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Four Major Federal Laws from 1973 to 1983 and Their Impact upon the Education of Handicapped Individuals

Susan Mosolf Mast

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FOUR MAJOR FEDERAL LAWS FROM 1973 TO 1983 AND THEIR IMPACT
UPON THE EDUCATION OF HANDICAPPED INDIVIDUALS.

by

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Bachelor of Arts, University of North Dakota, 1977
Master of Science, University of North Dakota, 1981

A Dissertation
Submitted to the Graduate Faculty
of the
University of North Dakota
in partial fulfillment of the requirements
for the degree of
Doctor of Education

Grand Forks, North Dakota
August 1984
This Dissertation submitted by Susan Mosolf Mast in partial fulfillment of the requirements for the Degree of Doctor of Education from the University of North Dakota is hereby approved by the Faculty Advisory Committee under whom the work has been done.

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This Dissertation meets the standards for appearance and returns to the style and format requirements of the Graduate School of the University of North Dakota, and is hereby approved.

D. William Johnson 7/26/84
Dean of the Graduate School
Title: The Impact of Federal Laws from 1971 to 1981 on the Education of Handicapped Individuals

Department: Center for Teaching and Learning - Educational Administration

Date: July 20, 1987

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ACKNOWLEDGMENTS

Personal accomplishments happen through hard work, determination, and a lot of support. I wish to express my thanks to all those who supported me through the completion of this project.

My friends and colleagues consistently offered me encouragement and incentive to continue working even when confusion and anxiety seemed overwhelming. They took their valuable time to recognize and celebrate with me the completion of major goals. One such friend, Lauren Cartwright, also provided an abundance of much needed "laugh therapy."

My committee members, Dr. Myrna Olson, Dr. Richard Landry, Dr. Richard Hill, and Dr. Kenneth Davies were helpful and cooperative throughout this project. In all my contacts with them they made me feel both accepted as a person and a professional. The time and energy expended on my behalf assisted in completing this project in the best way possible. As my adviser, Dr. Donald Piper's systematic assistance kept me on task and secure in the proper manner in which to proceed. Without his helpful suggestions, constructive criticism, and thorough editing the successful completion of this project would not have been realized. Although Dr. Julie Underwood O'Hara was not a member of my committee, she willingly gave of her time to advise me in the legal research. Her expertise and patient encouragement aided in my continual enthusiasm for the topic researched.

My husband deserves special mention for his continual support throughout my graduate career. This support has been both substantive...
and personal. A commitment to study must be made by both individuals. Time, energy, and finances dictate that a strong relationship and continued support must be present in order to complete a project such as this.

Lastly, I wish to express my appreciation to the people who collectively make up the Center for Teaching and Learning. These individuals have consistently motivated me to mature, create, better communicate, and relate. I leave motivated to be a professional leader in the field of education due to their commitment to graduate students and their education.
VITA

Susan Mosolf Mast is a native of North Dakota. She was graduated from the University of North Dakota in 1977 with a degree in psychology. She taught in the Grand Forks Special Education Department at both the preschool and secondary level as a teacher for the emotionally disturbed. During this time she received her master of science degree in special education at the University of North Dakota.

During her years as a teacher, Susan established a program for emotionally disturbed children in East Grand Forks, Minnesota. She also taught in the Minnesota Migrant Program and the continuing education program for Moorhead State University. While teaching in the public school, Susan served as a guest lecturer in the areas of Emotionally Disturbed/Behaviorally Disordered for the graduate special education department at the University of North Dakota.

In 1982 Susan was accepted as a full-time doctoral student in educational administration. As a graduate student she worked part-time as a research assistant for the UND Bureau of Educational Research and Services and as a teacher assistant for the UND special education department. While working as a research assistant she completed two comprehensive literature reviews— one on the topic of teacher selection and retention and the other on teacher supervision and evaluation. While working as a teaching assistant she supervised and wrote recommendations for undergraduate special education student teachers.
Susan's administrative experience consists of two public school internships. In the first internship her role was that of assistant to the associate principal at a local high school with duties in teacher supervision, program coordination, and improvement of community relations. In the second internship her role was that of program director and supervisor of a classroom for the emotionally disturbed at an area Indian reservation. This directorship included duties in establishment of the program, supervision of a teacher and an aide, and consultation with the school administration on coordination of special education services.

Mrs. Susan Mast received a higher education scholarship from the University of North Dakota and has been an active member in North Dakota professional organizations. She is the local president of the Pi Lambda Theta Honor Society in Education and was honored with the title of local vice-president in charge of programming for the Phi Delta Kappa educational organization.
ABSTRACT

Three research questions provided a focus for this study:

(1) What is the historical foundation in relation to federal mandates which have an impact upon the education of handicapped individuals?
(2) What are the differences and, correspondingly, the interdependencies in the selected major federal laws that impact upon the education of handicapped individuals? and (3) What are the broad perspectives and implications of this information upon the education of handicapped individuals?

The answers to these research questions were accomplished by:

(1) A brief overview of all education legislation that affects the handicapped individual, (2) Selection of four major federal laws that affect the education of the handicapped, (3) Analysis of these four major federal laws by five analysis criteria, and (4) A comparison and contrast of each law and each analysis criterion.

The four major laws selected for analysis were: (1) Section 504, Rehabilitation Act of 1973 (P.L. 93-112); (2) Developmentally Disabled Assistance and Bill of Rights Act of 1974 (P.L. 94-103); (3) Education of All Handicapped Children Act of 1975 (P.L. 94-142); and (4) Education Amendments of 1978, which include the Gifted and Talented Children's Education Act of 1978 (P.L. 95-561).

The five major categories used in the analysis were: (1) Eligibility Criteria, (2) Procedural Safeguards, (3) Services Provided, (4) Program Accountability, and (5) Funding Provisions.
The findings from the study of this legislation resulted in the following conclusions: (1) Section 504 of the Rehabilitation Act of 1973 (P.L. 93-112) was found to have the most comprehensive eligibility criteria and procedural safeguards; and (2) the Education for All Handicapped Children Act of 1975 (P.L. 94-142) was found to have the most comprehensive educational services, program accountabilities, and funding provisions. An overall conclusion that was drawn from the analysis was that there are more similarities than differences in the four laws analyzed and there do not appear to be any conflicting mandates.

Several recommendations resulted from this study. Two of the recommendations that resulted from this study were: (1) New legislation or legislative amendments should be introduced to the Congress that would require all definitions of handicapped conditions to be based on functional limitations; and (2) College educational programs should offer courses which include information on legislation in relation to special education.
CHAPTER I

INTRODUCTION

One of America's recognized and unique components of education is that of special education. The education of handicapped children has developed through a long and distinguished history of federal, state, and local activity. It is apparent that parents, politicians, educators, and many United States' citizens have drastically changed special education in the past decades. Increased advocacy efforts on behalf of handicapped persons have been recognized by members of federal and state legislatures. The legislatures have reacted to this citizen pressure by enacting a vast array of statutes on behalf of handicapped individuals guaranteeing special education for handicapped children. This proliferation of laws, however, has not been specific to handicapped children. There are statutes for the benefit of the handicapped person at all age levels and all levels of severity.

The total picture of legislation for the handicapped has become extremely complex. There is a constant flurry of activity in relation to the existing laws. These complex legislative provisions have created a maze of codes, regulations, programs, services, and literature. It is important for special educators to take the time and effort to analyze the legislative history and current legislative trends so that they can more readily understand the impact these laws have on the lives of handicapped individuals. This analysis should include a futuristic
The future of legislation in the area of education for the handicapped looks promising and progressive. President Reagan came into office requesting the repeal of the Education for All Handicapped Children Act (P.L. 94-142). This year he signed into law a bill amending the funding level for special education and a three-year extension of discretionary programs. With administrative support, further action can be prompted and advocacy groups can have an influence on new legislation. With each new amendment or law an alternative focus on what needs to be done to provide the best services for handicapped children was perpetuated.

The problem with providing the best services for handicapped children included:

1. An awareness of all public laws relating to the education of handicapped individuals.
2. A thorough understanding of the most significant of the public laws and how they interrelate in relation to planning for the education of handicapped individuals.
3. An awareness and knowledge base of fiscal concerns and assistance involved in the implementation of programs related to the education of handicapped individuals.

Prior to this study there was one known analysis of special education legislation. Humphrey (1981) analyzed five major federal laws and their impact on the handicapped. She constructed an analysis by systematically reviewing all acts and then examining each of the selected laws using four topical analysis lines. The analysis topics were:
1. Eligibility Criteria
2. Procedural Safeguards
3. Services Provided
4. Individualized Written Programs. (pp. 21-23)

The five laws that Humphrey (1981) analyzed were:

These five major laws provided provisions for handicapped persons at all age levels in both a specific and general manner. A more comprehensive analysis of current legislation that has specific implications for the education of handicapped individuals is essential to an assessment of the present and future impact this legislation will have on American special education.

Statement of Purpose

Today's complex and often confusing array of codes, regulations, and rules has created, among the handicapped and related professional community, a need for communication and understanding with respect to the law. It is the purpose of this study to integrate knowledge of these legislated provisions into a broad perspective on the differences and interdependencies among them and how they impact the education of handicapped individuals.
Three research questions will provide a focus for the study:

1. What is the historical foundation in relation to federal mandates which has an impact upon the education of handicapped individuals?

2. What are the differences and, correspondingly, the interdependencies in the selected major federal laws that impact upon the education of handicapped individuals?

3. What is the broad perspective and implication of this information upon the education of handicapped individuals?

The answers to these research questions will be accomplished by:

1. A brief overview of all education legislation that affects the handicapped individual.

2. Selection of four major federal laws that affect the education of the handicapped.

3. Analysis of these four major federal laws by five analysis criteria.

4. A comparison and contrast of each law and each analysis criterion.

5. Conclusions and recommendations.

The four major federal laws selected were:


4. Education Amendments of 1978, which include the Gifted and Talented Children's Education Act of 1978 (P.L. 95-561) (Repealed by the
The current procedures used in the analysis were:

1. Identification of specific individual planning provision statements.

Ending Provisions: financial assistance available from general appropriations.

Relevant information acquired from this analysis will be the recommendation for better implementation of the services provided for handicapped children in the public school system. This study may serve as a source of information to professional educators, administrators, special education interested in understanding the duration of special education in the United States.

This study may also serve as a source of assistance in making decisions regarding special education services.

Significance of the Study

We must not forget that understanding the original intent of those involved in the movement remains crucial to identifying where special education is needed and how the law will work through the years.
There have been many laws that have provided for handicapping persons of all age levels and all levels of severity. The many laws have created a complex and often confusing array of rules and regulations. All of these rules and regulations affect the handicapped, related professional community, and public school system. There is a need for communication and understanding of not only the laws but the implications of those laws for all those involved. Since 1975, parents, professionals, and consumers have been bombarded with literature related to special education. It is a difficult task to conceptualize all of the information and its implications.

Educators do need to understand the origins of the present laws and what impact these laws have on programming for handicapped individuals in the public schools. The knowledge of where they have been, where they are, and where they are going is necessary for progressive special education programming. The broad perspective of the differences and interdependencies among the special education laws should assist educators in better understanding the impact these laws have on the educational services developed for handicapped individuals.

**Limitations of the Study**

Although the researcher attempted to assure that the research was comprehensive and accurate, it should be noted that there were some limitations.

1. Some primary sources of information were unavailable to the researcher because of current unpublished legislation and the status of such current legislation.

2. Only American public education was examined by the researcher. Private and parochial special education in America and all special
education in other countries were not included.

3. Selection of special education legislation could not be undertaken without inclusion of regular education legislation that impacted upon special education.

4. This study did not attempt to address, even in a general manner, the provisions of various state legislation or local regulations in relation to special education.

The researcher's objective in pursuing this study was to examine four major laws that impact upon the education of handicapped individuals. It is extremely difficult to acquire information on national legislation, but wherever amendments have been added the researcher strove to analyze the legislation according to the most recent amendments.

**Organization of the Study**

The study consists of five chapters. The first chapter includes an introduction, the purpose of the study, the organization of the study, the significance of the study, and the limitations of the study.

Following the first chapter a review of the literature which traces the history of federal special education legislation will be presented. A summary of legislation and the implementation and impact of such legislation are also included in chapter 2.

Chapter 3 will explain the process used and the justification for selecting the four major public laws to be analyzed. An explanation and definition of the five analysis categories will then be outlined.

Chapter 4 will contain the in-depth analysis for each of the four selected public laws. These analyses will include the specific legislation and the historical background of each law. Each law will then be specifically analyzed in relation to all five separate analysis categories.
To conclude chapter 4 each law will be compared and contrasted by each of the five separate categories.

Chapter 5 will present a summary of the findings, the researcher's conclusions based on the results, and recommendations for better implementation of services and programs for handicapped individuals in American public school systems.
CHAPTER II

REVIEW OF FEDERAL LEGISLATION

Federal legislation has resulted in the educational advancement of special education and most recently in a new era of treatment of the handicapped. "A look at our lurid history in dealing with handicapped children illuminates the progress we have made in recent years in both the educational and legal realm" (Alexander 1976, p. 7). This nation's public schools have, in the past, successfully denied educational opportunities to handicapped children. The multitude of exclusionary practices was responded to directly by the Congress in pursuance to the federal Constitution.

The system for enacting and carrying out law in relation to the area of education for the handicapped includes three components. The system was illustrated by Turnbull and Turnbull (1982) as follows:

1. **Constitutional law**
   - Federal constitution (especially Fifth and Fourteenth Amendments)
   - State constitution (especially provisions about education)
   - Local charter (especially provisions creating schools or school boards)

2. **Legislature (legislative body)**
   - Congress (e.g., P.L. 94-142, The Education of All Handicapped Children Act)
   - State (e.g., "equal educational opportunities" legislation)
   - Local (e.g., school board policies establishing programs for handicapped children)

3. **Regulations (executive agency)**
   - Federal (Bureau for Education of the Handicapped, Office of Education, Department of Health, Education, and Welfare)
   - State (e.g., Illinois Office of Education, Division for Exceptional Children, or North Carolina State Board of...
Congressional activity for the handicapped has historically focused on health, education, welfare, housing, transportation, volunteer programs, training, and nutrition (Jones 1981). The federal government has historically mandated public educational programs for the handicapped individual. Special education, in and of itself, has been addressed by federal legislation through a long and distinguished national history (Weintraub and Ballard 1982).

**Historical Review of Federal Legislation for the Handicapped**

The federal Constitution of the United States of America grants no explicit authority to the federal government in relation to education. The educational domain has been delegated by the Constitution to be the responsibility of the individual states in the United States of America. Amendment X of the Constitution delineates the states' responsibility. Powers not delegated to the federal government are reserved to the state and the people (Michigan Department of Education 1981). Amendment X of the Constitution follows:

> The Powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

The Constitution indicates that the federal government has no explicit authority in the educational domain (McCarthy 1981). The federal Constitution does, however, give Congress the power to enact legislation that will clarify the constitutional rights of individuals. The Congress, in passing such legislation, has influenced education and more specifically the education of handicapped children. Federal
legislation in the educational domain has necessitated federal regulatory agencies and, in turn, extensive regulations pursuant to the federal statutes (McCarthy 1981). The legislation which has impacted the educational opportunities for the handicapped child requires that the individual's basic constitutional rights be guaranteed and provided through appropriate education.

The protection of human rights has initiated a conglomerate of important federal legislation which has impacted upon the education of handicapped individuals. However, according to LaVor (1976), federal involvement in educational services for the handicapped has been slow to evolve. The federal role in general education was initially limited to assisting states with monetary grants, research, and information gathering (Mayer 1982). In special education, early legislation correspondingly designated either monies or to land intended to assist with localized individual problems or meet the needs of a specific disability group (Barbacovi and Clelland 1978). Such legislation includes the first national law passed in 1827 which had direct impact upon the handicapped but indirectly impacted the education of handicapped individuals. This first law designated land in the territory of Florida for the building of an Asylum for the Deaf and Dumb of Kentucky. It was thirty years before Congress enacted legislation that clearly related to the education of the handicapped. In 1857

an act to incorporate the Columbia Institution for the Instruction of the Deaf and Dumb and Blind (P.L. 34–36) was enacted by Congress.

This law was significant in that for the first time it authorized the federal government to grant tuition payments to an institution that was established solely to provide education to the handicapped. (LaVor 1976, p. 97)
According to LaVor (1976), one of the most significant, early congressional enactments related to the education of the handicapped authorized the Columbia Institution for the Deaf and Dumb and Blind to confer degrees in the liberal arts and sciences. This law was signed by President Lincoln on 18 April 1864. Further legislation authorized monetary aid for the education of the blind. An Act to Promote the Education of the Blind (P.L. 35-154) was enacted by Congress in March of 1879. The Congress authorized $250,000 to establish "perpetual funds for the purpose of aiding the education of the blind in the United States of America through the American Printing House for the Blind" (p. 98).

During this period the states were expending specific effort to establish basic services for the handicapped. The beginning of special education programs can be traced to state schools for both the deaf and dumb and blind (Weintraub and Ballard 1982). These schools were established as early as 1823. From the time period of 1823 to 1869 Kentucky, Ohio, New York, Massachusetts, Pennsylvania, and others established state schools for the handicapped. In 1869 the city of Boston established the first public day school for the deaf. New York and Rhode Island established classes for handicapped children within their public schools before 1900 (Weintraub and Ballard 1982). In the 1900s the concept of public school special education had gained widespread acceptance and various education programs for the handicapped were being provided by state appropriations and local planning (Pullin 1982).

Federal legislation in the early 1900s was limited to appropriating further services to the blind. The next significant federal legislation for the handicapped which has an impact on educational programs occurred some seventy-five years after the enactment of the law to establish the
In 1954 the Cooperative Research Act (P.L. 83-531) was enacted. This act was designed to foster a spirit of cooperation between the federal government and educational programs in higher education. This act was believed to be passed by Congress because of their perception of the need for categorical aid for special education (Barbacovi and Clelland 1978).

In 1958 President Eisenhower signed into law two bills that established categorical support for the education of the handicapped. These two bills would have significant impact on the education of handicapped individuals in the American public schools (Weintraub and Ballard 1982). The first law provided in the Department of Health, Education and Welfare a Loan Service of Captioned Films for the Deaf (P.L. 85-905). This loan service was established in order to increase cultural enrichment and recreation for handicapped, deaf individuals. The second law was enacted "to encourage expansion of teaching in the education of mentally retarded children through grants to institutions of higher learning and to state educational agencies" (P.L. 85-926). This act was established to support and encourage institutes of higher learning to train university professors in the area of mental retardation who would subsequently teach students to be teachers of the handicapped (Barbacovi and Clelland 1978). This law was amended and expanded to the teaching of all handicapping conditions and was later the foundation for what would come to be enacted as P.L. 89-790, the Education of the Handicapped Act (Weintraub and Ballard 1982).

Within this time period the federal government was spurred by the Russian launch of Sputnik, the first space satellite, to enact
legislation in an effort to secure improved educational systems in the
United States (LaVor 1976). In 1958 the National Defense Education Act
(P.L. 85-864) was passed by Congress.

This Federal Act was significant for three reasons: it
represented the first major federal investment in elementary
and secondary education; it was categorical in that it focused
on specific national needs and populations; and it had as one
of its primary missions the advancement of education of gifted
and talented children. (Weintraub and Ballard 1982, p. 2)

Legislation for the handicapped substantially increased in the
1960s. In 1963 an act was passed that is considered by many experts to
be the administrative milestone in relation to the Division of Handicapped
Children and Youth. The Mental Retardation Facilities and Community
Mental Health Centers Construction Act of 1963 (P.L. 88-164) resulted in
the establishment of the Division for the Handicapped within the United
States Office of Education.

According to Barbacovi and Clelland (1978), this division combined
under one administrative office all the previous laws and units then
established to serve handicapped children. Also in 1963 the Congress
passed the Vocational Education Act (P.L. 88-210). This act established
a program to assist states in developing vocational opportunities for
both handicapped and nonhandicapped individuals (LaVor 1976).

Federal legislation may have been slow to evolve, but the
influence of the federal government on special education was then
increasing dramatically as it began to provide more funds for public
schools programs. "The Elementary and Secondary Act of 1965 (P.L. 89-10)
is a good example of how increased federal funding brought an increase
in federal influence" (Mayer 1982, p. 89). This law primarily focused
on improving educational opportunities and instructional programs for all
educationally disadvantaged children. When it became apparent that
handicapped children were not being specifically benefited by the Elementary and Secondary Act, the law was amended (Weintraub and Ballard 1962). There were four amendments to this act in the 1960s. The first amendment occurred in 1965 and established grants to state agencies responsible for providing free public education for handicapped children. These grants would assist state-operated or state-supported schools which offered educational opportunities to handicapped children but were not provided for under the original act (LaVot 1976). The Elementary and Secondary Education Act amendment of 1966 established further support and assistance for the education of handicapped children. It also created Title VI, which established the Bureau of Education for the Handicapped (BETH) in the United States Office of Education (USOE). This administrative office was designated to organize and promote federal programs for the handicapped and appropriate categorical funds for the support of approved programs for the handicapped at the local level (Barbacovi and Clelland 1976).

In 1967 the Elementary and Secondary Education Act was again amended and further support and assistance were afforded the public schools in relation to educational programs for handicapped children. This 1967 amendment appropriated funds for Title III and Title V programs. The programs included supplemental education centers and services specifically for the handicapped and supplemental monies for the expansion of state and regional programs for the handicapped. The programs and services provided included testing assessments, recruitment of qualified personnel, and improved dissemination of information about special education (LaVot 1976).
The Elementary and Secondary Education Act was amended again in 1969. This amendment authorized assistance for Gifted and Talented Educational Opportunities. Technical assistance on programs for the gifted and talented was designated; however, no funds were appropriated. State departments of education were authorized to establish the technical assistance and to provide fellowships for teachers of gifted and talented children.

Congressional support and interest in special education continued into the 1970s. There was a dramatic increase in congressional attention to the handicapped. There was an exodus of bills and commentary on those bills that would have specific impact upon the education of the handicapped. "From January of 1970 to November of 1975, sixty-one bills were passed that directly pertained to the handicapped" (Barbacovi and Clelland 1978, p. 2).

The federal role, prior to the 1970s, had been one of limited assistance to states until the Elementary and Secondary Education Act of 1965 (P.L. 89-10). In the 1970s the federal role would once again increase. Congress would pass "rights to education" laws that related to the handicapped. This legislation would prescribe specific compliance categories that the state, regional, and local educational services must attend. Accompanying these compliance categories would be regulatory codes that would constitute the major provisions for public school special education programs (Mayer 1982).

Four of these laws and their accompanying regulations constitute the major provisions for special education programs. The first is the Rehabilitation Act of 1973 (P.L. 93-112). This legislation incorporated many significant factors for handicapped individuals.
The most significant was that for the first time state rehabilitation agencies were directed to give priority when serving clients to "those individuals with the most severe handicaps." The legislation also required that clients have a greater role in determining their rehabilitation programs and that the program be developed jointly by the counselor and the disabled client and include the terms, conditions, rights, and remedies under which short and long range goals would be attained. The act also prohibited discrimination in any program receiving federal financial assistance to any handicapped individual who may be otherwise qualified. (Lavert 1976, p. 101)

In 1977 the Rehabilitation Act was amended to further guarantee the rights of handicapped individuals. Section 504 of the Rehabilitation Act of 1973 was implemented in 1977. This section was specifically to be "a basic civil rights provision which prohibits discrimination."

