospital in Pennsylvania, to proper care and treatment. The Court in its first decision involving the Constitutional rights of retarded individuals, ruled that retarded persons in state institutions have what it termed "liberty interests" under the due process clause of the 14th Amendment which entitle them to "reasonable care and safety, reasonably non-restrictive confinement.... and such training as may be required by these interests." Justice Lewis Powell, the author of the majority decision in the case, cautioned however, that such interests are not absolute and must be weighed against those which a state may have, including costs. When the health and safety of the individual is involved, though, the decision clearly mandates that appropriate care and training be provided in the least intrusive manner possible.

The Romeo decision reflects the views of Senators Lowell Weicker and Robert Stafford, as well as those of former Senator Harrison Williams, as expressed in an Amicus Brief they filed with the Court last December in opposition to another brief filed by the State of Connecticut and some 20 other states. The Connecticut brief argued that the retarded only had a right to minimal custodial care. Weicker's brief refuted this claim and argued that retarded and otherwise developmentally disabled persons had a right to such care and habilitative training as might be necessary to enable them to reach their fullest maximum potential. While the majority decision did not extend this far, a concurring decision by Justice Blackmun, and joined in by Justices Brennan and O'Connor, found that the retarded might indeed be entitled to habilitation regardless of whether or not an individual's health and safety were directly involved and invited more litigation on the matter.

NEWS BRIEFS

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John East
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Jennings Randolph, Ranking Member
Thomas Eagleton
Spark Matsunaga

United States Senate Subcommittee on the Handicapped

108 Russell Senate Office Bldg.
Washington, D.C. 20510
Robert R. Williams, Editor

JULY 15, 1982

97-2-7

U. S. SUPREME COURT DECIDES IN HUDSON BOARD OF ED. v. ROWLEY

U.S. SUPREME COURT RULES ON THE RIGHTS OF DISABLED CHILDREN UNDER
PL 94-142

The United States Supreme Court on June 28th handed down its decision in HENDRICK HUDSON BOARD OF ED. v. ROWLEY, a case concerning the right of a disabled child to receive a free appropriate public education under PL 94-142, The Education for All Handicapped Children Act. The decision marks the first time that a high court has considered a matter involving the rights of disabled schoolchildren under the 1975 landmark legislation. The case decided on by the court last month dealt with the right of Amy Rowley, an 11 year old deaf girl with some residual hearing and lip-reading skills, to the services of a sign language interpreter in the classroom. In deciding the case the Supreme Court found that the 11 year old already performed at a better than average level in her regular classroom, and that the hearing aid and tutoring services which the local school system provided to her were sufficient to meet her special needs.

The court, therefore, reversed the findings of two lower courts that the local system also needed to provide Amy with an interpreter in order to afford her a "free appropriate public education" as required by the law. However, it did not rule out the need for school systems to provide interpreters in instances where deaf or hearing impaired children clearly required such services to benefit from their educational placements. Rather, the court ruled that the Act, in fact, obligates the nation's schools to provide disabled children with "personalized instruction and sufficient support services" to permit them to "educational benefit from (such) instruction."

More specifically, in writing the 6-to-3 majority opinion for the court, Associate Justice William Rehnquist considered and ruled on two interwoven issues raised by the case: that of what constitutes a free appropriate public education under the Act; and what role the courts should play in deciding whether a disabled child is receiving just such an education. In regards to the first question of what is meant by the term "free appropriate public education", Rehnquist found that the law's basic intent in this regard was to provide the disabled child with access to specialized instruction and related services tailored to meet his/her educational needs. The Associate Justice then went on to specify that in order for a school to comply with the law it must pay for the education of disabled children at public expense and ensure that the education being provided "meet the state's educational standards, approximate the grade levels used in.. regular education and comport with the child's IEP." (Individualized Educational Plan.)

In relating these findings to the Rowley girl's case in particular, Justice Rehnquist noted that the 11 year old already received "substantial specialized instruction and related services" which enabled her to perform better than average among her non-disabled peers. Based on these facts, the court found that Amy was, therefore, currently receiving the free appropriate public education to which she was entitled under PL 94-142 without the aid of an interpreter, and found no reason to order the school to supply her with one. In reaching this conclusion, the majority on the Court rejected the past findings of two lower courts in the case that schools must provide disabled children with the full array of services necessary for them to develop to their full maximum potential. The decision makes clear, however, that the law does in fact require schools to educate the nation's 4 million disabled children in a manner which is educationally beneficial to each such child.

On the second issue which the Supreme Court ruled on in this case, that of the proper role of lower courts in deciding future cases such as this, the Court found that lower courts should

only become involved in settling such disputes when a state or locality has not complied with the procedural safeguards set forth under the Act. Lower courts must then determine whether a child's IEP has been "reasonably calculated" to meet his/her needs. If it has been so designed, according to Rehnquist, "courts can do no more" as the basic provisions of the Act will have been complied with by the school system in question. On the same subject, Justice Rehnquist also cautioned judges against "imposing their view of preferable educational methods upon the states." Rehnquist noted that "entrusting a child's education to state and local agencies does not leave the child without protection," however. Rather, the interests of the child are protected by the law's requirement that his/her parents be involved in the development of his individualized educational program. "As this very case demonstrates," Rehnquist commented, "parents will not lack in ardor in seeking to ensure" that their disabled child receives all that he or she is entitled to under the Act.

In a concurring opinion by Associate Justice Blackmun, the Associate Justice concurred with the Majority opinion in the case, but only with respect to the final results of the decision itself. Blackmun argued that in deciding whether Amy Rowley was receiving a free appropriate public education, greater emphasis should have been placed on deciding if her individualized education program, "when viewed as a whole, (it) offered her an opportunity to understand and participate in the classroom that was substantially equal" to that afforded her non-disabled peers. A dissent offered by Justice Byron White, and joined in by Justices Marshall and Brennan, reached a similar conclusion and noted that in their view the Act was "intended to eliminate the effects of the handicap, at least to the extent that the child will be given an equal opportunity to learn if that is reasonably possible."

PCMR PASSES RESOLUTION CALLING ON THE PRESIDENT TO "HALT ALL EFFORTS"
TO CHANGE PL 94-142 AND SECTION 504

At the first meeting of the President's Committee on Mental Retardation since President Reagan appointed all new members to the 21 member advisory panel, the Committee passed a resolution reaffirming its "strong commitment" to maintaining the integrity of both PL 94-142 and Section 504 of the Rehabilitation Act. The resolution also encouraged the President to take a "positive and public stand to halt all efforts to change these laws through regulatory and legislative reforms that would adversely affect mentally retarded citizens."

A copy of the text of the resolution follows:

Public Law 94-142 and Section 504
and Position of
The President's Committee on Mental Retardation

WHEREAS, disabled children and adults have historically been denied the right to obtain a meaningful education, appropriate vocational training, and access to basic human services, and have been relegated to a role of dependency and a loss of human dignity; and

WHEREAS, The Education of All Handicapped Children Act, Public Law 94-142, was passed into law to guarantee disabled children a right to a free public education provided in conjunction with specific related services which would allow them to have an equal educational opportunity; and

WHEREAS, Section 504 of the 1973 Rehabilitation Act guarantees that as these disabled children grow into adulthood, they will be provided with equal access to the educational, training, employment, social services, transportation and housing services available to the nondisabled; and

WHEREAS, the implementation of both of these laws through federal regulations over the last five years has resulted in greater opportunities for meaningful educational programs for over 4 million disabled children throughout the country, and uncounted numbers of disabled adults from lives of total dependency and low self-esteem to productive lives through increased employment and training opportunities and expanded avenues to social services and community life; and

WHEREAS, the premise that some disabled persons would not be able to benefit from meaningful educational and training opportunities, and that a determination should be made regarding the extent to which disabled people would either benefit from or contribute to the operations of a program in a manner which would be "socially beneficial" to all parties, speaks to age-old prejudices against the disabled, denies them basic human dignity, and is antithetical to the concept of equal citizenship; and

WHEREAS, these two laws were passed because similar protections were not and are not available through existing states' statutes;

THEREFORE, BE IT RESOLVED that the President's Committee on Mental Retardation reaffirms their strong commitment to retaining the existing laws and regulations pertaining to Public Law 94-142 and Section 504 in substantially their present form, and encourages the President to take a positive and public stand to halt all efforts to change these laws through regulatory and legislative reform that would adversely affect mentally retarded citizens. Through these laws, the way has been cleared for preparing a large segment of our society to moving from lives of dependency to greater independency by becoming tax-paying citizens. Public Law 94-142 and Section 504, and their implementing regulations constitute an investment, rather than a burden, to society.

only become involved in settling such disputes when a state or locality has not complied with the procedural safeguards set forth under the Act. Lower courts must then determine whether a child's IEP has been "reasonably calculated" to meet his/her needs. If it has been so designed, according to Rehnquist, "courts can do no more" as the basic provisions of the Act will have been complied with by the school system in question. On the same subject, Justice Rehnquist also cautioned judges against "imposing their view of preferable educational methods upon the states." Rehnquist noted that "entrusting a child's education to state and local agencies does not leave the child without protection," however. Rather, the interests of the child are protected by the law's requirement that his/her parents be involved in the development of his individualized educational program. "As this very case demonstrates," Rehnquist commented, "parents will not lack in ardor in seeking to ensure" that their disabled child receives all that he or she is entitled to under the Act.