Section 504 is not only anti-discriminatory legislation; it also mandated free, appropriate public education to handicapped children. The general significance then of Section 504 of the Rehabilitation Act relates to the importance of treating all groups and individuals fairly in educational environments regardless of age, sex, race, national origin, or handicapping conditions (Bateman and Herr 1981).

The second significant "rights to education" legislation was the Education Amendments of 1974 (P.L. 93-380). This legislation had three important components. Within this law the Congress approved a massive increase in grants to the states' Elementary and Secondary Education Act program. These amendments also included guarantees of educational rights for handicapped children and their parents. These guarantees include assurances of an education in the least restrictive environment and due process proceedings. Lastly, this amendment afforded grant appropriations in relation to the educational needs of the gifted and talented child in the educational system. This law has also been amended to further guarantee the rights of certain individuals to appropriate
educational opportunities. The Education Amendments of 1978 included the Gifted and Talented Act (P.L. 95-561). This act appropriates a grant program for personnel development, research, model projects, and information dissemination in relation to gifted and talented education (Zettel 1982b).

The third instance of significant federal legislation of the 1970s was the Developmentally Disabled Assistance and Bill of Rights Act of 1975 (P.L. 94-103). The provisions in this law afforded comprehensive services from birth to death for all persons with developmental disabilities. These services include prenatal care to high-risk families, support services for families, de-institutionalization where appropriate, educational opportunities, and advocacy services. This "rights to education" law includes individuals who are mentally handicapped, autistic, and dyslexic. In 1978 the Rehabilitation Comprehensive Services and Developmental Disabilities Amendments (P.L. 95-602) mandated a change in the definition of developmental disabilities. Prior to this amendment a categorical definition of developmental disabilities was utilized (Humphrey 1981). This amendment mandated a definition of developmental disabilities which emphasizes functional limitations and the accompanying need for services. This change impacts the grant program, the protection and advocacy system, university training programs, and special projects which include educational opportunities as related to the developmentally disabled population (U.S. Department of Health and Human Services Office of Human Development Services Administration and Developmental Disabilities 1981).

The fourth instance of significant federal legislation is the Education for All Handicapped Children Act of 1975 (P.L. 94-142). "This
landmark legislation commits the federal government to a level of funding that provides for a free appropriate public education for all handicapped children between the ages of three and twenty one" (Barbacovi and Clelland 1978, p. 3). This appropriate education includes provisions for identification, assessment, and placement of handicapped children within an individualized program. Free, appropriate education is defined specifically by this law and does include related services (Goldberg 1982). This legislation was a response to both litigation and lobbying by parents and advocates for the rights of handicapped children. This legislation has greatly impacted the educational opportunities afforded handicapped children throughout the United States and has forced the public schools to recognize the handicapped child's right to receive public education (Humphrey 1981). This right to education has imposed a great financial burden on the state and local educational systems. The states must afford special education programs and services without cost or burden to the parents or child. Special education costs can be double the amount of regular educational costs (Jones 1981). This legislation then has placed both a financial and academic burden upon the public schools. The Education for All Handicapped Children Act (P.L. 94-142) committed the federal government to a substantial financial contribution toward the education of America's handicapped children also. This financial commitment has since been increased by the Education of the Handicapped Act Amendments of 1983 (P.L. 98-166). These amendments extend the federally administered special education programs and revise many of the provisions established by the Education for All Handicapped Children Act (P.L. 94-142). According to the Council of Administrators of Special Education (1984), the most significant of these amendments is the
revision of data collection, studies, investigations, and evaluations. These 1983 amendments are the most current legislation passed by Congress which has impact upon the education of handicapped individuals.

Federal involvement in educational services for the handicapped has been slow to evolve (LaVor 1976). However, the recent unprecedented congressional attention to the education of the handicapped could be a sign that this nation has committed itself to special education for handicapped children (Weintraub and Ballard 1982). The establishment of educational rights for handicapped students had taken great strides in its developments from 1857 to 1983.

By small increments, and then by ever widening strides, the federal government became involved in and concerned with the education of handicapped children and the treatment of handicapped adults. The streams of constitutional litigation and federal legislation flowed into each other and created a river whose current carried forward the education of handicapped students. (Turnbull and Turnbull 1982, p. 19)

As can be seen by a listing of federal laws for the handicapped (see Appendix), the federal government has committed and is continuing to commit itself to the education of the handicapped in the United States.

Implementation and Impact of Federal Legislation for the Handicapped

The recent implementation of federal legislation that relates to the education of the handicapped has had great impact on state and local educational policies. The "right to education" legislation has mandated the implementation of special education in all public schools in America. State and local policies had to change to meet these mandates and comply with federal requirements. To comply, all educators, professionals, parents, and the handicapped themselves needed to be informed as to their specific rights and responsibilities. This change in the educational
system created anxiety in all involved in the process.

The chief anxiety heard from parents, professionals, and advocate groups seemed to center upon "how to get the job done." Four constantly recurring pleas were the following: the need for more money; the need for more personnel; the need for greater early childhood focus; and the need to bring resources of other state and federal agencies into play. (Weinstein and Ballard 1982, p. 53)

The anxiety in parents, professionals, and advocate groups could also be related to the fact that education for all handicapped individuals has changed the power distribution and status of people in the educational domain. The changes involve not only the status or power of people in the "right to education" movement but also the procedures by which power and status are allocated. Free, appropriate education

Advocates not only procedures but the very rights that the government distributes, the beneficiaries of those rights, and the methods of enforcing those rights. In the first instance, the legislation has given the power to the handicapped child and his/her parents. The status of teachers in the educational domain is changed through requirements for certification and changed in respect to the relationship of "special"
educators and "regular" educators in that domain. The second procedural change has necessitated procedural safeguards in relation to those in power: the handicapped child and his/her parents. Lastly, the rights are allocated to all handicapped children and are enforced through federal funding intervention (Turnbull and Turnbull 1982). The balance of power among educational professionals and handicapped individuals has been impacted by the implementation of "right to education legisla-

The "right to education" special education is far from settled and far from equally implemented according to Bateman and Herr (1981). However,
with continued energy by state and local governments to implement special
education, the design, definition, and confines of such programs are
being refined. Definitions of special education, a handicapped child,
and related services can now be found in law (Goldberg 1982). This
information impacts the type and scope of education afforded the handi­
capped in the United States. The developmentally disabled, gifted and
talented, autistic, and other handicapped individuals can better be
educated and served when definitions of their handicaps are specifically
delineated and criteria for education are set forth in relation to the
preceding definition (Mopsik 1980). Requirements in relation to the
implementation of programs then can best be structured according to the
specific definition of the handicapping condition.

According to Mayer (1982), "appropriate special education programs
and services can no longer be seen as a gift from the schools. They are
mandatory and they are the legal right of the student" (p. 111). The
state and local policies have had to change to comply with the federal
regulations and requirements (Weintraub and Ballard 1982). The implemen­
tation of the new policies on special education has impacted the American
educational domain. Alterations in regulations and the implementation of
such regulations will continue to change the make-up of special education
in the United States. The greatest impact that has occurred, due to
legislative implementation, can globally be viewed as a change in the
focus of power, status, and procedures in reference to the handicapped
individual. Although this implementation is far from settled, the
prior anxiety heard from parents, professionals, and advocate groups is
decreasing. This decrease is due to the increased understanding by those
involved of their rights and responsibilities.
Dr. William Johnson, a past president of The Council of Exceptional Children, summarized the past and delineated the impact future implementation of special education will have on the United States educational domain when he stated:

Special education's past decade will be recorded by social historians as a period where a field of human endeavor accomplished a level of change for the benefit of a group of children that was unparalleled in the history of education and perhaps society. A decade ago, a million handicapped children were prohibited from participation in education. Today these children enjoy the opportunity of education along with their brothers and sisters. A decade ago special education was the "step-child" of education and, thus, was constrained in the level of services that it could provide to the children it served. Today the range of services being provided is beyond many of our dreams. A decade ago the goal of providing special education for gifted and talented children was only in the consciousness of a few; today it has become the active campaign of many. A decade ago few people were attracted to enter the profession of special education. Today the number entering annually is ninefold. A decade ago the financial resources of special education were limited to those the political system was "charitably" willing to commit. Today at all levels of educational governance special education has become a full partner in the sharing of educational resources. A decade ago the concern for the education of exceptional children was shared almost exclusively by the special education profession and the parents of the children. Today, all segments of society are conscious of the struggle.

The past decade was not an easy one. It took its toll on many good people. It is one thing to dream of how the world should be and another to experience the turmoil of the implementation of that dream. But the success of the past decade is a testament to the devotion, character and quality of special educators, and for that we in special education should take great pride.

As we begin a new decade, we should honor the achievements of the past decade, but not be constrained by them in determining the future. Our goal is to provide exceptional children with a quality education and to assure that special educators have the skills, resources and conditions to provide such quality education. To achieve this goal for the eighties we must be willing to put the past aside, with honor, and dream again. We must be willing to share the dream and have the resoluteness and unity necessary to achieve it. (Weintraub and Ballard 1982, pp. 6-7)
Summary

Special education is not a new idea in America. It has been organized and incorporated in the United States since 1927. The programs and services for the handicapped have greatly expanded since this beginning date. Much of this expansion is due to continual federal legislative enactments which mandate public educational programs and services for all handicapped individuals.

It was the intent of the researcher to select current legislation which has had an impact upon the education of handicapped individuals. An explanation of the process used and the justification for selecting the four major public laws were described. An explanation and definition of the five analysis categories were also outlined. These explanations and definitions as described previously are presented and discussed in chapter 3.
CHAPTER III

METHODOLOGY

There has been an astonishing amount of federal legislation regarding the education of handicapped individuals. The experts in law and special education have consistently identified the major federal legislation for handicapped individuals. The major federal laws selected for analysis in this study were as follows:

4. Education Amendments of 1978, which include the Gifted and Talented Children's Education Act of 1978 (P.L. 95-561).

The justification for the selection and analysis of these four major federal laws has been established in the literature written by such experts in legislation for special education.

Justification for the Selection and Analysis of Four Federal Laws

Bateman, a Professor of Special Education in the Division of Special Education and Rehabilitation at the University of Oregon, together with Herr, Instructor Study Skills and Learning Center, Lane Community College, Eugene, Oregon, have stated:
Of all this legislation, three laws stand out for their importance to handicapped persons: (a) the Rehabilitation Act of 1973, especially Sections 503 and 504; (b) P.L. 94-142; and (c) the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978. (Bateman and Herr 1981, p. 335)

Bateman and Herr (1981) did not include the Education Amendments of 1978 (P.L. 95-561) in major legislation for they, as others, did not define the gifted and talented children as handicapped. The definition of the gifted and talented student is often associated with the exceptional child. However, the exceptional children and youth definition does incorporate other specific handicapping conditions. Bateman and Herr continued their justification in the selection of these three laws by examining the scope, content, and relationships that exist among the three laws. All three laws specifically define and mandate a free, appropriate public education to the handicapped.

McCarthy (1981), an Associate Professor in Special Education at Indiana University, has authored a report for the Internal Council of Administrators of Special Education in which she stated:

Two pieces of federal legislation in particular are having a pervasive impact on public schools. Section 504 of the Rehabilitation Act of 1973, a civil rights law, prohibits discrimination against otherwise qualified handicapped individuals in employment, higher education, and elementary and secondary education. Public Law 94-142, the Education for All Handicapped Children Act of 1975 (EHA), focuses specifically on the educational rights of handicapped children and provides federal funds to defray some of the excess costs associated with special education. (p. 1)

McCarthy explains that there are many legislative provisions in relation to special education, and state legislatures must utilize these federal laws as a model.

Mayer (1982), a Professor of Special Education Administration at California State University, has written a handbook for school administrators which describes the obligation and responsibility of
school administrators to provide special education programs in public school settings. He stated:

Most recently Congress has enacted the "rights to education" law prescribing compliance items for many of the educational services that states and Local Educational Associations must provide. Three such laws, and their accompanying regulatory codes, constitute the major provisions for special education programs: The Rehabilitation Act of 1973 (P.L. 93-112) as amended, The Education For All Handicapped Children Act of 1975 (P.L. 94-142) and Gifted and Talented Children's Act of 1978 (P.L. 95-561). (pp. 90-103)

Mayer incorporates the 1978 amendments to the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments in his discussion of the Rehabilitation Act.

Weintraub, the Assistant Executive Director, and Ballard, the Associate Director for the Department of Governmental Relations, in Reston, Virginia, have written an introductory chapter on the history of special education in the United States. Throughout this chapter Weintraub and Ballard (1982) have noted what they believed to be significant legislation that relates to the education of the handicapped. They introduced four legislative enactments which are noted as significant, three of which are later discussed at length. These are:


Following the introductory chapter in *Special Education in America: Its Legal and Governmental Foundations*, which was written by Weintraub and Ballard (1982), other noted authors analyze and emphasize the
significance of three of the preceding laws. These are:

2. Education of All Handicapped Children Act of 1975 (P.L. 94-142).

According to Weintraub and Ballard these laws were significant for they established "assurance of a free appropriate public education to all exceptional children, regardless of their exceptionality, age, or environmental, cultural or legal circumstances" (p. 6).

The justification for selection and analysis of the four federal laws has been thoroughly documented by Bateman and Herr (1981), McCarthy (1981), Mayer (1982), Weintraub and Ballard (1982), and many others. Pullin (1982) emphasizes the significance for the Education of All Handicapped Children Act (P.L. 94-142) and Section 504 of the Rehabilitation Act (P.L. 93-112) in her manual for special education advocates. Goldberg (1982) reviews the major issues in special education in his book, Special Education Law. He specifically reviews Section 504 of the Rehabilitation Act (P.L. 93-112), the Education of All Handicapped Children Act (P.L. 94-142), and the Gifted and Talented Children's Education Act (P.L. 95-561). The experts in special education law consistently identify the major legislation for handicapped individuals as the four major laws selected for analysis in this study.

The analysis categories have been chosen due to their scope and interrelated reference to each legislative enactment.
Explanation and Definition of Five Analysis Categories

Legislation in special education has focused broadly on providing free, appropriate public education and related services to every child. This focus is but one segment of the proclaimed civil rights of all handicapped children. To be free from discrimination based on their handicaps and to receive education in settings least restrictive to their personal freedom has also been emphasized by federal legislation. Protection of the rights of the handicapped child and his/her family in relation to both educational and related services is a crucial issue which encompasses the accountability of the public school in appropriately protecting those rights. To comply with federal and state statutes and their accompanying rules and regulations, the schools delivering special education programs and services must be accountable. This accountability is also essential when examining accessibility to federal appropriations. As early as 1852 the federal government has appropriated funds to educate the handicapped. Funding provisions fluctuate and resources from federal agencies can assist state and local governments in complying with federal legislative requirements. Educational and related services for the handicapped are costly but resources are available to assist state and local agencies in affording a free and appropriate public education to all handicapped individuals. Federal appropriations pursuant to each federal law also mandate specific protections with regard to the type of educational opportunities afforded the handicapped and outline procedures which must be followed to assure individual rights and freedoms. With this introductory information the following analysis categories were chosen.
Eligibility Criteria

Eligibility criteria are set by law to define and restrict access to services available in relation to the specific handicapping condition described in that law. Eligibility may be determined by the definition of an individual's handicapping condition or by other criteria derived from set procedures for determining individual needs. Child evaluation procedures must meet the criteria set forth in a preceding definition. Handicapped children are defined under each law, and these definitions limit the access to education or related services specifically accompanying that legislation.

Procedural Safeguards

Procedural safeguards have been placed in legislation in order to insure that the rights accorded the handicapped under each law are observed by state and local agencies. No single procedure is utilized as the sole criterion for determining whether a child's educational rights are being met. Mandated safeguards and restrictions must be implemented by the local public schools to guard against arbitrariness, discrimination, and other potential abuses of authority. Each law then assures the handicapped child the basic right to a free and appropriate education. The mandates in each separate legislation must be considered and reasonable; explainable programs need to be instituted according to such mandates. Program accountability also incorporates the task of monitoring programs to insure compliance with mandated requirements. Requirements for program accountability are mandated in all of the federal legislation which impacts upon the education of the handicapped.
Services Provided

Services provided to the handicapped individual and his/her family are specifically stated in all federal legislation. Each describes specific and unique services that must be provided to all handicapped individuals. The services to be provided according to each law may also overlap with services in another law. Some legislation has impact upon the education of the handicapped also describes services for the teacher or other individuals involved in the special education. Federal legislation has provided a legal framework which can guide public school systems in the delivery of full services to the handicapped child and his/her family.

Program Accountability

Program accountability involves the federal mandate for appropriate programs for handicapped children. The type of services to be provided must relate to the specific child's handicap. These services/programs are the responsibility of the school district, and the public school must take into consideration all legislative mandates when establishing programs. The local district must then establish policy pursuant to state legislation, and state legislation and policy must be established pursuant to federal legislation.

Funding Provisions

Funding provisions have been established by the federal government to support and stimulate the development of programs for handicapped children pursuant to specific legislation. In passing funding provisions, the Congress has authorized varying amounts of appropriations for varying purposes. The purpose of funding is broad to enable handicapped
individuals to receive a free and appropriate public education. All of the funds appropriated for specific programs are administered through the U.S. Department of Education, Office of Special Education and Rehabilitative Services, Special Education Programs. Funding provisions are updated yearly with changes occurring often. Federal funding provisions are authorized under federal legislation which impacts upon the education of handicapped individuals. Authorized provisions and compliance requirements vary among the recent federal legislation.

Summary

These analysis categories, as explained and defined previously, were utilized to analyze the prior delineated federal laws which impact the education of the handicapped. To discover what the law specifically states, the statutes themselves were studied and examined. The legislative history was reviewed and each law was then analyzed according to each analysis category. A comprehensive examination of this information was completed in order to acquire a broad perspective of the comparisons and contrasts among these laws. Discussion of the analysis follows with a focus related to three questions:

1. What is the historical foundation in relation to federal mandates which has an impact upon the education of handicapped individuals?

2. What are the differences and, correspondingly, the interdependencies in the selected major federal laws that impact upon the education of handicapped individuals?

3. What is the broad perspective and implications of this information upon the education of handicapped individuals?
The analyses as described previously are presented and discussed in chapter 4 and chapter 5.
CHAPTER IV

ANALYSIS

The categories as explained and defined in chapter 3 were utilized to analyze the selected federal laws which had an impact upon the education of handicapped individuals. To discover what the law specifically states, the researcher studied and examined the statutes themselves. The legislative history was first read in order to understand the actual intent of each law. The legislative statutes and corresponding codes and regulations were then studied and pertinent sections were categorized in relation to each law and according to each analysis category. As a prerequisite to comparing and contrasting each analysis category by each selected federal law, each law was dissected and categorized according to each analysis category. This preliminary categorization of selected sections of each law was completed in preparation for the compilation of information relating to the comparison and contrast of these federal laws by each analysis category. The categorization of these laws established a foundation of information from which the reader and the researcher can best formulate and understand the laws in relation to one another. It should be noted that preliminary summarization of information was completed in the analysis category of Funding Provisions. Each program funded under each law was first delineated and then a composite of funding appropriations provided
under each law was tabulated. This was only a preliminary summarization; all analysis categories in relation to each law were comprehensively summarized in the following chapter. This summarization included the interdependencies and differences in each analysis category of the selected federal laws. The comparison and contrast of the federal laws in relation to each analysis category can be found in the latter part of this chapter.

Analysis of Four Federal Laws in Relation to Five Analysis Categories

The in-depth analysis of each law in relation to each of the analysis categories follows.

Section 504 of the Rehabilitation Act of 1973: Public Law 93-112

The Rehabilitation Act of 1973 (P.L. 93-112) was amended by Section 504 and this amendment was implemented in 1977. This section constitutes the elimination of discrimination on the basis of handicapping conditions. Section 504 particularly considers those handicapped individuals involved in educational endeavors or pursuits in both public schools and higher education. The stated purpose of this statute is found in Section 504 Regulations (34 Code of Federal Regulations Part 104), hereafter to be referred to as C.F.R., under Subpart A - General Provisions:

Sec. 504. No otherwise qualified handicapped individual in the United States, as defined in section 7(7), shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service. The head of each such agency shall promulgate such regulations as may be necessary to carry out the amendments to this section made by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Act of 1978. Copies of any proposed
regulation shall be submitted to appropriate authorizing committees
of the Congress, and such regulation may take effect no earlier than
the thirtieth day after the date on which such regulation is so
submitted to such committees.

Historically, the purpose of rehabilitation legislation was to
design and provide rehabilitative programs that would insure complete
services to handicapped individuals in the United States. The legisla­
tive history of The Rehabilitation Act of 1973 (P.L. 93-112) summarizes
particular problems in prior legislation that were to be remedied by the
enactment of this law.

(1) failure of the basic vocational rehabilitation program to respond
to the particular needs of individuals with the most severe handicaps;
(2) lack of alternative services within the community to provide
services to individuals with the most severe handicaps who do not at
the present time have identifiable vocational goals but who could be
brought to that point through the provision of self-help services
and training; (d) diminution of emphasis at the Federal level on
research and training of personnel in rehabilitation problems,
particularly in the areas of medical technology and bio-medical
engineering, and the failure of the program to make use of existing
technology for rehabilitation needs; (4) the lack of special
emphasis on target populations whose needs were not being met through
rehabilitation programs; (5) the lack of action in areas related to
rehabilitation which limit a handicapped individual's ability to
function in society, e.g., employment discrimination, lack of
housing and transportation services and architectural and trans­
portation barriers; and (6) the failure of leadership in the area
of vocational rehabilitation by the responsible Federal agency, the
Rehabilitation Services Administration.

The varied changes incorporated in this law have affected educa­
tional practices. Most educational agencies receive federal assistance
and accordingly must comply with the regulations specified in the pro­
visions of the total law and specifically Section 504. The enforcement
of the statute in relation to Section 504 has been slow to occur. It
was not until 1977 that Section 504 was fully implemented by state and
local educational agencies.
In each administrative and judicial interpretation implementation
process through which national Provisions for this implementation
clarification, criteria, policies, and procedures to be delineated

Eligibility criteria. The topic of eligibility criteria has

been located in the definitions given within the law (Sec. 7 and 29

The term "handicapped individual" means any individual

who has a physical or mental disability which for such indi-

vidual constitutes or results in a substantial handicap to employ-

ment and who can reasonably be expected to benefit in terms of

employability from vocational rehabilitation services provided

under subchapters 1 and IV of this chapter. For the

purposes of subchapter IV and V of this chapter, such term means

an individual who has a physical or mental impairment which

substantially limits one or more of such person's major life

activities, (B) has a record of such an impairment, or (C) is

regarded as having such an impairment.

The term "severe handicapped" means the disability which

cannot be corrected or compensated for through services over an extended period of time and

which substantially limits one or more of the following body systems: neurological; sense

organs; respiratory, including speech and airway; cardiovascular; reproductive, digestive,

genito-urinary; circulatory; integumentary; skeletal; special sense organs; respiratory, including

speech organs; cardiovascular; reproductive, digestive, genito-urinary; skeletal; integumentary;

lymphatic; skin; and endocrine; or (B) any mental or psychological disorder, such as mental

retardation, organic brain syndrome, emotional or mental illness, and specific learning
disabilities.
(III) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(IV) "Has a record of such an impairment" means has a history of, or has been misclassified as having a mental or physical impairment that substantially limits one or more major life activities.