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NEWS BRIEFS

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Thomas Eagleton
Spark Matsunaga

United States Senate Subcommittee on the Handicapped
10B Russell Senate Office Bldg.
Washington, D.C. 20510
Robert R. Williams, Editor

AUGUST 4, 1982

97-2-8

U.S. DEPARTMENT OF EDUCATION ISSUES PROPOSED REGULATIONS TO REPLACE EXISTING ONES FOR P.L. 94-142; PARENTS AND OTHER ADVOCATES NOW HAVE UNTIL NOVEMBER 4TH TO REVIEW AND COMMENT

After months of deliberations and producing several in-house drafts, the U.S. Department of Education finally published proposed regulations to replace those already in effect for P.L. 94-142, "The Education of All Handicapped Children Act," in the August 4, 1982 issue of the Federal Register. Constituting a virtual complete rewrite of the current regulations, the agency's proposed regulatory revisions would greatly circumscribe many of the rights now afforded to disabled schoolchildren and their parents under the 1975 landmark legislation. Many parents and disability rights groups have already expressed fear, in fact, that, if allowed to go into effect, the proposed regulations would undermine the very intent of the law: to provide a free appropriate public education to each of the nation's 4 million disabled school-age youngsters.

The following is a table which summarizes some of the major differences between the regulations now in effect for implementing the provisions of the Act and those just proposed to replace them by the Department of Education:

KEY PROVISION

Individualized Educational Program (IEP)

PROPOSED REGULATION

Deletes current requirement that a meeting be held within 30 days after the time a child has been shown to be in need of special education to develop an Individualized Educational Program (IEP) for him or her;

KEY PROVISION

IEP (continued)

Parental Consent

Least Restrictive
Environment (LRE)

Multidisciplinary
Evaluation

Related Services

PROPOSED REGULATION

Would require only that such an initial IEP meeting be held within a reasonable time limit as determined by a State Educational Agency;

Deletes current requirement that parental consent must be obtained before a school evaluates or places a child in an education program;

Adds new provision stipulating that schools could decide against mainstreaming a disabled child if it could be shown that in doing so it would cause "substantial and clearly ascertainable disruption of educational services" to nondisabled students;

Deletes current requirement that a disabled child should attend the school closest to his or her home wherever possible;

Deletes current requirement that school systems ensure that a continuum of alternative educational placements be available to disabled school children;

Deletes current general requirement that multidisciplinary evaluations be given to all children suspected of needing special education;

Would limit multidisciplinary evaluation only to those youngsters having severe, multiple or complex disorders (e.g., specific learning disabilities);

Current requirements regarding the number and type of school personnel who would participate in such evaluations would also be omitted;

School districts would not be precluded from imposing "reasonable limitations" relating to the level, frequency, and duration that related services need to be provided to disabled schoolchildren;

KEY PROVISION

Related Services
(continued)

Residential Placements

Program Access

Specific Learning
Disability

Due Process

REGULATION

School health services, school social work services would no longer be included in the definition of related services;

Deletes current requirement that parents may not be charged for non-medical care;

Adds new guideline indicating that parents could indeed be charged for those residential costs which a school district is not responsible for;

Includes new provision indicating that schools would no longer be considered to be under any legal obligation to make available to disabled children educational programs provided to nondisabled children -- including curricular options, extra-curricular and nonacademic services, physical education, school health services, school social work services, and parent counseling and training;

Observation of a child's performance in a classroom contexts would no longer be required part of the diagnostic process;

Deletes current requirement for written report;

Expands maximum period for final decision on hearings from 45 to 60 days;

Limits those times when an independent evaluation as requested by a parent would be done at public expense;

Copies of the proposed regulations may be obtained by writing the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Please enclose \$1.50 for the Federal Register for August 4, 1982, Volume 47, Part II, Number 150 if you wish to receive a copy of the proposed regulations.

The Department of Education will be accepting written comment on the proposed regulations until November 4, 1982. Those wishing to submit comments may do so by sending them to Dr. Ed Sontag or Ms. Shirley A. Jones, Special Education Programs, Department of Education, 400 Maryland Avenue, SW., Donohue Building (Room 4000), Washington, D.C. 20202.

The agency is also holding briefings and public hearings on the proposed regulations in Washington, D.C. and eight regional sites.

The locations and dates for the briefings are as follow:

Washington, D.C., September 8-9, 1982--GSA Regional Office Building, Room 1041, 7th & D Streets SW., Washington, D.C. 20407

Region I--Portland, September 13-14, 1982--Portland Vocational Center, 196 Allen Avenue, Room 250 (School Committee Room), Portland, Maine 04103

Region II--New York, September 15-16, 1982--World Trade Center, Tower 2, 44th Floor Conference Room, New York, New York 10047

Region IV--Atlanta, September 15-16, 1982--Richard B. Russell Building, L. B. Strom Auditorium, 75 Spring Street SW., Atlanta, Georgia 30303

Region V--Chicago, September 13-14, 1982--Spalding School, Auditorium, 1628 West Washington Boulevard, Chicago, Illinois 60612

Region VI--Dallas, September 22-23, 1982--El Centro College, Performing Arts Theatre, Main and Market Streets, Dallas, Texas 75202

Region VIII--Denver, September 20-21, 1982--Saint Cajetan's Center, 9th and Lawrence on the Auraria Campus, Denver, Colorado 80202

Region IX--Los Angeles, September 20-21, 1982--Grand Theatre, Trade Technical College of the Los Angeles Community College District, 400 West Washington Boulevard, Los Angeles, California 90015

Region X--Seattle, September 22-23, 1982--Federal Office Building, North Auditorium, 915 Second Avenue, Seattle, Washington, 98108

For further information contact Dr. Ed Sontag or Ms. Shirley A. Jones at (202) 426-6114. For information on regional hearings contact

the appropriate Regional Representatives for Educational Programs listed below:

Region I, Boston, Mr. Wayne Roberts, (617) 223-7500

Region II, New York, Dr. Lorrained Colville, (212) 264-7005

Region IV, Atlanta, Mr. Ted B. Freeman, (404) 221-2502

Region V, Chicago, Mr. Harold Wright, (312) 353-5215

Region VI, Dallas, Dr. Scott Tuxhorn, (214) 767-3636

Region VIII, Denver, Mr. Tom Tancredo, (303) 837-3544

Region IX, San Francisco, Dr. Eugene Gonzales, (415) 556-4920

Region X, Seattle, Mr. Hyrum Smith, (206) 399-0460

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SECRETARY BELL CALLED TO TESTIFY BEFORE SENATE SUBCOMMITTEE

Expressing grave concern that the proposed revisions in P.L. 94-142, Part B regulations represent a setback for disabled youngsters' educational opportunities, Senator Lowell Weicker asked Education Secretary Bell to testify before the Subcommittee on the Handicapped.

"I intend to get some questions answered," stated Weicker; in particular, "How will these regulations help disabled youngsters learn?"

The Subcommittee Hearing will be held next Tuesday, August 10th beginning at 10:00 a.m.

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NEWS BRIEFS

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United States Senate Subcommittee on the Handicapped

10B Russell Senate Office Bldg.
Washington, D.C. 20510
Robert R. Williams, Editor

AUGUST 16, 1982

97-2-9

HALT CALLED FOR IN IMPLEMENTATION OF PROPOSED PL 94-142 REGS

THE SENATE CALLS FOR HALT TO IMPLEMENTATION OF PROPOSED REWRITE
OF PL 94-142 REGS UNTIL CONGRESS HAS CHANCE TO REVIEW AND EXERCISE
VETO PREROGATIVE:

By a vote of 93-4, the U.S. Senate attached a resolution-like rider to H.R.6863, the FY 1982 Supplemental Appropriations Bill, which expresses concern over Department of Education regulations which would weaken the rights now afforded disabled children and their parents under PL 94-142, "The Education for All Handicapped Children Act", and its current regulations. The measure, offered on the Senate floor by Senator Lowell Weicker, Jr., also calls for the proposed regulations not to take effect until Congress has had an opportunity to review and possibly exercise a legislative veto over them under terms set in the "General Education Procedures Act" (GEPA). Under GEPA, Congress would ordinarily have up to 45 days after the agency issued the regulations in final form to review and veto them if it so desired. Senator Weicker, who chairs the Senate Subcommittee on the Handicapped, offered the amendment, however, after becoming concerned that Congress would be prevented from exercising just such a veto if the proposed regulations were issued in final form some time during its extended election-year recess period which is scheduled to begin later this month.