(V) "Is regarded as having an impairment" means (A) has a physical or mental impairment that does not substantially limit major life activities but that is treated by a recipient as constituting such a limitation; (B) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or (C) has none of the impairments defined in paragraph (j)(2)(i) of this section but is treated by a recipient as having such an impairment.

(k) "Qualified handicapped person" means:

(1) With respect to employment, a handicapped person who, with reasonable accommodation, can perform the essential functions of the job in question;

(2) With respect to public preschool elementary, secondary, or adult educational services, a handicapped person (i) of an age during which nonhandicapped persons are provided such services, (ii) of any age during which it is mandatory under state law to provide such services to handicapped persons, or (iii) to whom a state is required to provide a free appropriate public education under section 612 of the Education of the Handicapped Act; and

(3) With respect to postsecondary and vocational education services, a handicapped person who meets the academic and technical standards requisite to admission or participation in the recipient's education program or activity;

(4) With respect to other services, a handicapped person who meets the essential eligibility requirements for the receipt of such services.

(1) "Handicap" means any condition or characteristic that renders a person a handicapped person as defined in paragraph (j) of this section.

These definitions of those who are eligible for the services or programs provided by this law are intended to be comprehensive. The type of person is identified by a definitive listing of conditions and characteristics of qualified handicapped individuals.

Procedural Safeguards. Procedural safeguards have been placed in legislation in order to insure that the rights protected under this law are observed by state and local agencies.

Procedural safeguards constitute appropriate administrative process procedures that include protection of individual rights and
Section 504 Regulations (34 C.F.R. Part 104) more specifically delineates procedural safeguards as related to the education of handicapped individuals in Subpart D - Preschool, Elementary and Secondary Education.

104.36 Procedural safeguards.

A recipient that operates a public elementary or secondary education program shall establish and implement, with respect to actions regarding the identification, evaluation, or educational placement of persons who, because of handicap, need or are believed to need special instruction or related services, a system of procedural safeguards that includes notice, an opportunity for the parents or guardian of the person to examine relevant records, an impartial hearing with opportunity for participation by the person's parents or guardian and representation by counsel, and a review procedure. Compliance with the procedural safeguards of section 615 of the Education of the Handicapped Act is one means of meeting this requirement.

The procedural safeguards of Section 615 of the Education of the Handicapped Act (P.L. 94-142) were delineated in later analysis included in this chapter (p. 70). These mandated safeguards and restrictions must be implemented by local schools to guard against arbitrariness, discrimination, and other potential abuses of federal regulations.
Services Provided. Services provided to the handicapped individuals and their families are stated in Section 504. Services provided under Section 504 cover the elimination of discrimination in a wide range of areas including employment, transportation, and education.

Services provided in the area of education must be designed and organized by the recipient who operates a public educational program. This law defined recipient as (Section 504 Regulations, 34 C.F.R. Part 104F):

(f) "Recipient" means any state or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance.

Subpart D - Preschool, Elementary and Secondary Education delineates the educational services to be provided by a recipient under Section 504 (34 C.F.R. Part 104):

§ 104.31 Application of this subpart.

Subpart D applies to preschool, elementary, secondary, and adult education programs and activities that receive or benefit from Federal financial assistance and to recipients that operate, or that receive or benefit from Federal financial assistance for the operation of such programs or activities.

§ 104.32 Location and notification.

A recipient that operates a public elementary or secondary education program shall annually:

(a) Undertake to identify and locate every qualified handicapped person residing in the recipient's jurisdiction who is not receiving a public education; and

(b) Take appropriate steps to notify handicapped persons and their parents or guardians of the recipient's duty under this subpart.

§ 104.33 Free appropriate public education.

(a) General. A recipient that operates a public elementary or secondary education program shall provide a free appropriate public education to each qualified handicapped person who is in the
recipient's jurisdiction, regardless of the nature or severity of the person's handicap.

(b) Appropriate education. (1) For the purpose of this subpart, the provision of an appropriate education is the provision of regular or special education and related aids and services that (i) are designed to meet individual educational needs of handicapped persons as adequately as the needs of nonhandicapped persons are met and (ii) are based upon adherence to procedures that satisfy the requirements of §§ 104.34, 104.35, and 104.36.

(2) Implementation of an individualized education program developed in accordance with the Education of the Handicapped Act is one means of meeting the standard established in paragraph (b)(1)(i) of this section.

(3) A recipient may place a handicapped person in or refer such person to a program other than the one that it operates as its means of carrying out the requirements of this subpart. If so, the recipient remains responsible for ensuring that the requirements of this subpart are met with respect to any handicapped person so placed or referred.

(c) Free education. (1) General. For the purpose of this section, the provision of a free education is the provision of educational and related services without cost to the handicapped person or to his or her parents or guardian, except for those fees that are imposed on non-handicapped persons or their parents or guardian. It may consist either of the provision of free services or, if a recipient places a handicapped person in or refers such person to a program not operated by the recipient as its means of carrying out the requirements of this subpart, of payment for the costs of the program. Funds available from any public or private agency may be used to meet the requirements of this subpart. Nothing in this section shall be construed to relieve an insurer or similar third party from an otherwise valid obligation to provide or pay for services provided to a handicapped person.

(2) Transportation. If a recipient places a handicapped person in or refers such person to a program not operated by the recipient as its means of carrying out the requirements of this subpart, the recipient shall ensure that adequate transportation to and from the program is provided at no greater cost than would be incurred by the person or his or her parents or guardian if the program were placed in the program operated by the recipient.

(3) Residential placement. If placement in a public or private residential program is necessary to provide a free appropriate public education to a handicapped person because of his or her handicap, the program, including non-medical care and room and board, shall be provided at no cost to the person or his or her parents or guardian.

(4) Placement of handicapped persons by parents. If a recipient has made available, in conformance with the requirements of this section and § 104.34, a free appropriate public education to a handicapped person and the person's parents or guardian choose to place the person in a private school, the recipient is not required to pay for the person's education in the private school. Disagreements between a parent or guardian and a recipient regarding
whether the recipient has made such a program available or otherwise regarding the question of financial responsibility are subject to the due process procedures of § 104.36.

(d) Compliance. A recipient may not exclude any qualified handicapped person from a public elementary or secondary education after the effective date of this part. A recipient that is not, on the effective date of this regulation, in full compliance with the other requirements of the preceding paragraphs of this section shall meet such requirements at the earliest practicable time and in no event later than September 1, 1978.

§ 104.34 Educational setting.

(a) Academic setting. A recipient to which this subpart applies shall educate, or shall provide for the education of, each qualified handicapped person in its jurisdiction with persons who are not handicapped to the maximum extent appropriate to the needs of the handicapped person. A recipient shall place a handicapped person in the regular educational environment operated by the recipient unless it is demonstrated by the recipient that the education of the person in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily. Whenever a recipient places a person in a setting other than the regular educational environment pursuant to this paragraph, it shall take into account the proximity of the alternate setting to the person's home.

(b) Nonacademic settings. In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, and the services and activities set forth in § 104.37(a)(2), a recipient shall ensure that handicapped persons participate with nonhandicapped persons in such activities and services to the maximum extent appropriate to the needs of the handicapped person in question.

(c) Comparable facilities. If a recipient, in compliance with paragraph (a) of this section, operates a facility that is identifiable as being for handicapped persons, the recipient shall ensure that the facility and the services and activities provided therein are comparable to the other facilities, services, and activities of the recipient.

§ 104.35 Evaluation and placement.

(a) Preplacement evaluation. A recipient that operates a public elementary or secondary education program shall conduct an evaluation in accordance with the requirements of paragraph (b) of this section of any person who, because of handicap, needs or is believed (sic) to need special education or related services before taking any action with respect to the initial placement of the person in a regular or special education program and any subsequent significant change in placement.

(b) Evaluation procedures. A recipient to which this subpart applies shall establish standards and procedures for the evaluation and placement of persons who, because of handicap, need or are believed to need special education or related services which ensure
that:

(1) Tests and other evaluation materials have been validated for the specific purpose for which they are used and are administered by trained personnel in conformance with the instructions provided by their producers;

(2) Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient; and

(3) Tests are selected and administered so as best to ensure that, when a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).

(c) Placement procedures. In interpreting evaluation data and in making placement decisions, a recipient shall (1) draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior, (2) establish procedures to ensure that information obtained from all such sources is documented and carefully considered, (3) ensure that the placement decision is made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and the placement options, and (4) ensure that the placement decision is made in conformity with § 104.34.

(d) Reevaluation. A recipient to which this section applies shall establish procedures, in accordance with paragraph (b) of this section, for periodic reevaluation of students who have been provided special education and related services. A reevaluation procedure consistent with the Education for the Handicapped Act is one means of meeting this requirement.

104.38 Preschool and adult education programs.

A recipient to which this subpart applies that operates a preschool education or day care program or activity or an adult program or activity may not, on the basis of handicap, exclude qualified handicapped persons from the program or activity and shall take into account the needs of such persons in determining the aid, benefits, or services to be provided under the program or activity.

104.39 Private education programs.

(a) A recipient that operates a private elementary or secondary education program may not, on the basis of handicap, exclude a qualified handicapped person from such program if the person can, with minor adjustments, be provided an appropriate education, as defined in § 104.33(b)(1), within the recipient's program.

(b) A recipient to which this section applies may not charge more for the provision of an appropriate education to handicapped persons than to non-handicapped persons except to the extent that any additional charge is justified by a substantial increase in
c. A recipient to which this section applies that operates special education programs shall operate such programs in accordance with the provisions of §§ 300.15 and 300.16. Each recipient to which this section applies is subject to the provisions of §§ 104.15, 300.17, and 104.18.

104.17 Nonacademic services.

(a) General. (1) A recipient to which this subpart applies shall provide nonacademic and extracurricular services and activities in such manner as is necessary to afford handicapped students an equal opportunity for participation in such services and activities.

(2) Nonacademic and extracurricular services and activities may include counseling services, physical recreational athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the recipients, referrals to agencies which provide assistance to handicapped persons, and employment of students, including both employment by the recipient and assistance in making available outside employment.

(b) Counseling services. A recipient to which this subpart applies that provides personal, academic, or vocational counseling, guidance, or placement services to its students shall provide these services without discrimination on the basis of handicap. The recipient shall ensure that qualified handicapped students are not counseled toward more restrictive career objectives than are nonhandicapped students with similar interests and abilities.

(c) Physical education and athletics. (1) In providing physical education courses and athletics and similar programs and activities to any of its students, a recipient to which this subpart applies may not discriminate on the basis of handicap. A recipient that offers physical education courses or that operates interscholastic, club, or intramural athletics shall provide qualified handicapped students an equal opportunity for participation in these activities.

(2) A recipient may offer to handicapped students physical education and athletic activities that are separate or different from those offered to nonhandicapped students only if separation or differentiation is consistent with the requirements of § 104.15 and only if no qualified handicapped student is denied the opportunity to compete for teams or to participate in courses that are not separate or different.

Part 5 - Post-secondary education \( \Delta \) enforces the educational services to be provided by a recipient under Section 504 (34 C.F.R. Part 104):
Subpart F—Postsecondary Education

§ 309.4 Application of this subpart

Subpart F applies to postsecondary education programs and activities, including postsecondary vocational education programs and activities, that receive or benefit from Federal financial assistance and to recipients that operate, or that receive or benefit from Federal assistance for the operation of, such programs or activities.

§ 309.30 Admissions and recruitment.

(a) General. Qualified handicapped persons may not on the basis of handicap be denied admission or be subjected to discrimination in admission or recruitment by a recipient to which this subpart applies.

(b) Admissions. In administering its admission policies, a recipient to which this subpart applies:

(1) May not apply limitations upon the number or proportion of handicapped persons who may be admitted;

(2) May not make use of any test or criterion for admission that has a disproportionate, adverse effect on handicapped persons or any class of handicapped persons unless (i) the test or criterion, as used by the recipient, has been validated as a predictor of success in the education program or activity in question and (ii) alternate tests or criteria that have a less disproportionate, adverse effect are not shown by the Assistant Secretary to be available.

(3) Shall assure itself that (i) admissions tests are selected and administered so as best to ensure that when a test is administered to an applicant who has a handicap that impairs sensory, manual, or speaking skills, the test results accurately reflect the applicant’s aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the applicant’s impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure); (ii) admissions tests that are designed for persons with impaired sensory, manual, or speaking skills are offered as often and in as timely a manner as are other admissions tests; and (iii) admissions tests are administered in facilities that, on the whole, are accessible to handicapped persons; and

(4) Except as provided in paragraph (c) of this section, may not make preadmission inquiry as to whether an applicant for admission is a handicapped person but, after admission, may make inquiries on a confidential basis as to handicap that may require accommodation.

(c) Preadmission inquiry exception. When a recipient is taking remedial action to correct the effects of past discrimination pursuant to § 104.6(a) or when a recipient is taking voluntary action to overcome the effects of conditions that resulted in limited participation in its federally assisted program or activity pursuant to § 104.6(b), the recipient may invite applicants for admission to indicate whether and to what extent they are handicapped. Provided That:
(1) The recipient states clearly on any written questionnaire used for this purpose or makes clear orally if no written questionnaire is used that the information requested is intended for use solely in connection with its remedial action obligations or its voluntary action efforts; and

(2) The recipient states clearly that the information is being requested on a voluntary basis, that it will be kept confidential, that refusal to provide it will not subject the applicant to any adverse treatment, and that it will be used only in accordance with this part.

(d) Validity studies. For the purpose of paragraph (b)(2) of this section, a recipient may base prediction equations on first year grades, but shall conduct periodic validity studies against the criterion of overall success in the education program or activity in question in order to monitor the general validity of the test scores.

104.43 Treatment of students; general.

(a) No qualified handicapped student shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any academic, research, occupational training, housing, health insurance, counseling, financial aid, physical education, athletics, recreation, transportation, other extracurricular, or other postsecondary education program or activity to which this subpart applies.

(b) A recipient to which this subpart applies that considers participation by students in education programs or activities not operated wholly by the recipient as part of, or equivalent to, an education program or activity operated by the recipient shall assure itself that the other education program or activity, as a whole, provides an equal opportunity for the participation of qualified handicapped persons.

(c) A recipient to which this subpart applies may not, on the basis of handicap, exclude any qualified handicapped student from any course, course of study, or other part of its education program or activity.

(d) A recipient to which this subpart applies shall operate its programs and activities in the most integrated setting appropriate.

104.44 Academic adjustments.

(a) Academic requirements. A recipient to which this subpart applies shall make such modifications to its academic requirements as are necessary to ensure that such requirements do not discriminate or have the effect of discriminating, on the basis of handicap, against a qualified handicapped applicant or student. Academic requirements that the recipient can demonstrate are essential to the program of instruction being pursued by such student or to any directly related licensing requirement will not be regarded as discriminatory within the meaning of this section.
Modifications may include changes in the length of time permitted for the completion of degree requirements, substitution of specific courses required for the completion of degree requirements, and adaptation of the manner in which specific courses are conducted.

(b) Other rules. A recipient to which this subpart applies may not impose upon handicapped students other rules, such as the prohibition of tape recorders in classroom or of dog guides in campus buildings, that have the effect of limiting the participation of handicapped students in the recipient's education program or activity.

(c) Course examinations. In its course examinations or other procedures for evaluating students' academic achievement in its program, a recipient to which this subpart applies shall provide such methods for evaluating the achievement of students who have a handicap that impairs sensory, manual, or speaking skills as will best ensure that the results of the evaluation represent the student's achievement in the course, rather than reflecting the student's impaired sensory, manual, or speaking skills (except where such skills are the factors that the test purports to measure).

(d) Auxiliary aids. (1) A recipient to which this subpart applies shall take such steps as are necessary to ensure that no handicapped student is denied the benefits of, excluded from participation in, or otherwise subjected to discrimination under the education program or activity operated by the recipient because of the absence of educational auxiliary aids for students with impaired, sensory, manual, or speaking skills.

(2) Auxiliary aids may include taped texts, interpreters or other effective methods of making orally delivered materials available to students with hearing impairments, readers in libraries for students with visual impairments, classroom equipment adapted for use by students with manual impairments and other similar services and actions. Recipients need not provide attendants, individually prescribed devices, readers for personal use or study, or other devices or services of a personal nature.

§ 104.45 Housing.

(a) Housing provided by the recipient. A recipient that provides housing to its nonhandicapped students shall provide comparable, convenient, and accessible housing to handicapped students at the same cost as to others. At the end of the transition period provided for in Subpart C, such housing shall be available in sufficient quantity and variety so that the scope of handicapped students' choice of living accommodations is, as a whole, comparable to that of nonhandicapped students.

(b) Other housing. A recipient that assists any agency, organization, or person in making housing available to any of its students shall take such action as may be necessary to assure itself that such housing is, as a whole, made available in a manner that does not result in discrimination on the basis of handicap.
104.46 Financial and employment assistance to students.

(a) Provision of financial assistance. (1) In providing financial assistance to qualified handicapped persons, a recipient to which this subpart applies may not (i), on the basis of handicap, provide less assistance than is provided to nonhandicapped persons, limit eligibility for assistance, or otherwise discriminate or (ii) assist any entity or person that provides assistance to any of the recipient's students in a manner that discriminates against qualified handicapped persons on the basis of handicap.

(2) A recipient may administer or assist in the administration of scholarships, fellowships, or other forms of financial assistance established under wills, trusts, bequests, or similar legal instruments that require awards to be made on the basis of factors that discriminate or have the effect of discriminating on the basis of handicap only if the overall effect of the award of scholarships, fellowships, and other forms of financial assistance is not discriminatory on the basis of handicap.

(b) Assistance in making available outside employment. A recipient that assists any agency, organization, or person in providing employment opportunities to any of its students shall assure itself that such employment opportunities, as a whole, are made available in a manner that would not violate Subpart B if they were provided by the recipient.

(c) Employment of students by recipients. A recipient that employs any of its students may not do so in a manner that violates Subpart B.

104.47 Nonacademic services.

(a) Physical education and athletics. (1) In providing physical education courses and athletics and similar programs and activities to any of its students, a recipient to which this subpart applies may not discriminate on the basis of handicap. A recipient that offers physical education courses or that operates or sponsors intercollegiate, club, or intramural athletics shall provide to qualified handicapped students an equal opportunity for participation in these activities.

(2) A recipient may offer to handicapped students physical education and athletic activities that are separate or different only if separation or differentiation is consistent with the requirements of § 104.43(d) and only if no qualified handicapped student is denied the opportunity to compete for teams or to participate in courses that are not separate or different.

(b) Counseling and placement services. A recipient to which this subpart applies that provides personal, academic, or vocational counseling, guidance, or placement services to its students shall provide these services without discrimination on the basis of handicap. The recipient shall ensure that qualified handicapped students are not counseled toward more restrictive career objectives than are nonhandicapped students with similar interests and abilities. This requirement does not preclude a recipient from providing factual information about licensing and certification.
requirements that may present obstacles to handicapped persons in their pursuit of particular careers.

(c) Social organizations. A recipient that provides significant assistance to fraternities, sororities, or similar organizations shall assure itself that the membership practices of such organizations do not permit discrimination otherwise prohibited by this subpart.

Educational services must also be provided to institutionalized individuals according to this law (34 C.F.R. Part 104):

§ 104.54 Education of institutionalized persons.

A recipient to which this subpart applies and that operates or supervises a program or activity for persons who are institutionalized because of handicap shall ensure that each qualified handicapped person, as defined in § 104.3(k)(2), in its program or activity is provided an appropriate education, as defined in § 104.33(b). Nothing in this section shall be interpreted as altering in any way the obligations of recipients under Subpart D.

The techniques and methods in providing the prescribed services delineated are entirely the responsibility and burden of the recipient. The flexibility of specific programs is to be within the statutory definition of the limitations for services provided by the regulations.

Program accountability. Inherent in the purpose of Section 504 were procedures and provisions for compliance within the mandated services and programs to be provided. Recipients are held accountable for any discrimination in the areas of employment, transportation, and education. Program accountability is required through assurances (Section 504 Regulations, 34 C.F.R. Part 104):

§ 104.5 Assurances required.

(a) Assurances. An applicant for Federal financial assistance for a program or activity to which this part applies shall submit an assurance, on a form specified by the Assistant Secretary, that the program will be operated in compliance with this part. An applicant may incorporate these assurances by reference in subsequent applications to the Department.

(b) Duration of obligation. (1) In the case of Federal financial assistance extended in the form of real property or to provide real property or structures on the property, the
assurance will obligate the recipient or, in the case of a subsequent transfer, the transferee, for the period during which the real property or structures are used for the purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

(2) In the case of Federal financial assistance extended to provide personal property, the assurance will obligate the recipient for the period during which it retains ownership or possession of the property.

(3) In all other cases the assurance will obligate the recipient for the period during which Federal financial assistance is extended.

(c) Covenants. (1) Where Federal financial assistance is provided in the form of real property or interest in the property from the Department, the instrument effecting or recording this transfer shall contain a covenant running with the land to assure nondiscrimination for the period during which the real property is used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

(2) Where no transfer of property is involved but property is purchased or improved with Federal financial assistance, the recipient shall agree to include the covenant described in paragraph (b)(2) of this section in the instrument effecting or recording any subsequent transfer of the property.

(3) Where Federal financial assistance is provided in the form of real property or interest in the property from the Department, the covenant shall also include a condition coupled with a right to be reserved by the Department to revert title to the property in the event of a breach of the covenant. If the transferee of real property proposes to mortgage or otherwise encumber the real property as security for financial construction of new, or improvement of existing, facilities on the property for the purposes for which the property was transferred, the Assistant Secretary may, upon request of the transferee and if necessary to accomplish such financing and upon such conditions as he or she deems appropriate, agree to forbear the exercise of such right to revert title for so long as the lien of such mortgage or other encumbrance remains effective.

These assurances have required a recipient to submit many forms which describe activities and programs of such recipient and the specifics of compliance. In the analysis of regulations that relate to Section 504, assurances of compliance were noted as being burdensome.

(34 C.F.R. 104.61, Subpart 6-Procedures):

7. Assurances of compliance. Section 104.5(a) requires a recipient to submit to the Assistant Secretary an assurance that each of its programs and activities receiving or benefiting
from Federal financial assistance from this Department will be conducted in compliance with this regulation. Many commenters also sought relief from the paperwork requirements imposed by the Department’s enforcement of its various civil rights responsibilities by requesting the Department to issue one form incorporating title VI, title IX, and section 504 assurances. The Secretary is sympathetic to this request. While it is not feasible to adopt a single civil rights assurance form at this time, the Office for Civil Rights will work toward that goal.

However burdensome this accountability procedure is, it is a necessary regulation in assuring the inclusion of handicapped individuals in the benefits of all programs in which federal financial assistance is extended.

Funding provisions. Federal monies are frequently authorized under specific legislation. These monies are authorized in relation to assisting states to meet the compliance requirements of the law. While states may choose to comply with various legislation, states must comply with Section 504 if they receive any form of federal assistance. No monies were authorized by the federal government under Section 504. States must comply with the requirements stated under Section 504, but without financial assistance.