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SENATE SUBCOMMITTEE HOLDS HEARING ON PROPOSED REWRITE OF EXISTING
PL 94-142 REGS; HEARS CONFLICTING TESTIMONY AS TO ITS POTENTIAL
IMPACT ON DISABLED CHILDREN:

One week after the Department of Education published its proposed rewrite of current PL 94-142 regulations in the Federal Register (see August 4th "News Briefs"), the Senate Subcommittee on the

Handicapped held a hearing on August 10th to determine just what the likely impact of such proposed changes would be on the nation's 4 million disabled school-age youngsters. Secretary of Education, Terrel H. Bell, who was called to testify before the Subcommittee hearing to present his agency's views on the matter, characterized the proposed revisions merely as an attempt to do away with unnecessary paperwork and allow States greater flexibility in providing free appropriate public education to disabled children. The Secretary also indicated that through deregulating and turning more of the decision making responsibilities affecting special education over to the States and localities, that more time and money would be available for direct services to disabled children. Ms. Georgia Gibson, a special educator from New Jersey who testified before the Senate panel on behalf of the National Education Association, expressed extreme doubt that any additional funds would become available for local special education programs through such a process. Noting current trends favoring deregulation, Gibson in fact warned Senators at the hearing that "recent sad experience" shows that the word "deregulation" is itself no more than a "codeword for concomitant reduction(s) of funding" at all three levels of government: federal, state and local.

Secretary Bell was also taken to task on another one of the major assertions he advanced during his testimony by the Subcommittee's Chairman, Senator Lowell Weicker. In discussing what he saw as being achieved through the proposed changes to the current regulations for PL 94-142, the Secretary contended that relaxing federal standards in this area would lead to greater flexibility and thus less hesitancy on the part of States and localities to educate disabled children. The Secretary then went on to say that this would result in much less confusion and resistance to the law itself. Under extensive questioning by Senator Weicker, however, Bell eventually admitted that this might not necessarily be the case and that a draft of his own agency's Regulatory Impact Statement made clear the proposed revisions would likely generate fresh

controversy over the Act and lead to increased litigation.

Addressing much the same issue, Attorney Rud Turnbull (a professor of special education and law at the University of Kansas who represented the Association for Retarded Citizens at the hearing) predicted that such a relaxation of current standards would "permit and even encourage state and local agencies to backslide in their efforts" to educate disabled children.

Some of the harshest criticism of the Department of Education's proposed rewrite of existing regulatory requirements heard during the hearing was also directed at the weakening of current provisions relating to educating disabled children in the least restrictive environment appropriate to their needs. Turnbull, for instance, said that a proposed provision that would bar a disabled child considered to be "disruptive" from a regular classroom was "wholly unacceptable" and would, if allowed to take effect only "emphasize the stigma of differentness" of disabled children "by adding the stigma of separation". And, speaking from a parents' perspective, Justine Maloney, a member of the Association for Children with Learning Disabilities' Governmental Affairs Committee, said the proposed regulations "chilled my bones and brought back memories of special education classes stuck down in the boiler room" away from the rest of the student body.

* * * *

NEWS BRIEFS

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Spark Matsunaga

United States Senate Subcommittee on the Handicapped

10B Russell Senate Office Bldg.
Washington, D.C. 20510
Robert R. Williams, Editor

SEPTEMBER 22, 1982

97-2-10

DOE HOLDS FIRST OF 11 REGIONAL HEARINGS ON PROPOSED PL 94-142 REGS: MAJORITY TESTIFYING OPPOSED: CALL FOR WITHDRAWAL

The United States Department of Education held the first in a series of 11 regional hearings on its proposed rewrite of existing federal regulations implementing PL 94-142, "The Education For All Handicapped Children Act", in Washington, D.C. on September 8th and 9th. Representatives of educational associations, special educators, parents and disability rights activists testified on the proposed changes to the existing regulations during the 2 day period. The vast majority of these witnesses characterized such changes as posing a serious threat to the educational progress being made by the nation's 4 million disabled schoolchildren under the 1975 law and its current regulations.

Many of those attending the hearings, in fact, not only criticized some of the more highly controversial provisions of the agency's proposal, such as those which would limit the rights of parents to participate in the development of their child's IEP, but called for the withdrawal of the entire package. Even before being urged to do so, Education Secretary Terrel H. Bell, in opening the two days of hearings, said his agency was already "considering the possibility of holding for further study... some of the (proposed) provisions that are drawing a lot of attention and concern" before the rules are finalized. Disability and children rights advocates argued that this would not be enough, however. Paul Marchand, Governmental Affairs Director of the Association for Retarded Citizens, said that the Secretary's comments demonstrate that Agency officials have "already recognized they have made some errors and are beginning to backtrack". Marchand went on to warn the

NEWS BRIEFS

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Department that advocates will not be mollified. "The small amount that's good isn't worth all that's bad" about the Agency's proposals, the ARC representative said as he called for their complete withdrawal.

(*) Note Pg. 3

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CONGRESS OVERRIDES PRESIDENT'S VETO

OF FY 1982 SUPPLEMENTAL APPROPRIATIONS BILL:

\$26.5 MILL. MORE NOW AVAILABLE FOR SPECIAL EDUCATION PROGRAMS

By a vote of 60 to 30, the U.S. Senate, on September 10th, voted to override President Reagan's veto of the FY 1982 Supplemental Appropriations Bill which, in part, provides for an additional \$26.5 million in federal assistance for special education programs for the remaining portion of FY 1982 (and into FY 1983 as well). The Senate action came just one day after a similar vote to override the veto took place in the House.

More specifically, with regard to special education, the \$26.5 million in increased funding will be divided among three categorical components of the program in the following manner: \$15.7 million more will be available for personnel development; an additional \$7.2 million will be available for early childhood education; and \$3.6 million more will go to innovation and development projects.

* * *

DEPT. OF JUSTICE SENDS DRAFT OF 504 REGS TO OMB:

PROPOSALS COULD BE PUBLISHED BY LATE OCTOBER

The U.S. Dept. of Justice sent its most current draft of revisions in existing regulations for Section 504, the primary federal disability civil rights statute, to the Office of Management and Budget for its review and comment just before Labor Day. OMB now has up to 60 days under the Administration's deregulation scheme to conduct such a review. Upon completing its review, the Agency must decide whether or not the 504 rewrite would constitute what is termed a "major federal rule" or one which will affect a large portion of the population and involve significant costs. If the revisions are

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will then be charged with coming up with a Regulatory Impact Statement showing the impact such rules would have if they were to be implemented. Preparation of such a cost benefit analysis could take up to a year. If, on the other hand, OMB decides against designating these proposals as a major rule, they could be published in the Federal Register for public comment as early as late October.

* * *

(*) Note

REMINDER

PROPOSED REGULATIONS ON PL 94-142

The Department of Education will be accepting written comment on the proposed regulations until November 2, 1982. Those wishing to submit comments may do so by sending them to Dr. Ed Sontag or Ms. Shirley A. Jones, Special Education Programs, Department of Education, 400 Maryland Avenue, SW., Donohue Building (Room 4000), Washington, D.C. 20202.

NEWS BRIEFS



Lowell Weicker, Chairman
Robert Stafford
John East
Donald Nickles

Jennings Randolph, Ranking Member
Thomas Eagleton
Spark Matsunaga

United States Senate Subcommittee on the Handicapped

10B Russell Senate Office Bldg.
Washington, D.C. 20510
Robert R. Williams, Editor

OCTOBER 5, 1982

97-2-11

DOE TO WITHDRAW MAJOR PARTS OF PROPOSED PL 94-142 REGULATIONS: EXACT IMPACT AS YET UNCLEAR

Bowing to an enormous public outcry nationwide, Secretary Bell on September 29 met with Senator Lowell Weicker, Chairman of the Subcommittee on the Handicapped and advised the Senator that major sections of the proposed special education regulations would be withdrawn. The following day, September 30, Department of Education officials distributed a draft-memorandum to Congressional staff outlining the general intent of the Department. An analysis of the Department's intended actions, prepared by Ms. Angela Evans and Attorney Nancy Lee Jones of the Library of Congress follows:

"The announcement by the Secretary of Education of the withdrawal of selected sections of the proposed regulations under PL 94-142 and the retention of certain sections from the current regulations significantly changes the character of the proposed regulations. The September 30 draft memorandum listed the specific sections which were to be withdrawn or retained under six areas: parental consent prior to evaluation or initial placement, least restrictive environment, related services, timelines, attendance of evaluation personnel at individualized education program meeting, and qualification of personnel. However, an examination of the proposed and current regulations indicates that there are other sections of both of these sets of regulations which are potentially relevant to the six issues.

Many of the proposed sections which are not withdrawn reference sections which are proposed for withdrawal and this

raises questions concerning whether the current sections which are to be retained under these categories would be substituted for those referenced. Although this would most likely be the intent of the Department, it is ambiguous from the material presently available. Other omissions from the September 30 draft memorandum are less technical. For example, although related services is one of the issues covered in the withdrawal and retention, and the statutory definition of related services includes physical education, the current Section 300.307 is not noted as one of the sections that would be retained from the current regulations. Another example pertains to timelines. Current Section 300.534 which relates to the re-evaluation of handicapped children and is proposed for retention, references certain current sections concerning IEP's. It is unclear as to whether the IEP sections referenced from the current regulations are to be retained as well, or if the corresponding IEP sections from the proposed regulations are to be substituted for the reference. There are significant differences between the IEP provisions references in the current regulations and those in the corresponding proposed regulations.