The Developmentally Disabled Assistance and Bill of Rights Act of 1975: Public Law 94-104

The Developmentally Disabled Assistance and Bill of Rights Act of 1975 (P.L. 94-103) was implemented in order to mandate improved programs and services for the physically and mentally disabled in this nation. These improved programs and services focused upon education that could lead to useful lives and placed emphasis upon the protection of the handicapped individual’s freedoms and rights throughout life. Congress concluded that specialized services and programs for disabled
persons were necessary in order for reduction in institutional care and a more liberated lifestyle for such individuals to occur. This law has been expanded and redefined by The Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 (P.L. 95-602). As amended, this law contains the following provisions and purposes (42 U.S. Code 6000): 6000. Congressional declaration of findings and purpose

(a) The Congress finds that—

(1) there are more than two million persons with developmental disabilities in the United States;

(2) individuals with disabilities occurring during their developmental period are more vulnerable and less able to reach an independent level of existence than other handicapped individuals who generally have had a normal developmental period on which to draw during the rehabilitation process;

(3) persons with developmental disabilities often require specialized lifelong services to be provided by many agencies in a coordinated manner in order to meet the persons' needs;

(4) general service agencies and agencies providing specialized services to disabled persons tend to overlook or exclude persons with developmental disabilities in their planning and delivery of services; and

(b)(1) It is in the national interest to strengthen specific programs, especially programs that reduce or eliminate the need for institutional care, to meet the needs of persons with developmental disabilities.

(2) The specific purposes of this chapter are—

(A) to assist in the provision of comprehensive services to persons with developmental disabilities, with priority to those persons whose needs cannot be covered or otherwise met
under the Education for All Handicapped Children Act, the
Rehabilitation Act of 1973 [29 U.S.C.A. § 701 et seq.], or
other health, education, or welfare programs:

(8) to assist States in appropriate planning activities;

(9) to make grants to States and public and private,
nongovernmental agencies to establish model programs, to demonstrate
innovative habilitation techniques, and to train professional

and para-professional personnel with respect to providing
services to persons with developmental disabilities:

(10) to make grants to university affiliated facilities

to assist them in administering and operating demonstration
facilities for the provision of services to persons with
developmental disabilities, and interdisciplinary training
programs for personnel needed to provide specialized services
for these persons;

and

(11) to make grants to support a system in each State to

protect the legal and human rights of all persons with
developmental disabilities.

(Pub. L. 98-164, Title I, § 101, as added Pub. L. 95-602, Title V,
§ 502, Nov. 6, 1978, 92 Stat. 3004.)

Historically, the purpose of disabled assistance legislation was
to design and provide services and programs which would insure proper
physical, emotional, and psychological care for such individuals.
Support was afforded in various forms to improve the conditions and
quality of institutional care, training personnel for such care,
removal of institutions, and the development of new and improved
techniques for providing services to the developmentally disabled. As
the nation pressured authorities for deinstitutionalization, legislation
was passed that reflected such an attitude toward the handicapped. The
varied changes incorporated in this legislation and its amendments
have reflected educational practices and protection of the rights of
persons with developmental disabilities. The definition of those to
be served and the specifics of how they are to be served are no longer
based solely on diagnosis or evaluation of the individual's disabling
condition but are currently based solely on an individual's functional limitation and need for specific related services.

Eligibility criteria. The topic of eligibility criteria is delineated by the definitions within the law. The definition contained in The Developmentally Disabled Assistance and Bill of Rights Act of 1975 (P.L. 94-103) is found in Section 102(a):

(A) is attributable to mental retardation, cerebral palsy, epilepsy, or autism;

(ii) is attributable to any other condition of a person found to be closely related to mental retardation because such condition results in similar impairment of general intellectual functioning or adaptive behavior to that of mentally retarded persons or requires treatment and services similar to those required for such persons; or

(iii) is attributable to dyslexia resulting from a disability described in clause (i) or (ii) of this subparagraph;

(B) originates before such person attains age eighteen;

(C) has continued or can be expected to continue indefinitely; and

(D) constitutes a substantial handicap to such person's ability to function normally in society.

This definition has since been changed through the enactment of The Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 (P.L. 95-602). The current definition is found in this amendment, Section 102(7):

(7) The term "developmental disability" means a severe, chronic disability of a person which--

(A) is attributable to a mental or physical impairment or combination of mental and physical impairments;

(B) manifested before the person attains the age twenty-two;

(C) is likely to continue indefinitely;

(D) results in substantial functional limitations in three or more of the following areas of major life activity: (i) self-care, (ii) receptive and expressive language, (iii) learning, (iv) mobility, (v) self-direction, (vi) capacity for independent living, and (vii) economic sufficiency; and
(E) reflects the person's need for a combination and sequence of special interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated.

This current definition identifies those individuals who are eligible for the services of programs provided by this law. This functional definition of developmental disabilities clearly lists the condition and characteristics of qualified, handicapped individuals in relation to this legislation.

Procedural safeguards. Procedural safeguards have been placed in legislation in order to insure that the rights accorded the handicapped individual are observed by state and local agencies. Procedures to insure the rights of developmentally disabled individuals are delineated in the federal regulations that relate to this law (42 U.S.C. 6010):

§ 6010. Congressional findings respecting rights of developmentally disabled

Congress makes the following findings respecting the rights of persons with developmental disabilities:

(1) Persons with developmental disabilities have a right to appropriate treatment, services, and habilitation for such disabilities.

(2) The treatment, services, and habilitation for a person with developmental disabilities should be designed to maximize the developmental potential of the person and should be provided in the setting that is least restrictive of the person's personal liberty.

(3) The Federal Government and the States both have an obligation to assure that public funds are not provided to any institutional or other residential program for persons with developmental disabilities that--

(A) does not provide treatment, services, and habilitation which is appropriate to the needs of such persons; or

(B) does not meet the following minimum standards:
(i) provision of a nourishing, well-balanced daily diet to the persons with developmental disabilities being served by the program.

(ii) Provision to such persons of appropriate and sufficient medical and dental services.

(iii) Prohibition of the use of physical restraint on such persons unless absolutely necessary and prohibition of the use of such restraint as a punishment or as a substitute for a habilitation program.

(iv) Prohibition on the excessive use of chemical restraints on such persons and the use of such restraints as punishment or as a substitute for a habilitation program or in quantities that interfere with services, treatment, or habilitation for such persons.

(v) Permission for close relatives of such persons to visit them at reasonable hours without prior notice.

(vi) Compliance with adequate fire and safety standards as may be promulgated by the Secretary.

(4) All programs for persons with developmental disabilities should meet standards which are designed to assure the most favorable possible outcome for those served, and—

(A) in the case of residential programs serving persons in need of comprehensive health-related, habilitative, or rehabilitative services, which are at least equivalent to those standards applicable to intermediate care facilities for the mentally retarded promulgated in regulations of the Secretary on January 17, 1974 (39 Fed.Reg. pt. II), as appropriate when taking into account the size of the institutions and the service delivery arrangements of the facilities of the programs;

(B) in the case of other residential programs for persons with developmental disabilities, which assure that care is appropriate to the needs of the persons being served by such programs, assure that the persons admitted to facilities of such programs are persons whose needs can be met through services provided by such facilities, and assure that the facilities under such programs provide for the humane care of the residents of the facilities, are sanitary, and protect their rights; end

(C) in the case of nonresidential programs, which assure the care provided by such programs is appropriate to the persons served by the programs.
The rights of persons with developmental disabilities described in findings made in this section are in addition to any constitutional or other rights otherwise afforded to all persons.


§ 6012. Protection and advocacy of individual rights; reports; State allotments and reallocations; ratio; authorization of appropriations

(a) In order for a State to receive an allotment under subchapter III of this chapter, (1) the State must have in effect a system to protect and advocate the rights of persons with developmental disabilities, (2) such system must (A) have the authority to pursue legal, administrative, and other appropriate remedies to insure the protection of the rights of such persons who are receiving treatment, services, or habilitation within the State, (B) not be administered by the State Planning Council, and (C) be independent of any agency which provides treatment, services, or habilitation to persons with developmental disabilities, and (3) the State must submit to the Secretary in a form prescribed by the Secretary in regulations (A) a report, not less often than once every three years, describing the system, and (B) an annual report describing the activities carried out under the system and any changes made in the system during the previous year.

Persons with developmental disabilities have rights and protections on both a personal and advocacy-group level. It is important to note that the rights of persons with developmental disabilities are also protected by any other constitutional rights afforded to all United States citizens. The procedural safeguards incorporated in Section 504 of the Rehabilitation Act of 1973 (P.L. 93-112) would be applicable to the individuals who are developmentally disabled also. These procedures included a notice, an opportunity for the parents or guardian of the person to examine relevant records, an impartial hearing with opportunity for participation by the person's parents or guardian and representation by counsel, and a review of procedure.
Services provided. Services provided to the developmentally
disabled and their families are stated in the 42 U.S. Code Section 6001.

General provisions in relation to services for the developmentally
disabled are specifically delineated in relation to the definition of
a disabled person:

(B)(A) The term "services for persons with developmental
disabilities" means priority services (as defined in subparagraph
(B)), and any other specialized services or special adaptations
of generic services for persons with developmental disabilities,
including in these services the diagnosis, evaluation, treatment,
personal care, day care, domiciliary care, special living
arrangements, training, education, sheltered employment,
recreation, counseling of the individual with such disability
and of his family, protective and other social and socio-legal
services, information and referral services, follow-along
services, and transportation services necessary to assure
delivery of services to persons with developmental disabilities.

(B) The term "priority services" means case management
services (as defined in subparagraph (C)), child development
services (as defined in subparagraph (D)), alternative community
living arrangement services (as defined in subparagraph (E)),
and nonvocational social-developmental services (as defined in
subparagraph (F)).

(C) The term "case management services" means such services
to persons with developmental disabilities as will assist them
in gaining access to needed social, medical, educational, and
other services; and such term includes—

(i) follow-along services which ensure, through a
continuing relationship, lifelong if necessary, between
an agency or provider and a person with a developmental
disability and the person's immediate relatives or
guardian(s), that the changing needs of the person and the
family are recognized and appropriately met; and

(ii) coordination services which provide to persons
with developmental disabilities support, access to (and
coordination of) other services, information on programs
and services, and monitoring of the persons' progress.

(D) The term "child development services" means such services
as will assist in the prevention, identification, and alleviation
of developmental disabilities in children, and includes (i) early
intervention services, (ii) counseling and training of parents,
(iii) early identification of developmental disabilities, and
(iv) diagnosis and evaluation of such developmental disabilities.
(E) The term "alternative community living arrangement services" means such services as will assist persons with development disabilities in maintaining suitable residential arrangements in the community, and includes in-house services (such as personal aides and attendants and other domestic assistance and supportive services), family support services, foster care services, group living services, respite care, and staff training, placement, and maintenance services.

(F) The term "nonvocational social-development services" means such services as will assist persons with developmental disabilities in performing daily living and work activities.

(9) The term "satellite center" means an entity which is affiliated with one or more university affiliated facilities and which functions as a community or regional extension of such university affiliated facility or facilities in the delivery of services to persons with developmental disabilities, and their families, who reside in geographical areas where adequate services are not otherwise available.

(10) The term "university affiliated facility" means a public or nonprofit facility which is associated with, or is an integral part of, a college or university and which provides for at least the following activities:

(A) Interdisciplinary training for personnel concerned with developmental disabilities.

(B) Demonstration of the provision of exemplary services relating to persons with developmental disabilities.

(C)(i) Dissemination of findings relating to the provision of services to persons with developmental disabilities, and (ii) providing researchers and government agencies sponsoring service-related research with information on the needs for further service-related research.

(11) The term "Secretary" means the Secretary of Health and Human Services.

(12) The term "State Planning Council" means a State Planning Council established under section 606 of this title.


The specific techniques and methods utilized to provide these services and related programs are entirely the responsibility and
burden of the state and local agencies who service developmentally
disabled individuals. The flexibility of such techniques and methods
must be within the statutory definition of the limitations for services
provided by these regulations.

Program accountability. Inherent in the purpose of this legisla-
tion were procedures and provisions for compliance within the mandated
services to be provided. States receiving any financial assistance or
specific provisions in relation to serving the developmentally disabled
must provide satisfactory assurances of services and programs. Program
accountability is required through habilitation plans (42 U.S. Code 5011):

§ 6011. Habilitation plans

(a) Condition for receipt of State allotment

The Secretary shall require as a condition to a State's
receiving an allotment under subchapter III of this chapter
that the State provide the Secretary satisfactory assurances
that each program (including programs of any agency, facility,
or project) which receives funds from the State's allotment
under such part (1) has in effect for each developmentally dis-
abled person who receives services from or under the program a
habilitation plan meeting the requirements of subsection (b)
of this section, and (2) provides for an annual review, in
accordance with subsection (c) of this section, of each such
plan.

(b) Requirements

A habilitation plan for a person with developmental dis-
abilities shall meet the following requirements:

(1) The plan shall be in writing.

(2) The plan shall be developed jointly by (A) a
representative or representatives of the program
primarily responsible for delivering or coordinating
the delivery of services to the person for whom the
plan is established, (B) such person, and (C) where
appropriate, such person's parents or guardian or
other representative.
(3) The plan shall contain a statement of the long-term habilitation goals for the person and the intermediate habilitation objectives relating to the attainment of such goals. Such objectives shall be stated specifically and in sequence and shall be expressed in behavioral or other terms that provide measurable indices of progress. The plan shall (A) describe how the objectives will be achieved and the barriers that might interfere with the achievement of them, (B) state objective criteria and an evaluation procedure and schedule for determining whether such objectives and goals are being achieved, and (C) provide for a program coordinator who will be responsible for the implementation of the plan.

(4) The plan shall contain a statement (in readily understandable form) of specific habilitation services to be provided, shall identify each agency which will deliver such services, shall describe the personnel (and their qualifications) necessary for the provision of such services, and shall specify the date of the initiation of each service to be provided and the anticipated duration of each such service.

(5) The plan shall specify the role and objectives of all parties to the implementation of the plan.

(c) Annual review

Each habilitation plan shall be reviewed at least annually by the agency primarily responsible for the delivery of services to the person for whom the plan was established or responsible for the coordination of the delivery of services to such person. In the course of the review, such person and the person's parents or guardian or other representative shall be given an opportunity to review such plan and to participate in its revision.


1So in original. Probably should read "(C)".

This habilitative plan is further described in 42 U.S.C. Section 6063 under state plans which must be submitted and approved for any state desiring to take advantage of federal provisions in relation to services afforded the developmentally disabled. Conditions for approval of a state plan include the habilitative plan:
(2) The plan must—

(A) set out the specific objectives to be achieved under the plan and a listing of the programs and resources to be used to meet such objectives;

(B) describe (and provide for the review annually and revision of the description not less often than once every three years) (i) the extent and scope of services being provided, or to be provided, to persons with developmental disabilities under such other State plans for Federally assisted State programs as the State conducts relating to education for the handicapped, vocational rehabilitation, public assistance, medical assistance, social services, maternal and child health, crippled children's services, and comprehensive health and mental health, and under such other plans as the Secretary may specify, and (ii) how funds allotted to the State in accordance with section 6062 of this title will be used to complement and augment rather than duplicate or replace services for persons with developmental disabilities which are eligible for Federal assistance under such other State programs;

(C) for each fiscal year, assess and describe the extent and scope of the priority services (as defined in section 6001(8) of this title) being or to be provided under the plan in the fiscal year; and

(D) establish a method for the periodic evaluation of the plan's effectiveness in meeting the objectives described in subparagraph (A).

(3)(A) (i) The plan must provide that services furnished, and the facilities in which they are furnished, under the plan for persons with developmental disabilities will be in accordance with standards prescribed by the Secretary in regulations.

(ii) The plan must provide satisfactory assurances that buildings used in connection with the delivery of services assisted under the plan will meet the standards adopted pursuant to the Act of August 12, 1968 [42 U.S.C.A. § 4151-4157] (known as the Architectural Barriers Act of 1968).

(B) The plan must provide that services are provided in an individualized manner consistent with the requirements of section 6011 of this title (relating to habilitation plans).

(C) The plan must contain or be supported by assurances satisfactory to the Secretary that the human rights of all persons with developmental disabilities (especially those persons without familial protection) who are receiving treatment, services, or habilitation under programs assisted under this chapter will be protected consistent with section 6010 of this title (relating to rights of the developmentally disabled).
(b) The plan must provide assurances that the State has undertaken affirmative steps to assure the participation in programs under this chapter of individuals generally representative of the population of the State, with particular attention to the participation of members of minority groups.

These specific written assurances must be completed in order that service and program accountability occur as mandated by this legislation. These accountability procedures are necessary in order to assure that the appropriate programs and individual rights of the developmentally disabled individual are provided.

Funding provisions. Federal monies authorized under this legislation have been provided to assist states to meet the compliance requirements mandated by this law.

Financial authorization levels provide monies for federal programs under The Developmental Disabilities Act as amended by The Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 (P.L. 95-602) in four separate categories. The categories are the specific programs related to this law. The programs are:

1. Basic Grants: Those are funds states may apply for and must spend on activities in the priority service areas. The four priority areas specified in the 1978 Amendments are:

   a) case management services to assist developmentally disabled persons in gaining access to needed social, medical, educational and other services, including follow-along and coordination of services;

   b) child development services for the prevention, identification and alleviation of developmental disabilities among children, including early intervention, counseling and training of parents, early identification of developmental disabilities, and diagnosis and evaluation of such disabilities.
c) Alternative Community Living Arrangement Services for assistance in maintaining suitable residential arrangements in the community, including in-house services, family support services, foster care, group living, respite care, and staff training, placement, and maintenance; and

d) Vocational Social-Developmental Services for assistance in performing daily living and work activities.

2. University Affiliated Facilities: The law clarifies the functions of University Affiliated Facilities and Satellite Centers (42 U.S. Code 6031). Satellite centers were originally offshoots of existing university-affiliated training programs, but now include the establishment of new and innovative satellite centers. In order for a university affiliated facility to receive funding it must be in compliance with the standards set in 42 U.S. Code 6031 or be making substantial progress toward compliance and be able to achieve full compliance within three years.

3. Special Projects: The law specified that the Secretary may make grants to public or nonprofit private entities for demonstration projects including research, training, and evaluation. These projects must hold promise of expanding or improving protection and advocacy services for the developmentally disabled. The demonstration projects should also hold promise of expanding or improving services to persons with developmental disabilities (42 U.S. Code 6031).

4. Protection and Advocacy Systems: The law establishes a minimum allotment for state and advocacy systems. States will receive a minimum allotment of $50,000 per year for establishing and effecting systems to protect and advocate the rights of persons with developmental disabilities (42 U.S. Code 6012).
Congress raised the authorization levels for such programs from fiscal year 1979 to 1981. The 1982 and 1983 fiscal allocations were less than the original allocations in some cases. Authorization levels for federal programs under the Developmental Disabilities Act as amended by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 are detailed in Table 1:

**Funding Provisions in Relation to Developmentally Disabled Assistance and Bill of Rights Act of 1975: Public Law 94-103**

<table>
<thead>
<tr>
<th>Program</th>
<th>Fiscal Years</th>
</tr>
</thead>
<tbody>
<tr>
<td>Basic Ed.</td>
<td>55.0*</td>
</tr>
<tr>
<td>University-affiliated Education</td>
<td>12.0</td>
</tr>
<tr>
<td>Vocational Projects</td>
<td>20.0</td>
</tr>
<tr>
<td>Protection and Advocacy Systems</td>
<td>9.0</td>
</tr>
<tr>
<td>Totals</td>
<td>96.0</td>
</tr>
</tbody>
</table>

*In millions of dollars

**Education of All Handicapped Children Act of 1975: Public Law 94-142**

The Education of All Handicapped Children Act of 1975 (P.L. 94-142) serves as the foundation for organizing and funding special education in the United States. This bill was proclaimed to be the Bill of Rights for Handicapped Children. Legislative history relates...
Congressional findings led to an amended purpose and a definition of handicapped children at that time. Since 1975 this act has been amended by the Education of the Handicapped Act Amendments of 1983 (P.L. 98-199). The basic provisions have been maintained throughout this amendment to the act. The findings of Congress in 1963 were (20 U.S. Code 1400):

Findings

(a) The Congress finds that—

1. There are more than eight million handicapped children in the United States today;
2. The special educational needs of such children are not being fully met;
3. More than half of the handicapped children in the United States do not receive appropriate educational services which would enable them to have full equality of opportunity;
4. One million of the handicapped children in the United States are excluded entirely from the public school system and will not go through the educational process with their peers;
5. There are many handicapped children throughout the United States participating in regular school programs whose handicaps prevent them from having a successful educational experience because their handicaps are undetected;
6. Because of the lack of adequate services within the public school system, families are often forced to find services outside the public school system, often at great distance from their residence and at their own expense;
7. Developments in the training of teachers and in diagnostic and instructional procedures and methods have advanced to the point that, given appropriate funding, state and local educational agencies can and will provide effective special education and related services to meet the needs of handicapped children;
8. State and local educational agencies have a responsibility to provide education for all handicapped children, but present financial resources are inadequate to meet the special educational needs of handicapped children; and
9. It is in the national interest that the Federal Government assist State and local efforts to provide programs to meet the educational needs of handicapped children in order to assure equal protection of the law.

With these findings as a foundation, the purpose of the law was established (20 U.S. Code 1400):
Purpose

It is the purpose of this chapter to assure that all handicapped children have available to them, within the time periods specified in Section 1412(2)(B) of this title, a free appropriate public education which emphasized special education and related services designed to meet their unique needs, to assure that the rights of handicapped children and their parents or guardians are protected, to assist States and localities to provide for the education of all handicapped children, and to assess and assure the effectiveness of efforts to educate handicapped children.


To assure the education of all handicapped children, a definition of such an individual and the specific education that they should receive have been described in the regulations in relation to this legislation.

Eligibility criteria. The topic of eligibility criteria is delineated by the definition given within the law (20 U.S. Code 1401 as amended by P.L. 98-199):

§ 1401. Definitions

(a) As used in this chapter--

(1) The term "handicapped children" means mentally retarded, hard of hearing, deaf, speech or language impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, or other health impaired children, or children with specific learning disabilities, who by reason thereof require special education and related services.

(14) The term "children with specific learning disabilities" means those children who have a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. Such disorders include such conditions as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. Such term does not include children who have learning problems which are primarily the result of visual, hearing, or motor handicaps, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage.
(21)(b) For purposes of part C of this title, "handicapped
youth" means any handicapped child (as defined in section
602(a)(1)) who--

(1) is twelve years of age or older; or
(2) is enrolled in the seventh or higher grade in school.

The term "handicapped children" is used to specify the categories
of individuals identified by this law to have the right to all statutes
and regulations promulgated. Each category of children has a specific
federal definition; however, only the term specific learning disability
is defined in this statute itself. Education of the Handicapped
Regulations: Assistance to States for Education of Handicapped Children
(34 Code of Federal Regulations Part 300) more specifically defines
each categorical handicapping condition:
Reg. 300.5 Handicapped children.