It should also be noted that certain controversial sections of the proposed regulations have not been withdrawn. For example, the proposed addition of disciplinary rules and procedures would be retained and the detailed State and local data documentation requirements have not been added to the proposed regulations.

The Department of Education's withdrawal of selected sections of the proposed regulations under PL 94-142 and the proposed retention of several sections from the current regulations is complex and confusing. Even with the September 30 draft memorandum listing the sections to be withdrawn or retained, the exact impact of this action on the proposed regulations is unclear."

Senator Weicker reminded parents, teachers and other advocates for the disabled that the review and comment period extends through November 2, and urged all concerned to continue to make their feelings known via letters to the Department of Education.

* * *

CONGRESS APPROVES APPROPRIATIONS RESOLUTION TO DECEMBER 17TH:

SPECIAL ED. AND VOC. REHAB. RECEIVE 6% - 8%

FUNDING INCREASE:

D.D. FUNDED AT \$61.1 MILLION

Before adjourning for the October recess, Congress passed a Continuing Resolution setting the appropriations or actual funding levels for federal agencies and programs for the first three months of FY 1983, which just began October 1. The interim funding measure, which will expire on December 17th, in contrast to similar measures in the past does not actually set aside specific dollar amounts for each government program. Instead, the Resolution merely stipulates that the majority of such programs are to be funded at what is termed their "current operating levels". As a result of an understanding reached between Senators Harrison Schmitt, Chairman of the Labor-HHS Appropriations Subcommittee and Lowell Weicker, Chairman of the Subcommittee on the Handicapped, federal funding for programs affecting the disabled has been spelled out in much more definite terms, however.

Responding to a Weicker inquiry during Senate debate on the measure concerning funding levels for the Special Education, Vocational Rehabilitation, and Developmental Disabilities programs, Senator Schmitt said that the measure had been designed to ensure that such programs would be adequately funded to assure that "no ground is lost in these vital areas". Noting that most federal programs would be kept at their FY 1982 funding level under the Resolution, Schmitt indicated that two exceptions to this rule would be the State Grants components of both the Special Education and Vocational Rehabilitation programs.

Specifically, the Special Education State Grants components will be funded at 6% above last year's level, according to Schmitt, to make up for inflation. This means, therefore, that an additional \$56 million over the FY 1982, or \$987 million will be available to the States on an annualized basis to assist them in carrying out special education programs at the local level. An additional \$68 million over last year's level, or a total of \$931 million will also be available to the States on an annualized basis to administer and deliver rehabilitative services. This represents an 8% increase over last year. The Developmental Disabilities Program also can be expected to receive a 4% increase over last year's funding, raising the total to \$61.1 in FY '83, the full authorized amount for FY 1983.

* * *

SENATE CONFIRMS 13 NOMINEES TO NATIONAL COUNCIL ON THE HANDICAPPED

The Senate on October 1 confirmed all thirteen of President Reagan's nominations to the National Council on the Handicapped. This action means that the Council, which has been inactive since its former members were removed last spring, can resume its work of setting policy for the \$30 million Nation Institute of Handicapped Research and advising the Education Secretary and the Congress on the workings of the Special Education, Vocational Rehabilitation and Developmental Disabilities programs. The newly confirmed Council members are:

Henry Viscardi, Jr., New York
Justin W. Dart, Jr., Texas
Sandra S. Parrino, New York
Alvis K. Waldrep, Jr., Texas
Roxanne S. Vierra, Colorado
Hunt Hamill, Illinois
Carmine R. Lavieri, Connecticut
Marian N. Koonce, California
Robert V. Bush, New Mexico
Joseph Dusenbury, South Carolina
Michael Marge, New York
John S. Erthein, California
H. Latham Breunig, Virginia

* * *

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United States Senate Subcommittee on the Handicapped

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Washington, D.C. 20510
Robert R. Williams, Editor

DECEMBER 21, 1982

97-2-12

FUNDING BILL PASSED BY LAME DUCK CONGRESS

A stopgap funding bill was approved by the Congress on December 20 and signed into law by President Reagan the following day. This continuing resolution, which extends spending authority for the Federal government through September 30, 1983, contains the following dollar amounts for this nation's service programs for the disabled.

<u>EDUCATION FOR THE HANDICAPPED</u>		
EDUCATION	FY '82 enacted	(\$ IN MILLIONS) Cont. Resolution FY 1983
State Assistance		
State grant programs	931.008	970.000
Preschool incentive grants	24.000	25.000
Deaf-Blind Centers	15.360	15.360
Special population programs		
Severely handicapped projects	2.880	2.880
Early childhood education	16.800	16.800
Regional, Vocational, Adult and Secondary programs	2.832	2.832
Innovation and development	10.800	12.000
Media and resource service		
Media services and captioned films	11.520	12.000
Regional Resource Centers	2.880	2.880
Recruitment and information	.720	.720
Spec. Ed. personnel development	49.300	49.300
Special studies	.480	.480
TOTALS	\$ 1,068.580	\$ 1,110.252

REHABILITATION SERVICES AND HANDICAPPED RESEARCH

REHABILITATION SERVICES		
Basic state grants	863.040	943.900
Service projects	23.894	26.094
Independent Living	17.280	17.280
Training	19.200	19.200
Subtotal	\$ 923.414	\$ 1,006.474
National Institute for Handicapped Research	28.560	30.060
National Council on the Handicapped	.197	.193
TOTALS	\$ 952.171	\$ 1,036.727

DEVELOPMENTAL DISABILITIES PROGRAMS

	FY '82 enacted	Cont. Resolution
Basic state grants and		
Advocacy	49.133	50.500
Special Projects	2.350	2.500
University Affiliated		
Facilities	<u>7.200</u>	<u>7.500</u>
TOTAL	\$ 56.683	\$ 60.500

SPECIAL INSTITUTIONS

AMERICAN PRINTING HOUSE FOR THE BLIND	5.000	5.000
NATIONAL TECH. INST. FOR THE DEAF		
Educational programs	23.300	26.300
Construction	<u>3.000</u>	<u>---</u>
Total: National Tech. Inst. for the Deaf	\$ 26.300	\$ 26.300
GALLAUDET COLLEGE		
College programs	32.310	33.910
Model secondary school for the Deaf	11.700	11.700
Kendall Demonstration Elementary School	6.390	6.390
Construction	<u>1.600</u>	<u>---</u>
Total: Gallaudet College	\$ 52.000	\$ 52.000

(\$ in Millions)

Overall, FY 1983 funding levels in the major service programs for the disabled (i.e., special education, vocational rehabilitation, and developmental disabilities) is more than \$700 million above the President's FY '83 budget request.

* * * * *

WEICKER AMENDMENTS ON PWI AND INDEPENDENT LIVING

INCLUDED IN CONTINUING RESOLUTION

Two amendments introduced by Subcommittee Chairman, Senator Lowell Weicker, actively supported by Senator Robert Stafford and approved unanimously by the Appropriations Committee, were accepted as part of the Labor-HHS-Education section of the Continuing Resolution. The amendments require that all presently funded PWI Projects and Independent Living Centers whose grants expire in FY 1983 will receive continued funding. The amendments will allow the authorizing committee of the Congress to review PWI and Independent Living Centers early next year and make recommendations regarding the future of these programs for FY '84 and beyond.

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NATIONAL CLOSED-CAPTIONING MONTH

In a Resolution passed by the Senate, December 1982 was officially proclaimed National Closed-Captioning Month. Closed-captioning service began in March 1980 and has opened up expanded educational and entertainment opportunities for thousands of Americans who are deaf or hard-of-hearing. To date, hearing impaired citizens have invested over \$17 million for the purchase of decoding devices.

* * * * *

DOE ANALYZING COMMENTS ON PROPOSED PL 94-142 REGULATIONS

On September 29, Secretary Bell (Department of Education) withdrew six of the most controversial sections of the proposed PL 94-142 regulations and extended the comment period through December 3, 1982. In a presentation before the National Council on the Handicapped, Dr. Ed Sontag, Director of Special Education, stated that the Department of Education had received over 23,000 individual letters concerning the proposed regulations. He indicated that the DOE is in the process of analyzing these comments which could take as long as one or two months. The exact timelines and procedures for analysis have yet to be determined. Following the analysis, the DOE will issue a new Notice of Proposed Rulemaking.

* * * * *

DOE CITES DRAMATIC INCREASES IN SPECIAL ED AND REHAB SERVICES

In its 1981 Annual Report to the President, the Department of Education estimated that an additional half a million children received special education services in 1980-81 as compared to 1967-77, resulting in current educational services to 4.2 million handicapped children in this country. Approximately 68% of these children are receiving a significant part of their education in regular classes and 26% are in special classes located in regular school buildings.

Also in the report, the Rehabilitation Services Administration reported that rehabilitation has resulted in more than a \$250 million increase in tax payments to the government, and significant reductions on public dependency in the first year after rehabilitation is complete.

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FROM ALL OF US TO ALL OF YOU

BEST WISHES FOR A VERY HAPPY HOLIDAY