(a) As used in this part, the term "handicapped children"
means those children evaluated in accordance with Regs. 300.530-
300.534 as being mentally retarded, hard of hearing, deaf, speech
impaired, visually handicapped, seriously emotionally disturbed,
orthopedically impaired, other health impaired, deaf-blind,
multi-handicapped, or as having specific learning disabilities,
who because of those impairments need special education and
related services.

(b) The terms used in this definition are defined as follows:

(1) "Deaf" means a hearing impairment which is so severe
that the child is impaired in processing linguistic information
through hearing, with or without amplification, which adversely
affects educational performance.

(2) "Deaf-blind" means concomitant hearing and visual
impairments, the combination of which causes such severe
communication and other developmental and educational problems
that they cannot be accommodated in special education programs
solely for deaf or blind children.

(3) "Hard of Hearing" means a hearing impairment, whether
permanent or fluctuating, which adversely affects a child's
educational performance but which is not included under the
definition of "deaf" in this section.

(4) "Mentally retarded" means significantly subaverage-
general intellectual functioning existing concurrently with
deficits in adaptive behavior and manifested during the develop-
mental period, which adversely affects a child's educational
performance.
(5) "Multihandicapped" means concomitant impairments (such as mentally retarded-blind, mentally retarded-orthopedically impaired, etc.), the combination of which causes such severe educational problems that they cannot be accommodated in special education programs solely for one of the impairments. The term does not include deaf-blind children.

(6) "Orthopedically impaired" means a severe orthopedic impairment which adversely affects a child's educational performance. The term includes impairments caused by congenital anomaly (e.g., clubfoot, absence of some member, etc.), impairments caused by disease (e.g., poliomyelitis, bone tuberculosis, etc.), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns which cause contractures).

(7) "Other health impaired" means

(i) having an autistic condition which is manifested by severe communication and other developmental and educational problems; or

(ii) having limited strength, vitality or alertness, due to chronic or acute health problems such as a heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead poisoning, leukemia, or diabetes, which adversely affects a child's educational performance.

(8) " Seriously emotionally disturbed" is defined as follows:

(i) The term means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree, which adversely affects educational performance:

(A) An inability to learn which cannot be explained by intellectual, sensory, or health factors;

(B) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers;

(C) Inappropriate types of behavior or feelings under normal circumstances;

(D) A general pervasive mood of unhappiness or depression; or

(E) A tendency to develop physical symptoms or fears associated with personal or school problems.

(ii) The term includes children who are schizophrenic. The term does not include children who are socially maladjusted, unless it is determined that they are seriously emotionally disturbed.

(9) "Specific learning disability" means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations. The term includes such conditions as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. The term does not include children who have learning problems which are primarily the result of visual, hearing, or motor handicaps, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage.
(10) "Speech impaired" means a communication disorder such as stuttering, impaired articulation, a language impairment, or a voice impairment, which adversely affects a child's educational performance.

(11) "Visually handicapped" means a visual impairment which, even with correction, adversely affects a child's educational performance. The term includes both partially seeing and blind children.

Procedural safeguards. Procedural safeguards have been placed in legislation in order to insure the rights accorded the handicapped which must be observed by state and local agencies. Procedural safeguards constitute appropriate administrative process and procedures that include protection of individual rights and freedoms. The protections afforded handicapped children and their families include provisions for participation in decision making concerning programs and services developed on their behalf (20 U.S.C. 1414):

(1)(c)(iii) the participation and consultation of the parents or guardian of such children; and

(iv) to the maximum extent practicable and consistent with the provisions of section 1412(5)(B) of this title, the provision of special services to enable such children to participate in regular educational programs;

Specific procedural safeguards are detailed in the regulations.

This section was included in order to assure provisions for guaranteed services to handicapped children and their individual rights and freedoms (20 U.S.C. 1415):

§ 1415. Procedural safeguards

Establishment and maintenance

(a) Any State educational agency, any local educational agency, and any intermediate educational unit which receives
assistance under this subchapter shall establish and maintain procedures in accordance with subsection (b) through subsection (e) of this section to assure that handicapped children and their parents or guardians are guaranteed procedural safeguards with respect to the provision of free appropriate public education by such agencies and units.

Required procedures: hearing

(b)(1) The procedures required by this section shall include, but not be limited to—

(A) an opportunity for the parents or guardian of a handicapped child to examine all relevant records with respect to the identification, evaluation, and educational placement of the child, and the provision of a free appropriate public education to such child, and to obtain an independent educational evaluation of the child;

(B) procedures to protect the rights of the child whenever the parents or guardian of the child are not known, available, or the child is a ward of the State, including the assignment of an individual (who shall not be an employee of the State educational agency, local educational agency, or intermediate educational unit involved in the education or care of the child) to act as surrogate for the parents or guardian;

(C) written prior notice to the parents or guardian of the child whenever such agency or unit—

(i) proposes to initiate or change, or

(ii) refuses to initiate or change, the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child;

(D) procedures designed to assure that the notice required by clause (C) fully informs the parents or guardian, in the parents' or guardian's native language, unless it clearly is not feasible to do so, of all procedures available pursuant to this section; and

(E) an opportunity to present complaints with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child.

(2) Whenever a complaint has been received under paragraph (1) of this subsection, the parents or guardian shall have an opportunity for an impartial due process hearing which shall be
conducted by the State educational agency or by the local educational agency or intermediate educational unit, as determined by State law or by the State educational agency. No hearing conducted pursuant to the requirements of this paragraph shall be conducted by an employee of such agency or unit involved in the education or care of the child.

Review of local decision by State educational agency

(c) If the hearing required in paragraph (2) of subsection (b) of this section is conducted by a local educational agency or an intermediate educational unit, any party aggrieved by the findings and decision rendered in such a hearing may appeal to the State educational agency which shall conduct an impartial review of such hearing. The officer conducting such review shall make an independent decision upon completion of such review.

This law also describes the administration of the duties of the commissioner in relation to the rules and regulations of the statute. A specific subsection was included under these duties to insure that the rights of the children and their families are protected (20 U.S. Code 1417):

Protection of rights and privacy of parents and students

(c) The Secretary shall take appropriate action, in accordance with the provisions of section 1232g of this title, to assure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained by the Commissioner and by State and local educational agencies pursuant to the provisions of this subchapter.

Services provided. The services to be provided handicapped children are detailed in the purpose of this legislation (20 U.S. Code 1400):

Purpose

(c) It is the purpose of this chapter to assure that all handicapped children have available to them, within the time periods specified in Section 1412(2)(B) of this title, a free appropriate public education which emphasizes special education and related services designed to meet their unique needs, to assure that the rights of handicapped children and their parents or guardians are protected, to assist States and localities to provide for the education of all handicapped children, and to assess and assure the effectiveness of efforts to educate
handicapped children.

Pub.L. 91-230, Title VI, § 601, Apr. 13, 1970, 84 Stat. 175,
amended Pub.L. 94-142, § 3(a), Nov. 29, 1975, 89 Stat. 774
(reclassified as § 1400 in 1981).

A free appropriate education which emphasizes special education
and related services must be provided according to the statute. The
three specific topics—(1) free appropriate education, (2) special
education, and (3) related services—are defined in the Education of
the Handicapped Regulations (34 C.F.R. Part 300):

Reg. 300.4 Free appropriate public education.

As used in this part, the term "free appropriate public
education" means special education and related services which:
(a) Are provided at public expense, under public super­
vision and direction, and without charge.
(b) Meet the standards of the State educational agency,
including the requirements of this part.
(c) Include preschool, elementary school, or secondary
school education in the State involved, and
(d) Are provided in conformity with an individualized
education program which meets the requirements under Regs.
300.340-300.349 of Subpart C.

(20 U.S.C. 1401(18))

Reg. 300.14 Special education.

(1) As used in this part, the term "special education" means specially designed instruction, at no cost to the parent,
to meet the unique needs of a handicapped child, including
classroom instruction, instruction in physical education, and
instruction in hospitals and institutions.
(2) The term includes speech pathology, or any other
related service, if the service consists of specially designed
instruction, at no cost to the parents, to meet the unique
needs of a handicapped child, and is considered "special education"
rather than a "related service" under State standards.
(3) The term also includes vocational education if it
consists of specially designed instruction, at no cost to the
parents, to meet the unique needs of a handicapped child.
(b) The terms in this definition are defined as follows:
(1) "At no cost" means that all specially designed instruc­
tion is provided without charge, but does not preclude
incidental fees which are normally charged to nonhandicapped
students or their parents as a part of the regular education
program.
(2) "Physical education" is defined as follows:
(i) The term means the development of:
(A) Physical and motor fitness;
(B) Fundamental motor skills and patterns; and
(C) Skills in aquatics, dance, and individual and group
   games and sports (including intramural and lifetime sports).
(ii) The term includes special physical education, adapted
    physical education, movement education, and motor development.
(20 U.S.C. 1401(16))

(3) "Vocational education" means organized educational
   programs which are directly related to the preparation of
   individuals for paid or unpaid unemployment, or for additional
   preparation for a career requiring other than a baccalaureate
   or advanced degree.
(20 U.S.C. 1401(16))

Reg. 300.13 Related services.

(a) As used in this part, the term "related services" means
   transportation and such developmental, corrective, and other
   supportive services as are required to assist a handicapped
   child to benefit from special education, and includes speech
   pathology and audiology, psychological services, physical
   and occupational therapy, recreation, early identification and
   assessment of disabilities in children, counseling services,
   and medical services for diagnostic or evaluation purposes. The
   term also includes school health services, social work services
   in schools, and parent counseling and training.

(b) The terms used in this definition are defined as follows:
   (i) "Audiology" includes:
      (I) Identification of children with hearing loss;
      (ii) Determination of the range, nature, and degree of
           hearing loss, including referral for medical or other profes­
           sional attention for the habilitation of hearing;

These comprehensive services are to be provided to all handi­
capped children and continually assessed regarding quality and
effectiveness.

Program accountability. State and local educational agencies
have the responsibility of providing education for all handicapped
children. This education must be appropriate in relation to the
child's handicapping condition. The educational program and related
services must be effective. The state and local agencies are
accountable to the federal agencies for programs and services for handicapped children. There are two specific types of assurance procedures and methods necessary according to the law to be in compliance with its mandates. The first relates to the actual educational program. Each child in any type of special education must have a written educational program. This program assures written information on program purposes and rationale for which the state and local agencies are accountable (20 U.S. Code 1401):

(18) The term "individualized education program" means a written statement for each handicapped child developed in any meeting by a representative of the local educational agency or an intermediate educational unit who shall be qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of handicapped children, the teacher, the parents or guardian of such child, and, whenever appropriate, such child, which statement shall include (A) a statement of the present levels of educational performance of such child, (B) a statement of annual goals, including short-term instructional objectives, (C) a statement of the specific educational services to be provided to such child, and the extent to which such child will be able to participate in regular educational programs, (D) the projected date for initiation and anticipated duration of such services, and (E) appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether instructional objectives are being achieved.

The second accountability procedure involves the state's assurance of full compliance with mandated procedures through the establishment policies and local procedures that are designed to meet the requirements set forth in said statutes. The commissioner (administrator) of special education programs is also given the duty of evaluating such policies and procedures (20 U.S. Code 1412-1413, 1418):
1412. Eligibility requirements

In order to qualify for assistance under this subchapter in any fiscal year, a State shall demonstrate to the Commissioner that the following conditions are met:

1. The State has in effect a policy that assures all handicapped children the right to a free appropriate public education.

2. The State has developed a plan pursuant to section 1413(b) of this title in effect prior to November 29, 1977, and submitted not later than August 21, 1975, which will be amended so as to comply with the provisions of this paragraph. Each such amended plan shall set forth in detail the policies and procedures which the State will undertake or has undertaken in order to assure that--

(A) there is established (i) a goal of providing full educational opportunity to all handicapped children, (ii) a detailed timetable for accomplishing such a goal, and (iii) a description of the kind and number of facilities, personnel, and services necessary throughout the State to meet such a goal;

(B) a free appropriate public education will be available for all handicapped children between the ages of three and eighteen within the State not later than September 1, 1978, and for all handicapped children between the ages of three and twenty-one within the State not later than September 1, 1980, except that, with respect to handicapped children aged three to five and aged eighteen to twenty-one, inclusive, the requirements of this clause shall not be applied in any State if the application of such requirements would be inconsistent with State law or practice, or the order of any court, respecting public education within such age groups in the State;

(C) all children residing in the State who are handicapped, regardless of the severity of their handicap, and who are in need of special education and related services are identified, located, and evaluated, and that a practical method is developed and implemented to determine which children are currently receiving needed special education and related services and which children are not currently receiving needed special education and related services;

(D) policies and procedures are established in accordance with detailed criteria prescribed under section 1417(c) of this title; and

(E) the amendment to the plan submitted by the State required by this section shall be available to parents, guardians, and other members of the general public at least thirty days prior to the date of submission of the amendment to the Commissioner.
(3) The State has established priorities for providing a free appropriate public education to all handicapped children, which priorities shall meet the timetables set forth in clause (B) of paragraph (2) of this section, first with respect to handicapped children who are not receiving an education, and second with respect to handicapped children within each disability, with the most severe handicaps who are receiving an inadequate education, and has made adequate progress in meeting the timetables set forth in clause (B) of paragraph (2) of this section.

(4) Each local educational agency in the State will maintain records of the individualized education programs for each handicapped child, and such program shall be established, reviewed, and revised as provided in section 1414(a)(5) of this title.

(5) The State has established (A) procedural safeguards as required by section 1415 of this title, (B) procedures to assure that to the maximum extent appropriate, handicapped children, including children in public or private institutions or other care facilities, are educated with children who are not handicapped, and that special classes, separate schooling, or other removal of handicapped children from the regular educational environment occurs only when the nature or severity of the handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily, and (C) procedures to assure that testing and evaluation materials and procedures utilized for the purposes of evaluation and placement of handicapped children will be selected and administered so as not to be racially or culturally discriminatory. Such materials or procedures shall be provided and administered in the child's native language or mode of communication, unless it is clearly not feasible to do so, and no single procedure shall be the sole criterion for determining an appropriate educational program for a child.

(6) The State educational agency shall be responsible for assuring that the requirements of this subchapter are carried out and that all educational programs for handicapped children within the State, including all such programs administered by any other State or local agency, will be under the general supervision of the persons responsible for educational programs for handicapped children in the State educational agency and shall meet education standards of the State educational agency.

(7) The State shall assure that (A) in carrying out the requirements of this section procedures are established for consultation with individuals involved in or concerned with the education of handicapped children, including handicapped individuals and parents of handicapped children, and (B) there are public hearings, adequate notice of such hearings, and an opportunity for comment available to the general public prior to adoption of the policies, programs, and procedures required pursuant to the provisions of this section and section 1411 of this title.
Pub.L. 94-142, title II, § 2(a)(2), (4), (c), (d), (i), Nov. 29, 1975, 89 Stat. 777, 780.
§ 1413. State plans

Requisite features

(a) Any State meeting the eligibility requirements set forth in section 1412 of this title and desiring to participate in the program under this subchapter shall submit to the Commissioner, through its State educational agency, a State plan at such time, in such manner, and containing or accompanied by such information, as he deems necessary. Each such plan shall—

(1) set forth policies and procedures designed to assure that funds paid to the State under this subchapter will be expended in accordance with the provisions of this subchapter, with particular attention given to the provisions of sections 1411(b), 1411(c), 1411(d), 1412(2), and 1412(3) of this title;

(2) provide that programs and procedures will be established to assure that funds received by the State or any of its political subdivisions under any other Federal program, including section 241c-1 of this title, section 844a(b)(8) of this title or its successor authority, and section 1262(a) (4)(B) of this title, under which there is specific authority for the provision of assistance for the education of handicapped children, will be utilized by the State, or any of its political subdivisions, only in a manner consistent with the goal of providing a free appropriate public education for all handicapped children, except that nothing in this clause shall be construed to limit the specific requirements of the laws governing such Federal programs;

(3) set forth, consistent with the purposes of this chapter, a description of programs and procedures for (A) the development and implementation of a comprehensive system of personnel development which shall include the in-service training of general and special educational instructional and support personnel, detailed procedures to assure that all personnel necessary to carry out the purposes of this chapter are appropriately and adequately prepared and trained, and effective procedures for acquiring and disseminating to teachers and administrators of programs for handicapped children significant information derived from educational research, demonstration, and similar projects, and (B) adopting, where appropriate, promising educational practices and materials development through such projects;
4-1 set forth policies and procedures to assure—

(A) that, to the extent consistent with the number and location of handicapped children in the State who are enrolled in private elementary and secondary schools, provision is made for the participation of such children in the program assisted or carried out under this subchapter by providing for such children special education and related services; and

(B) that (i) handicapped children in private schools and facilities will be provided special education and related services in conformance with an individualized educational program as required by this subchapter at no cost to their parents or guardian, if such children are placed in or referred to such schools or facilities by the State or appropriate local educational agency as the means of carrying out the requirements of this subchapter or any other applicable law requiring the provision of special education and related services to all handicapped children within such State, and (ii) in all such instances the State educational agency shall determine whether such schools and facilities meet standards that apply to State and local educational agencies and that children so served have all the rights they would have if served by such agencies;

(5) set forth policies and procedures which assure that the state shall seek to recover any funds made available under this subchapter for services to any child who is determined to be erroneously classified as eligible to be counted under section 1411(a) or 1411(d) of this title.

(b) provide satisfactory assurance that the control of funds provided under this subchapter, and title to property derived therefrom, shall be in a public agency for the uses and purposes provided in this subchapter, and that a public agency will administer such funds and property;

(7) provide for (A) making such reports in such form and containing such information as the Commissioner may require to carry out his functions under this subchapter, and (B) keeping such records and affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports and proper disbursement of Federal funds under this subchapter;

(8) provide procedures to assure that final action with respect to any application submitted by a local educational agency or an intermediate educational unit shall not be taken without first affording the local educational agency or intermediate educational unit involved reasonable notice and opportunity for a hearing:
Whenever a State educational agency provides free appropriate public education for handicapped children or provides direct services to such children, such State educational agency shall include, as part of the State plan required by subsection (a) of this section, such additional assurances not otherwise provided for in this subchapter:

(9) provide satisfactory assurance that Federal funds made available under this subchapter (A) will not be commingled with State funds, and (B) will be so used as to supplement and increase the level of State and local funds expended for the education of handicapped children and in no case to supplant such State and local funds, except that, where the State provides clear and convincing evidence that all handicapped children have available to them a free appropriate public education, the Commissioner may waive in part the requirement of this clause if he concurs with the evidence provided by the State;

(10) provide consistent with procedures described pursuant to section 1417(a)(2) of this title, satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of and accounting for Federal funds paid under this subchapter to the State, including any such funds paid by the State to local educational agencies and intermediate educational units;

(11) provide for procedures for evaluation at least annually of the effectiveness of programs in meeting the educational needs of handicapped children (including evaluation of individualized education programs), in accordance with such criteria that the Commissioner will prescribe pursuant to section 1417 of this title; and

(12) provide that the State has an advisory panel, appointed by the Governor or any other official authorized under State law to make such appointments, composed of individuals involved in or concerned with the education of handicapped children, including handicapped individuals, teachers, parents or guardians of handicapped children, State and local education officials, and administrators of programs for handicapped children, which (A) advises the State educational agency of unmet needs within the State in the education of handicapped children, (B) comments publicly on any rules or regulations proposed for issuance by the State regarding the education of handicapped children and the procedures for distribution of funds under this subchapter, and (C) assists the State in developing and reporting such data and evaluations as may assist the Commissioner in the performance of his responsibilities under section 1418 of this title.

Additional assurances

(b) Whenever a State educational agency provides free appropriate public education for handicapped children, or provides direct services to such children, such State educational agency shall include, as part of the State plan required by subsection (a) of this section, such additional assurances not
specified in such subsection (a) of this section as are contained in section 1414(a) of this title, except that funds available for the provision of such education or services may be expended without regard to the provisions relating to excess costs in section 1414(a) of this title.

Notice and hearing prior to disapproval of plan

(c) The Commissioner shall approve any State plan and any modification thereof which—

(1) is submitted by a State eligible in accordance with section 1412 of this title; and

(2) meets the requirements of subsection (a) and subsection (b) of this section.

The Commissioner shall disapprove any State plan which does not meet the requirements of the preceding sentence, but shall not finally disapprove a State plan except after reasonable notice and opportunity for a hearing to the State.

§ 1418. Evaluation

(a) The Secretary shall directly or by grant, contract, or cooperative agreement, collect data and conduct studies, investigations, and evaluations—

(1) to assess progress in the implementation of this Act, the impact, and the effectiveness of State and local efforts to provide free appropriate public education to all handicapped children and youth; and

(2) to provide Congress with information relevant to policy-making and provide Federal, State, and local educational agencies with information relevant to program management, administration, and effectiveness with respect to such education.

(b) In carrying out the responsibilities under this section, the Secretary, on at least an annual basis, shall obtain data concerning programs and projects assisted under this Act, and under other Federal laws relating to the education of handicapped children and youth, and such additional information, from State and local educational agencies and other appropriate sources, as is necessary for the implementation of this Act, including—

(1) the number of handicapped children and youth in each State receiving a free appropriate public education (special education and related services) by disability category and by age group (3-5, 6-11, 12-17, and 18-21);

(2) the number of handicapped children and youth in each State who are participating in regular educational programs, by disability category (consistent with the requirements of
section 612(3)(B) and section 614(a)(1)(C)(iv)), and the number of handicapped children and youth in separate classes, separate schools or facilities, or public or private residential facilities, or who have been otherwise removed from the regular education environment;

(3) the number of handicapped children and youth exiting the educational system each year through program completion or otherwise, by disability category and age, and anticipated services for the next year;

(4) the amount of Federal, State, and local funds expended in each State specifically for special education and related services (which may be based upon a sampling of data from State agencies including State and local educational agencies);

(5) the number and type of personnel that are employed in the provision of special education and related services to handicapped children and youth by disability category served, and the estimated number and type of additional personnel by disability category needed to adequately carry out the policy established by this Act; and

(6) a description of the special education and related services needed to fully implement the Act throughout each State, including estimates of the number of handicapped children and youth within each disability by age group (3-5, 6-11, 12-17, and 18-21) in need of improved services and the type of programs and services in need of improvement.

(c) The Secretary shall, by grant, contract, or cooperative agreement, provide for evaluation studies to determine the impact of this Act. Each such evaluation shall include recommendations for improvement of the programs under this Act. The Secretary shall, not later than July 1 of each year, submit to the appropriate committees of each House of the Congress and publish in the Federal Register proposed evaluation priorities for review and comment.

(d)(1) The Secretary is authorized to enter into cooperative agreements with State educational agencies to carry out studies to assess the impact and effectiveness of programs assisted under the Act.

(2) Such agreements shall—

(A) provide for the payment of not to exceed 60 per centum of the total cost of studies conducted by a participating State educational agency to assess the impact and effectiveness of programs assisted under the Act; and
(b) be developed in consultation with the State Advisory Panel established under this Act, the local educational agencies, and others involved in or concerned with the education of handicapped children and youth.

(3) The Secretary shall provide technical assistance to participating State educational agencies in the implementation of the study design, analysis, and reporting procedures.

(4) In addition, the Secretary shall disseminate information from such studies to State educational agencies, and as appropriate, others involved in, or concerned with the education of handicapped children and youth.

(e) (1) At least one study shall be a longitudinal study of a sample of handicapped students, encompassing the full range of handicapping conditions, examining their educational progress while in special education and their occupational, educational, and independent living status after graduating from secondary school or otherwise leaving special education.

(2) At least one study shall focus on obtaining and compiling current information available through State educational agencies and local educational agencies and other service providers, regarding State and local expenditures for educational services for handicapped students (including special education and related services), and gather information needed in or related to calculate a range of per pupil expenditures by handicapping condition.

(f) (1) Not later than one hundred and twenty days after the close of each fiscal year, the Secretary shall publish and disseminate an annual report on the progress being made toward the provision of a free appropriate public education to all handicapped children and youth. The annual report is to be transmitted to the appropriate committees of each House of Congress and the National Advisory Committee on the Education of Handicapped Children and Youth, and published and disseminated in sufficient quantities to the education community at large and to other interested parties.

(2) The Secretary shall include in each annual report--

(A) an index and summary of each evaluation activity and results of studies conducted under subsection (c);

(B) a compilation and analysis of data gathered under subsection (b);

(C) a description of findings and determinations resulting from monitoring reviews of State implementation of part B of this Act;
(3) an analysis and evaluation of the participation of handicapped children and youth in vocational education programs and services;

(E) an analysis and evaluation of the effectiveness of procedures undertaken by each State educational agency, local educational agency, and intermediate educational unit to ensure that handicapped children and youth receive special education and related services in the least restrictive environment commensurate with their needs and to improve programs of instruction for handicapped children and youth in day or residential facilities; and

(F) any recommendations for change in the provision of this Act or any other Federal law providing support for the education of handicapped children and youth.

(3) In the annual report for fiscal year 1985 (published in 1986) and for every third year thereafter, the Secretary shall include in the annual report—

(A) an index of all current projects funded under parts C through F of this Act; and

(B) data reported under sections 621, 622, 623, 627, 634, 641, and 653.

(g) There are authorized to be appropriated $3,100,000 for fiscal year 1984, $3,270,000 for fiscal year 1985, and $3,440,000 for fiscal year 1986 to carry out the provisions of this section.


These specific written assurances and evaluation procedures must be completed in order that service and program accountability occur as mandated by this legislation. These accountability procedures are necessary in order to assure the appropriate programs and the individual rights of all the handicapped children.

Funding provisions. Federal monies authorized under this legislation have been provided in relation to assisting states to meet the compliance requirements mandated by the law. Financial provisions
are authorized by the federal government to provide monies/funding that would correspond to the requirements of special education and related services needed to fully implement the Education of All Handicapped Children Act (P.L. 94-142) throughout the states. The type of programs and services has specific appropriated provisions in eleven separate categories. The categories are the specific kinds of programs, services, and activities to be supported. These categories, as defined and explained by Barrett and Ramirez (1983), were:

Regional Vocational, Adult and Postsecondary Programs


Purpose: To enable handicapped individuals to continue their formal education beyond high school and to widen the choices of academic preparation available to them. This program supports the development and operation of specially designed or modified programs of vocational-technical, postsecondary, or adult education for deaf and other handicapped persons. The intent is to enable institutions serving predominately nonhandicapped school populations to accommodate the handicapped so they may compete academically in the regular educational program.

Who Receives Funding: Contracts and grants are awarded to institutions of higher education, including junior and community colleges, vocational and technical institutions, and other appropriate nonprofit educational agencies. Since 1975, as specified by Congress, support has also been given to programs for the deaf in regional postsecondary schools in Washington, California, Minnesota, and Louisiana.

Kinds of Activities Supported: This is the only federal program which has as its primary focus assisting the adult handicapped person to overcome the considerable institutional barriers to obtaining a higher education. Vocational reacclimation services, due to their particular focus, are generally limited to technical-vocational pursuits, rather than being open to the full range of postsecondary educational options that exist, such as education in the sciences or liberal arts. Because of improved programs at the elementary and secondary levels and increased consumer as well as institutional awareness, the number of handicapped students seeking to continue their formal education in integrated postsecondary settings has increased. Examples of activities supported through this program include: direct services to hearing impaired students at regional postsecondary schools; an information services center on the postsecondary education of the handicapped; and demonstration projects in areas such as counseling support during preadmission and orientations, mobility
Instruction for new blind students, adaptation of laboratory courses, accessible housing location assistance, attendant care and assistance with feeding, interpreters and adaptive transportation assistance.

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Preschool Incentive Grants

**Authorizing Provision:** The Education of All Handicapped Children Act, P.L. 94-142, Section 619. (Also known as Part B, Section 619 of the Education of the Handicapped Act. EHA; 20 USC 1419.)

**Purpose:** To encourage states and localities to create or expand early intervention programs for handicapped children aged 3 to 5. This program is based on the premise that benefits are maximized, additional or more severe handicaps may be prevented, and greater long-term cost effectiveness is realized when education begins at the earlier stages of development.

**Receives Funding:** The Incentive Grant Program distributes funds on a formula basis to state education agencies based upon the number of preschool handicapped children being served. State education agencies in turn provide funds to local education agencies on a discretionary basis.

**Kinds of Activities Supported:** Federal support stimulates the development of state and local direct services for preschool handicapped children such as screening, assessment, and placement at a variety of developmental programs. In addition to vital early diagnosis, parents and teachers may be trained to work more effectively with the preschooler who is handicapped and in need of specialized services.

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Special Studies


Purpose: To analyze the progress being made and the challenges remaining in providing a free appropriate public education to all handicapped children. Findings are included in an Annual Report to Congress to honor Congressional requests for information. The results of these studies also assist agency staff in providing technical assistance, training, and public information concerning implementation of the Act.

Who Receives Training: Public and private agencies and associations including institutions of higher education are eligible to apply for annual contracts on a competitive basis.

Kinds of Activities Supported: Initially the special studies projects were targeted towards evaluating the general progress being made to implement P.L. 94-142. Currently, special studies projects are targeted to provide information about specific problems that need to be solved in order that a free appropriate public education can be provided for all handicapped children. Examples of special studies targeted to analyze persistent educational problems include the following areas of research: special education and related services available to populations that have historically been unserved or underserved, such as migrants, Hispanics, and children in correctional facilities; comparability of secondary and vocational programming available to handicapped children; and national efforts to provide a free appropriate public education to preschool handicapped children.

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*For FY 1978 through FY 1981 states were authorized to receive grants up to $300 per child. Authorized figures on chart were derived using the maximum amount in the formula.

In passing this provision, the Congress authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the provisions of section 1418. This authorization was superseded in 1982 and 1983.


**

Deaf-Blind Program

Authorizing Provision: Education of the Handicapped Act, Part C, Section 622; (20 USC 1422).

Purpose: To support state and local efforts in providing special education and related services to children who are both deaf and blind. Because services needed by these children are costly, highly specialized and extensive, and because of their relatively few numbers as well as a scattered geographic distribution, a national effort and cooperation among levels of government is promoted through this program.

Who Receives Funding: State education agencies, institutions of higher education, medical centers, and other public or nonprofit agencies may apply for competitive contracts. Continued federal support is contingent upon demonstration of needs and availability of funds.

Kinds of Activities Supported: There are two components of this program. The Deaf-Blind Center component, begun in 1969, supports 16 single and multistate centers which provide the special education and related services to deaf-blind children. These services may be provided directly by the Centers, or through subcontracts negotiated by the Centers with a variety of state, local, and private organizations. In 1981, about 6,000 deaf-blind children received special education services through this program. The Centers also assist subcontractors with program development, staff training, curriculum development, and other planning.

The demonstration component was begun in 1978 to focus on the unique needs of adolescent deaf-blind children who, as a result of the rubella epidemic of 1965, constitute approximately one-fourth of this population. Models for vocational education and integration into community and family settings are developed under this component.

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Regional Resource Centers

Authorizing Provision: Education of the Handicapped Act, Part C, Sections 621 and 624; (20 USC 1421 and 1424).

Purpose: Regional Resource Centers (RRC's) were created in 1969 to develop and apply the best methods of appraisal and educational programming for handicapped students. With the enactment of P. L. 94-142, the mission of the RRC's was changed to that of helping states and, through them, local education agencies to better comply with the requirements of the Act.

Who Receives Funding: Three-year contracts are awarded on a competitive basis to institutions of higher education, state education agencies, or combinations of these institutions with local education agencies.

Kinds of Activities Supported: Assistance is made available through technical assistance, training, and dissemination of information on a regional basis. For FY 1981 through FY 1983, RRC's will concentrate on the following areas of service delivery: child identification and evaluation, individualized education programs, placement, provision of training services for special populations, and coordination of comprehensive services.

The Direction Service Centers which were begun in 1976 are another component of this program. Through activities such as the identification of all available human services in a given area, matching client needs with existing services, client follow-up, and stimulating interagency cooperation, Direction Service Centers assist handicapped children and their parents to gain access to needed services. Particular emphasis has been placed on providing direction services to special populations, such as culturally diverse and severely handicapped children.

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Early Childhood Education—Handicapped Children's Early Education Program (HCEEP)


Purpose: The purpose of the Handicapped Children's Early Education Program (HCEEP) is to stimulate increased and improved services to young handicapped children (ages birth to 8 years) and their parents. This program, which began in 1969, has emphasized the development, demonstration, and dissemination of high quality models. This program complements the Preschool Incentive program by developing best practices models for preschool programs.

Who Receives Funding: A variety of public agencies and private nonprofit organizations are eligible to apply for HCEEP funds. Last year more than 200 projects were supported.

Kinds of Activities Supported: There are five complementary components of the HCEEP program. Each is designed to reach different groups of very young children and their families in different ways. The different program components include:

(a) demonstration projects to provide locally visible, locally replicable, models of development and demonstration to assist other agencies that elect to replicate successfully developed models; (c) state implementation grants to assist state education agencies build their capacity to plan for the development and expansion of early intervention services for handicapped children; (d) technical assistance to enable demonstration projects and state implementation grant projects to meet their objectives and use their resources most effectively; and (e) early childhood institutes to carry on sustained research in real-world settings instead of small laboratory situations, so that new information on young children, their families, and early intervention can be developed and disseminated.

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Projects for the Severely Handicapped

Authorizing Provision: Education of the Handicapped Act, Part C, Sections 621 and 624; (20 USC 1421, 1424).

Purpose: To assist state and local agencies to better provide education and training to severely handicapped children and youth, many of whom require complex, varied and often times expensive educational services. In general, this group of children include those who are classified as seriously emotionally disturbed, autistic, profoundly and severely mentally retarded, and those with two or more handicapping conditions, such as the mentally retarded blind and the cerebral-palsied deaf.

Who Receives Funding: State departments of special education, intermediate or local educational agencies, institutions of higher education, and other public agencies and nonprofit organizations.

Kinds of Activities Supported: Since 1978 projects have been targeted to specific areas of national need respecting the education of severely handicapped individuals. Some of these needs have included: (a) deinstitutionalization; (b) models to develop educational interventions for autistic children; and (c) projects for the development of system-wide service delivery models for isolated and rural areas, urban areas, and entire states.

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<td>1981</td>
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<td>4,375,000</td>
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<td>1982</td>
<td>55,000,000</td>
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</tr>
<tr>
<td>1983</td>
<td>5,000,000</td>
<td>2,880,000**</td>
</tr>
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</table>

* Funds for Projects for the Severely Handicapped are requested under Part C, Section 621 although the authority to operate projects is derived from Section 624. Authorization for Section 621 were $19 million for 1978 and 1979, $21 million for 1980 and $24 million for 1981.

Media Services and Captioned Films


Purpose: To produce and distribute educational materials for handicapped students, their parents, educators, and employers.

This program began in 1958 when Congress authorized a program to produce and lend captioned films to deaf persons and was later expanded to include media services for all handicapped persons. Presently, the specific purposes of the program are to provide a free loan service of captioned films for the educational advancement of handicapped persons through research, production, adaptation, distribution, and training in educational media and new technologies.

Who Receives Funding: Local educational agencies, institutions of higher education and appropriate public and nonprofit agencies are eligible to receive contracts and grants. 

Kinds of Activities Supported: Program following: (a) Television and Video Services, which make a television program accessible to deaf and hearing impaired persons by developing, adapting, producing, and distributing captioned and other recorded materials. (b) Educational Media Materials Centers and Services, provides a comprehensive program of activities to facilitate the use of new educational technology for the hearing impaired and severely handicapped. Specifically, the centers adapt, develop, evaluate, and disseminate specialized educational media materials and technology for the handicapped. (c) Marketing and Implementation, which began in 1977, supports contracts to help ensure that educational materials and media products are disseminated to handicapped students and their educators. (d) Demonstration and Development funds projects to conduct research in educational media for the handicapped, produce and distribute educational media, and train persons in the use of media for instructional purposes. (e) National Theatre of the Deaf provides support for a company of deaf actors to conduct national tours and perform for a variety of audiences. In addition, the company provides theatre arts instruction to school programs and conducts summer sessions to improve public perception of handicapped persons. (f) Recordings for the Blind supports the recording of textbooks on tape to assist visually handicapped students.

Recent Funding History:

<table>
<thead>
<tr>
<th>Fiscal Year</th>
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<tr>
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<tr>
<td>1983</td>
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</table>

TABLE 4
Recruitment and Information

Authorizing Provision: Education of the Handicapped Act, Part D, Section 633; (20 USC 1433).

Purpose: This program has a dual mission: (a) encouraging careers in the field of special education where there are shortages and (b) promoting greater public awareness of the needs of handicapped children and of the services that are available to them.

Who Receives Funding: Contracts, grants, and awards are made on a competitive basis to public and non-profit organizations and institutions.

Activities Supported: The program (a) supports a national center for preparing and distributing information on national issues, (b) supports a media campaign to direct inquiries to the information center and to educate the public on issues that affect handicapped children, and (c) assists in the development of local parent organizations to help individual parents make a variety of difficult decisions concerning the future of their handicapped child.

Recent Funding History:

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Authorized</th>
<th>Appropriated</th>
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</thead>
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<tr>
<td>1979</td>
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<td>1980</td>
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<tr>
<td>1981</td>
<td>2,500,000</td>
<td>750,000</td>
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<td>1982</td>
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<td>720,000</td>
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<tr>
<td>1983</td>
<td>1,000,000</td>
<td>700,000</td>
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</table>

Innovation and Development


Purpose: Program activities are directed at developing new knowledge, methods and materials to help the Nation's schools fulfill their commitment to handicapped children. Because research and demonstration activities tend to be of national significance, the effort is made to develop mechanisms that will produce the broadest possible diffusion, utilization, and implementation of the products of research and development.

Who Receives Funding: Those eligible for grants and contracts include state and local education agencies, institutions of
higher education, and other public and private agencies. Projects can be funded up to five years and are initially awarded through national competition.

Kinds of Activities Supported: Research has been both field initiated and agency directed. The projects do not have direct service as their primary goal, but rather the design development, and testing of new products, methods, and materials for ultimate use by public and private organizations. Projects can be funded up to five years and are initially awarded through national competition. The program produces and disseminates research reports, instructional products, program models, and innovative practices. Priorities for research and model programs include: research integration; technology utilization research; assessment research; youth employment research; ethnic or racial group handicapped research; non-vocal communication research; school based research; student initiated research; related services demonstration project; secondary age/level demonstration projects; and specific handicapping conditions.

Recent Funding History:

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Authorized</th>
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<td>1981</td>
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<td>1982</td>
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<tr>
<td>1983</td>
<td>$20,000,000</td>
<td>$12,000,000*</td>
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</tbody>
</table>

*For FY 1983 appropriations information acquired in CASE Newsletter Legislative Notes (1984)

Special Education Personnel Development


Purpose: This discretionary program, which began in 1966, provides support to promote an adequate supply of qualified special education and support personnel. Recently, the program has had four major purposes: (a) preparation of fully trained and certified special educators, (b) preparation of support personnel, (c) special education training for regular education teachers, and (d) development of innovative training models.

Who Receives Funding: Institutions of higher education, state and local education agencies, and other nonprofit institutions and agencies may apply for funding. Although the vast majority of grantees are colleges and universities, individuals may receive financial aid indirectly through a recipient institution.

Kinds of Activities Supported: Program activities include: (a) preservice and inservice training opportunities for teachers of mildly, moderately, severely, and multihandicapped children (based on emerging state and local needs, training programs...
have also targeted on preparing special educators for rural and urban areas, as well as special populations, such as bilingual and Indian handicapped children; (b) training for support personnel, such as teacher aides, diagnosticians, and psychologists, noninstructional staff (i.e., counselors, administrators), interdisciplinary personnel, physical education and recreational staff, volunteers, parents, and vocational and career educators; (c) training of regular classroom teachers, administrators and other school personnel as well as the development and dissemination of inservice models and instructional materials; (d) development of instructional models for the preparation of special education; and (e) training of parents of handicapped children through parent coalition projects.

Recent Funding History:

<table>
<thead>
<tr>
<th>Fiscal Year</th>
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</table>

*For FY 1983 appropriations information acquired in CASE Newsletter Legislative Notes (1984), (pp. 84-9)

Congress has enacted and amended federal provisions for special education over the years. The nature, appropriations, and expiration of these programs are in constant flux. Historically, the funding authorization levels for all programs under the Education of All Handicapped Children Act (P.L. 94-142) are detailed in table 2.

Education Amendments of 1978, Gifted and Talented Act of 1978: Public Law 95-561

Legislation authorizing programs for the gifted and talented individual was first mandated through the Special Projects Act of 1974, although the special needs of such children had been recognized prior to this legislation. According to the legislative history on gifted
<table>
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<td>Recruitment and Information</td>
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<tr>
<td>Innovation and Development</td>
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</tr>
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</table>

*In millions of dollars
and talented children, despite this legislation and other activities
to assist gifted children, only 14 percent of gifted children were
actually being served in 1977 (U.S. Code, Congressional Legislative
History 1978, p. 75). Special services for the gifted and talented
are noted by the Congress to be of particular importance due to the
statistics emphasizing that this population has historically gone
unrecognized. The stated findings and purpose of the Gifted and
Talented Act of 1978 (P.L. 95-561) are found in Title IX, Section 901
of said law:

TITLE IX—ADDITIONAL PROGRAMS

PART A—GIFTED AND TALENTED CHILDREN

SHORT TITLE: PURPOSE

Sec. 901. (a) This part may be cited as the "Gifted and
Talented Children's Education Act of 1978".
(b) The Congress hereby finds and declares that—
(1) the Nation's greatest resource for solving critical
national problems in areas of national concern is its
gifted and talented children,
(2) unless the special abilities of gifted and talented
children are developing during their elementary and
secondary school years, their special potentials for
assisting the Nation may be lost, and
(3) gifted and talented children from economically
disadvantaged families and areas often are not afforded
the opportunity to fulfill their special and valuable
potentials, due to inadequate or inappropriate educational
services.
(c) It is the purpose of this part to provide financial
assistance to State and local educational agencies, institu-
tions of higher education, and other public and private
agencies and organizations, to assist such agencies, institu-
tions and organizations to plan, develop, operate, and
improve programs designed to meet the special educational
needs of gifted and talented children.

The purpose of this legislation was to provide federal financial
assistance to the states rather than creating compliance legislation.
The law provides for funds through various grants to the states, but
allows state discretion in using such financial appropriations. The purpose of this legislation also emphasizes the planning and development of programs for the gifted and talented child. Legislative history reports that this law was enacted in order to assist the states in establishing and operating programs for gifted and talented individuals. The future of such programs would be the responsibility of each state independent of federal assistance or support. This perspective on state responsibility is reflected in the repeal of this law in 1981 by the Omnibus Budget Reconciliation Act (P.L. 97-35). The Gifted and Talented Children Act (P.L. 95-561) was repealed by this act as stated in the 20 U.S. Code Section 3311 to 3318:

SUBCHAPTER IX--ADDITIONAL PROGRAMS

PART A--GIFTED AND TALENTED CHILDREN


Sections 3311 to 3318, Pub.L. 89-10, Title IX, §§ 901 to 908 as added Pub.L. 95-561, Title IX, § 802, Nov. 1, 1978, 92 Stat. 2292 to 2296, set forth provisions respecting findings, purpose, appropriations, etc., for gifted and talented children's education programs.

Effective Date of Repeal. Repeal effective Oct. 1, 1982, see section 587(a) of Pub.L. 97-35, set out as section 3863(a) of this title, and notes set out thereunder.

Although the law was repealed, the original funding provisions were established to continue throughout the fiscal year of 1983. These financial entitlements to state education agencies would, according to the legislative history, assist the states in establishing needed programs that would then be continued through state appropriations and support (20 U.S.C. Code 3874):
§ 3874. Availability of appropriations

Notwithstanding any other provision of law, unless expressly in limitation of this section, funds appropriated in any fiscal year to carry out activities under this chapter shall become available for obligation on July 1 of such fiscal year and shall remain available for obligation until the end of the succeeding fiscal year.


Eligibility criteria. The topic of eligibility criteria is delineated by the definition of gifted and talented given with the law (Title IX, Part A, Section 902):

DEFINITION

Sec. 902. For the purposes of this part, the term "gifted and talented children" means children and, whenever applicable, youth, who are identified at the preschool, elementary, or secondary level as possessing demonstrated or potential abilities that give evidence of high performance capability in areas such as intellectual, creative, specific academic, or leadership ability, or in the performing and visual arts, and who by reason thereof, require services or activities not ordinarily provided by the school.

This definition of those who are eligible for the services or programs provided by this law was extensive. Children who are believed to be gifted and talented must be identified as possessing potential abilities. This identification includes testing procedures which are specifically mentioned within this legislation (Title IX, Part A, Section 922):

ACHIEVEMENT TESTING ASSISTANCE

Sec. 922. (a) The Commissioner is authorized, either directly or through grants or contracts awarded to State and local educational agencies and other public agencies, organizations, and institutions, and through contracts with private agencies, organizations, and institutions, to assist State and local educational agencies to develop their capacity to conduct programs of testing the achievement in the basic skills of children in elementary and secondary schools. The activities which may be supported under this section include--
(1) disseminating information to State and local educational agencies on the availability and uses of achievement tests,
(2) training and assistance to administrators, teachers, and other instructional personnel in the use of tests and test results; and
(3) research and evaluation designed to determine improved means of assessing more accurately the achievement of children in basic skills and of diagnosing instructional needs.

(b) Nothing in this section shall authorize the Commissioner to require specific tests or test questions. Any State or local educational agency may refuse to use any test or test question developed under this section.

(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section for fiscal year 1980, and for each of the three succeeding fiscal years.

Specific tests to identify and define a gifted or talented individual are not mandated by this section. However, grants to assist local agencies in researching and using appropriate testing devices are appropriated by this legislative section.

Procedural safeguards. Procedural safeguards have been placed in legislation in order to insure the rights accorded the handicapped under each law are observed by state and local agencies. Procedural safeguards constitute appropriate administrative process procedures that include protection of individual rights and freedoms. Due to the fact that this law provides financial assistance rather than compliance regulations, there were no specific procedures or procedural safeguards contained in the legislation. The purpose of the law was simply to provide assistance to educational organizations to plan, develop, operate, and improve programs for the gifted and talented. State and local educational agencies can complete such activities (within a reasonable scope and sequence) independent of mandated procedures or safeguards delegated the individual.
Services provided. Services provided to gifted and talented individuals and their families are not detailed in this legislation. Due to the fact that this law provides financial assistance rather than specific procedures or mandated programs, services to be provided were not described in the law or its regulations. As previously stated, the purpose of the law was simply to provide assistance to educational organizations to plan, develop, operate, and improve programs for the gifted and talented. State and local educational agencies can provide services to the gifted and talented within the regulations set by grants awarded and (within a reasonable scope and sequence) as they see fit.

Program accountability. Inherent in the purpose of specific legislation are procedures and provisions for compliance within the mandated services to be provided. Due to the fact that there were no mandated services in relation to this law, there were also no procedures described for program accountability.

Financial provisions. The Gifted and Talented Children's Act of 1978 (P.L. 95-561) allowed for financial entitlements to state education agencies to assist them in the planning, development, operation, and improvement of programs designed to meet the educational needs of gifted and talented children. In addition, under this act, the U.S. commissioner is authorized to provide discretionary grants for such activities as the training of personnel engaged in education of gifted and talented children or in the supervision of such personnel, the training of national leadership personnel, model projects, research, demonstration programs, statewide planning activities, and the establishment of a clearinghouse. There are two separate categories of funding
in which the federal government allots authorized appropriations. The program categories are (1) The State Grant Program and (2) The State Allotment Program. In the first, State Grant Program, the federal share of such costs for programs has been designated at the 90 percentum level for any given fiscal year. In the second, State Allotment Program, the federal share of such costs for programs has been designated at the 100 percentum for any given fiscal year (P.L. 95-561, Title IX, Part A, Section 908).

State Programs, as defined by the Gifted and Talented Children's Education Act of 1978 (P.L. 94-561), are delineated in Part A, Section 904:

State Programs

I. State Grant Program

Sec. 904(a) The Commissioner, from the amounts available (e.g., at least 75 percentum of the total sums appropriated . . .) shall make grants to state education agencies (SEA's) for the federal share of the cost of planning, developing, operating, and improving programs designed to meet the educational needs of gifted and talented children at the preschool, elementary and secondary levels. These programs may include inservice training of personnel to teach such children.

Sec. 904(c)(2)(B) The SEA will distribute, or a competitive basis, not less than 90 percentum of such funds to local educational agencies (LEA's) within the state.

State Minimum

Sec. 904(b)(1) No SEA that submits an application which fully meets all the requirements of this section, and is approved by the Commissioner, will receive less than $50,000 in that fiscal year. (If the sums appropriated for making payments under this subsection are not sufficient to pay in full the amount to which each SEA is entitled under the previous sentence, such amounts shall be ratably reduced).
State Application

Sec. 904(2)(c)(1) Each SEA desiring to receive a grant under this section must submit an application with assurances that the funds it receives under this part will be expended solely to plan, develop, operate, and improve programs and projects which—

1. are designed to identify the educational needs of gifted and talented children;

2. are of sufficient size, scope, and quality to hold reasonable promise of making substantial progress toward meeting such needs, and

3. give appropriate consideration to the particular educational needs of disadvantaged gifted and talented children.

Administrative Set-Aside

Sec. 904(c)(2)(A) The SEA can reserve up to 10 percent of the funds it receives under this section for the purpose of administration, technical assistance, coordination, and statewide planning related to programs and projects designed to meet the needs of gifted and talented children.

Disadvantaged

Sec. 904(c)(3) The SEA will use at least 50 percent of the funds made available under this section for programs and projects which include a component for the identification and education of disadvantaged gifted and talented children from low income families.

Instructional Equipment

Sec. 904(c)(4) The SEA and LEA's may use funds made available under this section to acquire instructional equipment only if such equipment will enhance the program or project for which such funds are furnished.

Private School Children

Sec. 904(c)(5)(A) The SEA is to abide by the requirements of Title IV, Section 406 of the Elementary and Secondary Education Act (relating to the participation of pupils and teachers in private elementary and secondary schools) unless it determines that such requirements cannot legally be met in the state.
Technical Assistance

Sec. 904(c)(6) The SEA will provide technical assistance in preparing proposals and in planning, developing, and operating programs under this section to LEA's which are unable to compete due to smaller size, or lack of financial resources.

State Allotment Programs, as defined by this act, are delineated in Part A, Section 905-906:

II. State Allotment Program

Sec. 906(a)(1) In any fiscal year in which appropriations for this part are equal to or exceed $15 million, the Commissioner shall allot, from the amounts available for the state programs, not more than 1 percentum among:

1. Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands;
2. programs for children and teachers in elementary and secondary schools operated for Indian children by the Department of the Interior; and
3. programs authorized for children and teachers in overseas dependent schools of the Department of Defense.

Sec. 906(a)(2) From the remainder of such sums, the Commissioner shall allot to each state which has an application meeting the requirements of the previous section an amount which bears the same ratio to such remainder as the number of children in the state aged 5 to 17 years, inclusive, bears to the number of children in all states, except that no state shall receive less than $50,000 in any such fiscal year.

Discretionary Programs

Sec. 905(a)(1) The Commissioner, from the 25 percentum or $5 million whichever is less, reserved for him, may make
grants to SEA's, LEA's, institutions of higher education, and other public and private agencies and organizations to assist them in establishing or maintaining programs or projects designed to meet the educational needs of gifted and talented children including the training of personnel in educating gifted and talented children or in supervising such personnel.

Sec. 905. Not more than 20 percent of the sums available under this section may be used for grants to institutions of higher education for the training of national leadership personnel.

Inservice

Sec. 905(a)(2). The Commissioner may from these monies, make grants to SEA's to assist them, either directly or through arrangements by the SEA with other institutions, agencies and organizations eligible to receive funds under this part, to provide for the training of personnel engaged in the education of gifted and talented children or in the supervision of such personnel.

Model Projects

Sec. 905(a)(3). The Commissioner is authorized to enter into contracts with, and make grants to, public agencies and private organizations, including SEA's and LEA's, to establish and operate model projects for the identification and education of gifted and talented children.

Clearinghouse

Sec. 905(a)(4). The Commissioner is authorized to make grants to, or enter into contracts with, public agencies, private organizations or institutions which together or singularly constitute a clearinghouse to disseminate information about programs, services, resources, research, methodology, and media materials for the education of gifted and talented children.

Statewide Planning

Sec. 905(a)(5). The Commissioner is authorized to make grants to SEA's to assist them in the statewide planning, development, operation, and improvement of programs and projects designed to meet the educational needs of gifted and talented children.

Research and Demonstration

Sec. 905(a)(6). The Commissioner is authorized to conduct, either directly or by grant or contract, a program of research, evaluation, and related activities pertaining to the education of gifted and talented children, and may transfer to the National Institute of Education not more
than 20 percentum of the funds available to carry out the provisions of this section.

Authorizations for the purpose of carrying out the state grant and state allotment programs are delineated in this act within Part A. Section 903:

Authorization of Appropriations: Apportionment of Appropriations

Sec. 903. (a) For the purpose of carrying out this part there are authorized to be appropriated $25,000,000 for fiscal year 1979, $30,000,000 for fiscal year 1980, $35,000,000 for fiscal year 1981, $40,000,000 for fiscal year 1982, and $50,000,000 for fiscal year 1983.

(b)(1) From the amounts appropriated under subsection (a) for each fiscal year, the Commissioner shall reserve 25 per centum or $5,000,000, whichever is less, for carrying out the provisions of section 905, relating to discretionary programs.

(2) The remainder of the sums appropriated under subsection (a) for each fiscal year shall be available to carry out the provisions of section 904, relating to state programs.

Appropriations for each fiscal year to be used for the purpose of carrying out both state programs were (P.L. 95-561, Part A, Section 903):

<table>
<thead>
<tr>
<th>TABLE 3</th>
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<tr>
<td>FUNDING PROVISIONS IN RELATION TO THE GIFTED AND TALENTED CHILDREN'S ACT OF 1978: PUBLIC LAW 95-561</td>
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<tr>
<td>Fiscal Year</td>
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<td>Gifted and Talented</td>
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*In millions of dollars
Comparison and Contrast of Four Federal Laws in Relation to Five Analysis Categories

The categories as explained and defined in chapter 3 were utilized to analyze the selected federal laws which had an impact upon the education of handicapped individuals. To discover what the law specifically states, the researcher studied and examined the statutes themselves. The legislative history was first reviewed in order to understand the actual intent of each law. The legislative statutes and corresponding codes and regulations were then studied and pertinent sections were categorized for each law and according to each analysis category. Upon completion of the categorization of selected sections of each law, an in-depth analysis of each section was accomplished. The information acquired through this categorization was used to analyze each law in relation to each analysis category. The information acquired through this analysis was used to complete the comparison and contrast of these federal laws by each analysis category. This comparison and contrast as defined and detailed in table form follows.

Eligibility Criteria

Eligibility criteria are established in each law to identify those individuals who would be served under such legislation. Eligibility would be determined by the definition of an individual's handicapping condition or by other criteria derived from mandated procedures to determine the individual's handicap or needs (e.g., gifted and talented). Table 4 illustrates the eligibility criteria established by each of the four laws.
Section 504 Rehabilitation Act of 1973: Public Law 93-112
1. Any individual who has a physical or mental disability which
   (a) constitutes a handicap to employment
   (b) limits one or more major life activity
2. Any individual who has a record of or is regarded as having an
   impairment.

Developmentally Disabled Assistance and Bill of Rights Act of 1973:
Public Law 94-103
1. Any individual who has a severe and chronic disability which
   (a) is attributable to a mental or physical impairment or
      combination of mental and physical impairments
   (b) is manifested before the person attains the age twenty-two
   (c) is likely to continue indefinitely
   (d) results in substantial functional limitations in three or
      more of the following areas of major life activity: self-
      care, receptive and expressive language, learning, mobility,
      self-direction, capacity for independent living, and economic
      sufficiency; and
   (c) reflects the person's need for a combination and sequence of
      special interdisciplinary, or generic care, treatment, or
      other services which are of lifelong or extended duration
      and are individually planned and coordinated.

Education for All Handicapped Children Act of 1975: Public Law
94-142
1. Any individual who is identified from the age of three to
   twenty-one which
   (a) demonstrates a handicapping condition
   (b) handicapping meaning, mentally retarded, visually impaired,
      seriously emotionally disturbed, orthopedically impaired,
      or other health impaired children, or children with specific
      learning ...whilities
   (c) require special education and related services

Gifted and Talented Children's Education Act of 1978: Public Law
95-561
1. Any individual who is identified at the preschool, elementary, or
   secondary level which
   (a) demonstrates or has potential abilities that give high
      performances responsibilities in various areas
   (b) requires services or activities not ordinarily provided by
      the school

TABLE 4
ANALYSIS OF FOUR MAJOR FEDERAL LAWS IN RELATION
TO ELIGIBILITY CRITERIA
Procedural Safeguards

Procedural safeguards are detailed in each law in order to assure that the individual rights and freedoms of handicapped individuals are protected. Specific restrictions are placed on state and local education agencies to guard against arbitrariness, discrimination, and other potential abuses of authority. Table 5 illustrates the mandated procedural safeguards established by each of the four laws.

Services Provided

Services provided to the handicapped individuals and their families are extensive in relation to these selected laws. Educational and related services are provided for under each law with few services being exclusive of services provided in other enacted legislation. Table 6 illustrates the mandated services to be provided in relation to each of the four laws.

Program Accountability

Program accountability is specifically cited in relation to the selected laws. States receiving financial assistance for the services or programs afforded the handicapped individual must provide satisfactory assurances of compliance with all mandates that relate to such programs and services. Table 7 illustrates the mandated program accountability of the four laws.

Funding Provisions

Federal funding provisions are authorized in relation to the selected laws in order to assist states in complying with the requirements of these laws. Financial authorization levels differ in each law, however. Federally funded program categories do overlap in some instances.
TABLE 5
ANALYSIS OF FOUR MAJOR FEDERAL LAWS IN RELATION TO PROCEDURAL SAFEGUARDS

<table>
<thead>
<tr>
<th>Public Law</th>
<th>93-112</th>
<th>94-103</th>
<th>94-142</th>
<th>95-561*</th>
</tr>
</thead>
<tbody>
<tr>
<td>No residence requirements</td>
<td>x</td>
<td>x</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Information on all benefits available</td>
<td>x</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>No discouragement from receiving benefits</td>
<td>x</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Records stating why applicant was determined ineligible</td>
<td>x</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hearing examiners, professionals, and clerical personnel to protect the rights of the handicapped</td>
<td>x</td>
<td></td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Nondiscrimination—Section 504</td>
<td>x</td>
<td></td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Confidentiality of records</td>
<td>x</td>
<td></td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Access to all records</td>
<td>x</td>
<td></td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Parental consent for participation in program</td>
<td>x</td>
<td></td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Priority to most severely handicapped</td>
<td>x</td>
<td></td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Prior notice to parents on any change in program</td>
<td>x</td>
<td></td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Participation of parent and/or handicapped person in planning and implementing program</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>Impartial due process hearings</td>
<td>x</td>
<td></td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Independent educational evaluation</td>
<td>x</td>
<td></td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Appointment of a surrogate parent</td>
<td>x</td>
<td></td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Establishment of advocacy programs</td>
<td>x</td>
<td></td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Services to enable least restrictive alternative program participation</td>
<td>x</td>
<td></td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Use of nondiscriminatory assessment materials</td>
<td>x</td>
<td></td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Elimination of inappropriate institutionalization</td>
<td>x</td>
<td></td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Coordination of services provided</td>
<td>x</td>
<td></td>
<td></td>
<td>x</td>
</tr>
</tbody>
</table>

*P.L. 95-561: Statute does not contain procedural safeguards.
## Table 6

Analysis of Four Major Federal Laws in Relation to Services Provided

<table>
<thead>
<tr>
<th>Services Provided</th>
<th>Public Law</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>93-112</td>
</tr>
<tr>
<td>Diagnostic evaluation</td>
<td>x</td>
</tr>
<tr>
<td>Medical and psychological</td>
<td>x</td>
</tr>
<tr>
<td>Counseling</td>
<td>x</td>
</tr>
<tr>
<td>Guidance and placement</td>
<td>x</td>
</tr>
<tr>
<td>Follow-up and follow-along</td>
<td>x</td>
</tr>
<tr>
<td>Family counseling and training</td>
<td></td>
</tr>
<tr>
<td>School social work services</td>
<td>x</td>
</tr>
<tr>
<td>Education and training</td>
<td>x</td>
</tr>
<tr>
<td>Vocational training</td>
<td>x</td>
</tr>
<tr>
<td>Education</td>
<td>x</td>
</tr>
<tr>
<td>Personal care</td>
<td>x</td>
</tr>
<tr>
<td>Recreation</td>
<td>x</td>
</tr>
<tr>
<td>Transportation</td>
<td>x</td>
</tr>
<tr>
<td>Living arrangements</td>
<td>x</td>
</tr>
<tr>
<td>Day care</td>
<td>x</td>
</tr>
<tr>
<td>Domiciliary care</td>
<td>x</td>
</tr>
<tr>
<td>Special living arrangements</td>
<td>x</td>
</tr>
<tr>
<td>Institutional care</td>
<td>x</td>
</tr>
<tr>
<td>De-institutionalization</td>
<td>x</td>
</tr>
<tr>
<td>Advocacy</td>
<td>x</td>
</tr>
<tr>
<td>Self or parent involvement in programming</td>
<td>x</td>
</tr>
<tr>
<td>Sheltered employment</td>
<td>x</td>
</tr>
<tr>
<td>Coordination with other agencies</td>
<td>x</td>
</tr>
<tr>
<td>Aids. and devices (telecommunications)</td>
<td>x</td>
</tr>
<tr>
<td>School health services</td>
<td>x</td>
</tr>
<tr>
<td>Corrective surgery</td>
<td>x</td>
</tr>
<tr>
<td>Therapeutic treatment</td>
<td>x</td>
</tr>
<tr>
<td>Hospitalization costs for treatment</td>
<td>x</td>
</tr>
<tr>
<td>Maintenance during treatment</td>
<td>x</td>
</tr>
<tr>
<td>Recruitment</td>
<td>x</td>
</tr>
<tr>
<td>Licenses, tools, initial supplies</td>
<td>x</td>
</tr>
<tr>
<td>Individualized written programs</td>
<td>x</td>
</tr>
</tbody>
</table>

*P.L. 95-561: Statute does not contain services provided
<table>
<thead>
<tr>
<th>Individualized Program Requirements</th>
<th>93-112</th>
<th>94-101</th>
<th>94-142</th>
<th>95-361*</th>
</tr>
</thead>
<tbody>
<tr>
<td>It must be written ..................</td>
<td>x</td>
<td>x</td>
<td></td>
<td></td>
</tr>
<tr>
<td>It must be developed by:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Agency representative or</td>
<td></td>
<td>x</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>coordinator .......................</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Handicapped person and/or the</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>parent or guardian ................</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Program coordinator ...............</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>It must be reviewed annually by</td>
<td>x</td>
<td>x</td>
<td></td>
<td></td>
</tr>
<tr>
<td>the persons who developed it ......</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>It must be redeveloped by the</td>
<td>x</td>
<td>x</td>
<td></td>
<td></td>
</tr>
<tr>
<td>persons who developed it ..........</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>It cannot be changed without the</td>
<td>x</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>consent of the persons who .......</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>developed it .....................</td>
<td>x</td>
<td>x</td>
<td></td>
<td></td>
</tr>
<tr>
<td>It must specify what services will</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>be provided, when the services</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>will be initiated, and the</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>duration of the services ..........</td>
<td>x</td>
<td>x</td>
<td></td>
<td></td>
</tr>
<tr>
<td>It must specify the parties .......</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>responsible for implementing the</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>plan ..............................</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>It must state specific long term</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>goals and intermediate</td>
<td></td>
<td>x</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>objectives ........................</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>It must state objective criteria</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>and evaluation procedures ......</td>
<td>x</td>
<td>x</td>
<td></td>
<td></td>
</tr>
<tr>
<td>It must state the present level</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>of functioning  ....................</td>
<td>x</td>
<td></td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>It must state the extent of</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>participation in regular programs</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Assurance Forms</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>It must be written ................</td>
<td>x</td>
<td>x</td>
<td></td>
<td></td>
</tr>
<tr>
<td>It must include:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Covenant of property ................</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Record of programs ................</td>
<td>x</td>
<td>x</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Participation .....................</td>
<td>x</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Services furnished ................</td>
<td>x</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Facilities used ...................</td>
<td>x</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Protection standards .............</td>
<td>x</td>
<td>x</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Timetable for goals ..............</td>
<td>x</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Personnel ........................</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Policies and procedures ..........</td>
<td>x</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>designated to assure compliance</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Control mechanisms for funds ......</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Evaluation procedures and</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>standards ........................</td>
<td>x</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*P.L. 95-361: Statute does not contain program accountability.
Each category has specific funding levels (see tables 1, 2, 3). Table 8 illustrates the funding provisions in relation to each of the four laws.

**TABLE 8**
ANALYSIS OF FOUR MAJOR FEDERAL LAWS IN RELATION TO FUNDING PROVISIONS

<table>
<thead>
<tr>
<th>Funding Provisions</th>
<th>Public Law</th>
<th>93-112*</th>
<th>94-103</th>
<th>94-142</th>
<th>95-561</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grants to States</td>
<td>x</td>
<td>x</td>
<td></td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>University affiliated facilities</td>
<td>x</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Special projects or studies</td>
<td>x</td>
<td>x</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Protection and advocacy systems</td>
<td>x</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Regional vocational adult and postsecondary</td>
<td></td>
<td>x</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Preschool incentives</td>
<td></td>
<td>x</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Deaf-blind programs</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Regional resource centers</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Early childhood education</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Projects for the severely handicapped</td>
<td></td>
<td>x</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Instructional equipment and media services and captioned films</td>
<td></td>
<td>x</td>
<td>x</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Recruitment and information</td>
<td></td>
<td>x</td>
<td>x</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Innovation and development</td>
<td></td>
<td>x</td>
<td>x</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Special education</td>
<td></td>
<td>x</td>
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<td></td>
</tr>
<tr>
<td>Personnel development</td>
<td>x</td>
<td></td>
<td></td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Research and evaluation</td>
<td>x</td>
<td></td>
<td></td>
<td>x</td>
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<tr>
<td>Administrative costs</td>
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<td>x</td>
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<tr>
<td>Technical assistance</td>
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<td></td>
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<tr>
<td>Model projects</td>
<td>x</td>
<td></td>
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<tr>
<td>Case management services</td>
<td>x</td>
<td></td>
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<td></td>
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<tr>
<td>Child development services</td>
<td>x</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Alternative community living</td>
<td>x</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Social development services</td>
<td>x</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*P.L. 93-112: Statute does not contain funding provisions
This comparison and contrast of each law in relation to each analysis category illustrates both the inclusive and exclusive components of each law. The four laws are comprehensive when examined concurrently but restrictive when examined individually. It is crucial for educators to understand the implications of this legislative comparison and contrast. A summary of the interdependencies and differences illustrated by this comparison and contrast can be found in chapter 5. This summary is followed by a conclusion that includes an examination of the broad perspective and implications of the information in relation to the education of handicapped individuals.
CHAPTER V

SUMMARY, CONCLUSIONS, AND RECOMMENDATIONS

The primary purpose of this study was to provide an effective foundation of information which handicapped persons, their families, and concerned professionals could use as advocates for special education. The information acquired should also be the basis upon which communication, understanding, and implementation of special education is attempted with respect to the law. A cursory examination of the past 100 years of governmental intervention in special education quickly confirms that the intent of legislation has been to alter the organization, governance, personnel, programs, planning, functions, and financial structures of education for the handicapped individual. Federal intervention in all education has frequently been a strategy for social or socioeconomic change. Intervention in educating the handicapped has been slow to evolve but now has become a select concern for federal administrators. With this concern follows a deluge of laws and a maze of codes and regulations to operationalize this federal intervention. These laws have a direct impact upon the lives of handicapped individuals and upon the structure of public school programs. Social change is still an implicit purpose in present legislation but learning, improved educational services, and the guarantee of individual rights and freedoms have come to the forefront. The constitutional rights of all individuals in this country
have been clarified and set forth over the years in many legislative enactments. Through these laws clarification of legal guidelines has been established to extend and protect educational and personal rights of the handicapped. Current legislation has specified these protections and rights. Four such federal laws were categorized and analyzed in chapter 4. Each law was analyzed according to provisions specifying eligibility criteria, procedural safeguards, services provided, program accountability, and funding provisions. Wherever amendments were enacted, the laws were analyzed according to the most recent amendments. A summary of this analysis follows.

Summary of Analysis

Upon completion of the categorization of each law, the analysis of the federal laws by each analysis category, and a comparison and contrast of each law in relation to each analysis category, the researcher completed a summary of the information. The comparison and contrast tables (see tables 4-8) were examined to establish the interdependencies and differences of each law by each analysis category. This summarization of four significant pieces of legislation, as analyzed in chapter 4, follows.

Eligibility Criteria

Eligibility criteria are set by law to define and restrict access to services available in correlation to the specific handicapping condition delineated in each law. Eligibility may be determined by the definition of an individual’s handicapping condition or by other criteria derived from set procedures for determining individual needs. Each law
establishes a specific type of individual who can be serviced. Inter-
dependencies and differences were found to be as follows:

1. All laws stated time and/or age as a criterion

2. Three laws stated physical or mental disabilities
   (P.L. 94-112, P.L. 94-103, P.L. 94-142)

3. Three laws stated limiting or life activities
   (P.L. 94-112, P.L. 94-103, P.L. 94-142)

4. Three laws stated requirements for specific services, activities, and/or programs
   (P.L. 94-112, P.L. 94-103, P.L. 95-561)

5. Two laws stated demonstrated abilities and inabilities in various areas
   (P.L. 94-112, P.L. 94-103, P.L. 95-361)

6. One law stated the longevity of the handicapping condition
   (P.L. 94-103)

Individuals eligible for services, as defined by these federal
laws comprehensively can be stated as follows: Any individual who is
physically or mentally disabled and/or has potential abilities who is
identified from the age of three to twenty-two.

Procedural safeguards

Procedural safeguards have been placed in legislation in order to
insure that the rights accorded the handicapped under each law are ob-
served by state and local agencies. No single procedure is used as the
sole criterion for determining that a child's educational rights are being
met. Mandated safeguards related to the protection of basic human rights of
the handicapped are specified in only three of the selected federal laws.
The Gifted and Talented Act of 1978 (P.L. 95-561) does not contain
mandates in relation to procedural safeguards. Each of the other three
laws do delineate procedural safeguards. Interdependencies and differences were found to be as follows:

1. All three laws stated:
   a. No residence requirements
   b. Participation of the individual and/or family in planning and implementing program
   c. Establishment of advocacy groups
   d. Least restrictive environment
   e. Elimination of inappropriate institutionalization

2. Two laws stated identical safeguards with the exception of these items (P.L. 93-112, P.L. 94-142):
   a. Information on benefits
   b. No discouragement from benefits
   c. Records stating why applicant ineligible
   d. Nondiscrimination
   e. Coordination of services

3. One law stated the least safeguards and each safeguard was established by one of the other federal laws (P.L. 94-103)

Procedural safeguards as defined by the selected federal laws were most comprehensively established in Section 504 of the Rehabilitation Act of 1973 (P.L. 93-112). The definition of eligibility under this legislation is also comprehensive. Any individual who is physically or mentally disabled has the individual right to nondiscrimination and procedures to secure one's individual freedoms. These rights and freedoms include complete procedural safeguards.
Services Provided

Services provided to the handicapped individual and his/her family are delineated in three of the four selected federal laws. The Gifted and Talented Act of 1978 (P.L. 95-561) does not contain mandates in relation to services provided. Each of the other three laws does delineate services provided. These federal laws have provided a legal framework which can guide public school systems in the delivery of full services to the handicapped. Interdependencies and differences were found to be as follows.

1. All three laws stated services that were inclusive when examined in relation to another:
   a. Sixteen exact services were established in three laws
   b. Eight exact services were established in two of the three laws

2. Each law stated services that were exclusive in relation to the other laws:
   a. Family counseling and training (P.L. 94-142)
   b. Living arrangements: Day care domiciliary care (P.L. 94-103)
   c. School health services (P.L. 94-142)
   d. Corrective surgery (P.L. 93-112)
   e. Hospitalization cost for treatment (P.L. 93-112)
   f. Maintenance during treatment (P.L. 93-112)
   g. Licenses, tools, initial supplies (P.L. 91-112)

Services provided as defined by the selected laws were most comprehensively established in the Developmentally Disabled Assistance and Bill of
Rights Act of 1975 (P.L. 94-103). This law specified twenty related services to be provided. The Developmentally Disabled Section 504 of the Rehabilitation Act of 1973 (P.L. 93-112) specified twenty-four related services for handicapped individuals. Last, the Education of All Handicapped Children Act of 1975 (P.L. 94-142) specified twenty related services for handicapped children. The services provided by this law (P.L. 94-142) pertain most specifically to school programs and special education. Exclusive features were family counseling and school health services. Exclusive features in the Developmentally Disabled Act (P.L. 94-103) were specifically related to living arrangements which could have little to do with special education. Exclusive features of the Rehabilitative Act (P.L. 93-112) were specifically related to hospitalization and hospital treatment which could also have little to do with special education. With emphasis on this information the Education of All Handicapped Children Act (P.L. 94-142) could then be stated as the law which most comprehensively established educational services to be provided to handicapped.

Program Accountability

Program accountability involves the federal mandates for appropriate programs for handicapped children. The type of services to be provided must relate to the specific child's handicap. These services and programs are the responsibility of the recipient of financial assistance from the federal government. States receiving financial assistance for services or programs afforded the handicapped individual must provide satisfactory assurances of compliance with mandates specified by federal law, codes, and regulations. Program accountabilities are described in three of the four selected federal
The Gifted and Talented Act of 1978 (P.L. 95-561) does not contain mandates in relation to program accountability. Each of the other three laws does delineate program accountability. These federal laws have provided a legal framework which guides the public school system in establishing appropriate programs for handicapped children. Interdependencies and differences were as follows:

1. All three laws stated an individual written program:
   a. Two laws specified identical individual program requirements (P.L. 95-112, P.L. 94-142)
   b. One law specified two additional requirements (P.L. 94-103):
      1) Program developed by a coordinator
      2) Specified parties responsible for implementing plan
   c. One law did not include two stated requirements that the other two laws included (P.L. 94-103):
      1) Statement of present level of functioning
      2) Statement of extent of participation in regular programs

2. All three laws stated assurance forms that must be written:
   a. Two laws specified the same type of assurance components with one exception of covenant of property (P.L. 95-112, P.L. 94-103)
   b. One law specified more assurance components in relation to the other two laws (P.L. 94-142):
      1) Timetable
      2) Personnel
3) Policies and procedures
4) Control mechanisms
5) Evaluation procedures

Program accountability, as defined by the selected laws, was most comprehensively established in the Education for All Handicapped Children's Act of 1975 (P.L. 94-142). A thorough and complete delineation of program requirements and assurances in relation to the requirements was established in this law. Section 504 of the Rehabilitation Act (P.L. 91-112) established matched individual program requirements but did not specify as comprehensive assurance formats. The Developmentally Disabled Assistance and Bill of Rights Act (P.L. 94-163) also matched these program requirements with the exclusion of two program requirements and few specified assurance formats. This law did establish two program requirements that were not established in the Education of All Handicapped Children's Act (P.L. 94-142) in relation to the specific persons/parties who will develop and implement the planned program.

Funding Provisions

Funding provisions have been established by the federal government to support and stimulate the development of programs for handicapped individuals pursuant to specified legislation. The purpose of funding is generally to enable handicapped individuals to receive free and appropriate education and related services. Federal funding provisions are specified in three of the four selected federal laws. Section 504 of the Rehabilitation Act of 1973 (P.L. 91-112) does not contain funding provisions to assist states in compliance. Each of the other selected laws does delineate funding provisions as established by grants for
programs. These federal laws have provided a financial basis upon which states can develop, plan, staff, and implement programs for the handicapped. The interdependencies and differences were found to be as follows:

1. All three laws stated funding provisions in the program areas of:
   a. Special projects or studies

2. Two of the laws stated funding provisions in the corresponding program areas (P.L. 94-101, P.L. 95-661):
   a. University-affiliated facilities
   b. Personnel development
   c. Research and evaluation

3. Two of the laws stated funding provisions in the corresponding program areas (P.L. 94-142, P.L. 95-661):
   a. Instructional equipment and media services
   b. Recruitment and information
   c. Innovation and development

Funding provisions as defined by the selected laws were very exclusive. Each law specified related programs to be funded that often were not specified programs to be funded in another law. Each law had approximately the same number of programs to be funded. The Developmentally Disabled Assistance and Bill of Rights Act of 1975 (P.L. 94-101) had nine programs funded. The Education for All Handicapped Children's Act of 1975 (P.L. 94-142) had twelve programs funded. And, lastly, the Gifted and Talented Children's Act of 1978 (P.L. 95-561) had ten programs funded in relation to special education. The funding provisions are comprehensive. Projects, studies, services, research,
evaluation, personnel development, and other activities are federally funded in order to assist the states in better providing a free appropriate education and related services to the handicapped individuals of our nation.

Conclusions

The researcher conducted an examination of the legislative history of the analyzed federal laws in order to better understand the purpose and intent of these laws. The purpose of education has been purported to be the transmission of American culture and the preparation of children to enter and perpetuate the American social system. The analyzed federal laws seemingly perpetuate this general education purpose in relation to special education. The goals of special education clearly seem to be the preparation of gifted children to assume leadership roles in the social structure and the preparation of handicapped children to be active United States citizens. Federal legislation has attempted to mandate an appropriate education, elimination of discrimination, and the provision of related programs and services to handicapped individuals and their families in an effort to assure that this is a nation of effective citizens. However, special education cannot meet the goal of total equality or assure public policy or public attitude toward the handicapped. There are also limitations on local human and financial resources that impede special education's purported purpose. Even with such limitations the education of all exceptional and handicapped children has progressed steadily due to both litigation and legislation.

The legislation analyzed reaffirmed the specific rights to life, liberty, and equality of opportunity for all handicapped individuals.
Federal intervention has provided the impetus for change in special education. The federal laws analyzed were part of the legislation that can be linked to changes in the actual operation of schools and rights afforded students in special education. Thus, the analyzed legislation has implications for state and local school operations, programs, and standards. The findings from the study of this legislation permit the following conclusions and related implications.

Eligibility Criteria

Section 504 of the Rehabilitation Act of 1973 (P.L. 93-112) was found to have the most comprehensive eligibility criteria for any individual with a physical or mental impairment. As this criteria relates to the eligibility to a free appropriate education, the age limitation corresponds to the criteria set by the Education for All Handicapped Children Act (P.L. 94-142). Implications in relation to these criteria are twofold. First, within all laws educational services are no longer mandated after twenty-one to twenty-two. This appears to limit services and opportunities for a more severely handicapped population that may need lifelong learning experiences. The second implication in relation to the eligibility criteria found in each law relates to the type of definition of handicapping conditions and the accompanying need for services due to the definition. The definition of the handicapped in each law can be viewed as categorical or functional. In categorical definitions the individual's disability is defined solely on the diagnosis or nature of his/her disabling condition. In functional definitions the individual's disability is defined solely on the individual's functional limitations and need for services.
Funding provisions are established in relation to the labeling and categorizing of the handicapped. This labeling of individual children has been of great concern to special educators. Many researchers have indicated the need for revision in requiring labeling so that specified children do not need to be officially identified and categorized by some type of diagnostic label in order to receive supplementary assistance. A functional definition of individuals and their abilities would alleviate this eligibility problem.

Procedural Safeguards

Section 504 of the Rehabilitation Act of 1973 (P.L. 93-112) was found to have the most comprehensive procedural safeguards. This law specified nondiscrimination in a wide range of national activities including employment, transportation, and education. However, when dealing with procedural safeguards Section 504 (P.L. 93-112) and the Education for All Handicapped Children Act (P.L. 94-142) must be read together. All procedural safeguards such as notices and hearings are provided for under P.L. 94-142 and are correspondingly noted as being mandated by Section 504. The important implication of this comprehensive safeguarding legislation is then found in its relationship to the Education for All Handicapped Children Act (P.L. 94-142). A situation may arise where a handicapped person may not require special education and related services but could receive education and the protection of individual rights in some alternative environment. This individual may not be covered by the protections of P.L. 94-142 but could well be covered by the protections of Section 504. This distinct interrelation of the two laws is important and helpful for handicapped persons wishing to participate in all aspects of federally funded education.
programs. Thus, both laws must be examined carefully to see if the procedural safeguards not covered by one law may be obtained from the other.

Services Provided

The Education for All Handicapped Children Act of 1975 (P.L. 94-142) was found to have the most comprehensive educational services and related services for the handicapped individual. This law in relation to the other three federal laws analyzed mandates a free and appropriate education for all handicapped children. The word "all" includes the individuals who would be provided services in the other three federal laws analyzed. The Education for All Handicapped Children Act (P.L. 94-142) establishes not only the services to be provided but also service priorities in relation to the education of the handicapped. The implications of these services as provided by these laws are twofold. First, the specified service mandates reallocate the status of the individuals involved in the educational process. Power is now given to the parent and the child with educators and administrators required to comply with their needs and desires. The second implication relates to the procedures, policies, and planning necessitated by the mandated services. These methods of service compliance are the responsibility of the state and local governments and educational agencies. The laws in relation to services provided have necessitated change in existing institutions of society.

Program Accountability

The Education for All Handicapped Children Act of 1975 (P.L. 94-142) was found to have the most comprehensive program accountability
measures. All three laws analyzed (P.L. 93-112, P.L. 94-103, P.L. 94-142) in this category mandated individual written program plans. All three laws analyzed (P.L. 93-112, P.L. 94-103, P.L. 94-142) also mandated written assurances of programs for the handicapped individual. Implications in relation to program accountability involve the burden such plans and assurances place on educational agencies and educational personnel. In response to these federal laws a rapid issuance of agency rules and regulations of many sorts has occurred. The anticipated benefits for the handicapped individual seem shadowed by the agency guidelines, administrative regulations, application procedures, form-filling demands, evaluation requirements, and other program accountability prescriptions. It is questionable if these procedures increase optimal services or programs for the handicapped. The result of these program accountability measures may be administrative and personnel apathy and alienation among those who are expected to follow them.

Funding Provisions

The Education for All Handicapped Children Act of 1975 (P.L. 94-142) was found to have the most comprehensive funding provisions. All of the three federal laws analyzed in relation to funding provisions (P.L. 93-112, P.L. 94-106, P.L. 94-142) had specific programs which through state grants and contracts can be funded through federal appropriations. Special projects, research, evaluation, and innovation were just a few of the funded programs that had provisions in more than one of the laws. It is important to note that in all funding provisions funds are used by the states for the excess costs of special education and related services to insure that the states spend at least as much of their own money per handicapped child as they spend
per nonhandicapped child. The implications of funding practices for the education of handicapped individuals are conclusive as stated in the law. Handicapped children must be educated at public expense and at no cost to the parent even though appropriate education for every child regardless of the cost may not seem fair or reasonable to some public officials and citizens.

Most importantly, a broad conclusion can be drawn from the examination of this analysis of federal laws. There are more similarities than differences in the analyzed laws and there do not appear to be any conflicting mandates. The findings lead to several specific recommendations.

**Recommendations**

Educators do need to understand the origins of the present laws and what impact these laws have on programming for handicapped individuals. The knowledge of where they have been, where they are, and where they are going is necessary for progressive special education programming. The researcher's study of four federal laws which have had an impact upon the education of the handicapped identified many interdependencies as well as a number of differences among the special education laws. This broad perspective should assist educators in better understanding the impact these laws have on the educational services developed for handicapped individuals. Several recommendations result from this study.

1. New legislation or legislative amendments should be introduced to the Congress that would require all definitions of handicapping conditions to be based on functional limitations. Funding programs could then be based on the needs of the handicapped individual
rather than on the categorization of identified deviances or abilities. This would assist in the improvement of defining eligibility criteria.

2. State and local educational administrators should employ the information presented in this study to comply with all legal mandates and provide appropriate services and programs for handicapped individuals.

3. State and local educational administrators should study the interdependencies in federal laws for the handicapped. There are more similarities than differences in the analyzed laws and there do not appear any conflicting mandates. Using the laws in relation to one another should increase the likelihood of the most appropriate educational services and related programs being offered the handicapped child and his/her parent.

4. State and local educational administrators should accept the responsibility for acquiring the specific mandates of each federal law in relation to public special education. These administrators should assist their state and local districts in writing simple and usable compliance policies and procedures. Program accountability can be systematically improved by preparing and disseminating simple policies and procedures.

5. State and local agencies should secure comprehensive information from the U.S. Department of Education, Office of Special Education and Rehabilitative Services, Special Education Programs on what grants and contracts are available to support special education and related services for handicapped individuals. These agencies should accept the responsibility for providing educators with this information and assisting these educators in the preparation of such grants and contracts. Inservice classes could be offered to teach
educators the methods of successful grant writing.

6. Public school administrators should arrange for opportunities for practicing educators to learn more about handicapped individuals and their corresponding educational concerns. Public school professional staff would then understand that special education is no threat to social order. Special education is the nation's legislative body putting our beliefs and values to work by conceptualizing them into law. Special education has the purpose of perpetuating effective citizenship and the American social system.

7. State and local education agencies and personnel should investigate the limitations in legislation. Statutes control only specific and narrow aspects of the special education system. The philosophies, beliefs, policies, and procedures of each school system guide the improvement and progress of education for all handicapped individuals. College programs which prepare educators for various kinds of educational careers should include information on understanding and using legislation. It is particularly important that these educators make a commitment to the improvement of current policies and practices in relation to special education.
### TABLE 9

**CHRONOLOGICAL OVERVIEW OF FEDERAL LAWS FOR THE HANDICAPPED**

<table>
<thead>
<tr>
<th>Title</th>
<th>Date of Enactment</th>
<th>P.L. No.</th>
<th>Title</th>
<th>Section</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>An Act to provide for the location of the two townships of land reserved for a seminary of learning in the territory of Florida, and to complete the location of the grant to the Deaf and Dumb Asylum of Kentucky</td>
<td>1/29/1827</td>
<td>19-8</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>An Act to extend the time for selling the lands granted to the Kentucky Asylum for teaching the deaf and dumb</td>
<td>2/16/1847</td>
<td>29-11</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>An Act to establish in the District of Columbia a Government Hospital for the insane</td>
<td>3/3/1855</td>
<td>33-4</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>An Act to establish the Columbia Institute for the Deaf and Dumb</td>
<td>2/16/1857</td>
<td>34-5</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>An Act to incorporate the Columbia Institution for the Instruction of the Deaf and Dumb and the Blind</td>
<td>2/16/1857</td>
<td>34-46</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>An Act to amend the &quot;Act to incorporate the Columbia Institution for the Instruction of the Deaf and the Dumb and the Blind&quot;</td>
<td>5/29/1858</td>
<td>35-59</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>Title</td>
<td>Date of Enactment</td>
<td>P.L. No.</td>
<td>Title*</td>
<td>Section</td>
<td>Status**</td>
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<tr>
<td>An Act making appropriations for sundry civil expenses of the governm...</td>
<td>6/12/1858</td>
<td>35-154</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>An Act to authorize the Columbia institution for the Deaf and Dumb and...</td>
<td>4/8/1864</td>
<td>38-52</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>An Act making appropriations for sundry civil expenses of the governm...</td>
<td>7/2/1864</td>
<td>38-210</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>An Act to amend an Act entitled &quot;An Act to incorporate the Columbia ...</td>
<td>2/23/1865</td>
<td>38-50</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>An Act making appropriations for sundry civil expenses of the governm...</td>
<td>3/2/1867</td>
<td>39-167</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>An Act to amend existing laws relating to Internal Revenue and for other...</td>
<td>3/2/1867</td>
<td>39-169</td>
<td>None</td>
<td>None</td>
<td>I.R.C. '39</td>
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<tr>
<td>Title</td>
<td>Date of Enactment</td>
<td>P.L. No.</td>
<td>Title*</td>
<td>Section</td>
<td>Status**</td>
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<tr>
<td>An Act to promote the education of the blind</td>
<td>3/3/1879</td>
<td>45-186</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>An Act regulating postage on letters written by the blind</td>
<td>7/7/1898</td>
<td>55-HR404</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>An Act to promote the circulation of reading matter among the blind</td>
<td>5/27/1904</td>
<td>55-171</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>An Act making appropriations for the services of the Post Office Department for the fiscal year ending June 3, 1913, and for other purposes</td>
<td>8/24/12</td>
<td>62-336</td>
<td>39</td>
<td>5</td>
<td>Rev.T.</td>
</tr>
<tr>
<td>Vocational Rehabilitation Act (for discharged military personnel)</td>
<td>6/27/18</td>
<td>65-178</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>Title</td>
<td>Date of Enactment</td>
<td>P.L. No.</td>
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<tr>
<td>An Act to provide for promotion of vocational rehabilitation of persons disabled in industry or otherwise and their return to civil employment</td>
<td>6/2/20</td>
<td>66-236</td>
<td>29</td>
<td>31 et.seq.</td>
<td>Rep.</td>
</tr>
<tr>
<td>An Act to establish a Veterans' Bureau and to improve the facilities and services of such bureau and further to amend and modify the War Risk Insurance Act</td>
<td>8/9/21</td>
<td>67-47</td>
<td>34</td>
<td>536</td>
<td>Rev.T.</td>
</tr>
<tr>
<td>An Act amending Subdivision 5 of Section 302 of the War Risk Insurance Act</td>
<td>12/18/22</td>
<td>67-370</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>An Act to authorize an appropriation to enable the Director of the United States Veterans Bureau to provide additional hospital facilities</td>
<td>4/5/24</td>
<td>68-197</td>
<td>5</td>
<td>740</td>
<td>Re.T.</td>
</tr>
</tbody>
</table>
TABLE 9--Continued

<table>
<thead>
<tr>
<th>Title</th>
<th>Date of Enactment</th>
<th>P.L. No.</th>
<th>Title*</th>
<th>Section</th>
<th>Status**</th>
</tr>
</thead>
<tbody>
<tr>
<td>An Act to amend sections 1, 3, and 6 of an act entitled, &quot;An Act to provide for the promotion of vocational rehabilitation of persons disabled in industry or otherwise and their return to civil employment&quot;</td>
<td>6/5/24</td>
<td>68-200</td>
<td>29</td>
<td>31</td>
<td>Rep.</td>
</tr>
<tr>
<td>An Act to incorporate the United States Blind Veterans of the World War</td>
<td>6/7/24</td>
<td>68-218</td>
<td>36</td>
<td>81</td>
<td>None</td>
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<tr>
<td>World War Veterans' Act of 1924</td>
<td>6/7/24</td>
<td>68-242</td>
<td>38</td>
<td>423</td>
<td>None</td>
</tr>
<tr>
<td>An Act to amend paragraph (1) of section 22 of the Interstate Commerce Act by providing for the carrying of a blind person, with a guide, for one fare</td>
<td>2/28/27</td>
<td>69-655</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>An Act to amend the Act providing additional aid for the American Printing House for the Blind</td>
<td>2/8/27</td>
<td>69-584</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>An Act to amend an Act entitled &quot;An Act to provide for the promotion of vocational rehabilitation of persons disabled in industry or otherwise and their return to civil employment&quot;</td>
<td>6/9/30</td>
<td>71-317</td>
<td>29</td>
<td>31 et.seq.</td>
<td>Rep.</td>
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<tr>
<td>Title</td>
<td>Date of Enactment</td>
<td>P.L. No.</td>
<td>Title*</td>
<td>Section</td>
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<tr>
<td>An Act to provide books for the adult blind</td>
<td>3/3/31</td>
<td>71-787</td>
<td>2</td>
<td>135a</td>
<td>None</td>
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<tr>
<td>To amend an Act entitled &quot;An Act to provide for the promotion of vocational rehabilitation of persons disabled in industry or otherwise and their return to civil employment,&quot; approved June 2, 1920, as amended</td>
<td>6/30/32</td>
<td>72-222</td>
<td>31 et.seq.</td>
<td>Rep.</td>
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<td>To amend section 1 of the Act entitled, &quot;An Act to provide books for the adult blind,&quot; approved 3/3/31</td>
<td>3/4/33</td>
<td>72-439</td>
<td>2</td>
<td>135a</td>
<td>None</td>
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<td>To amend the Act entitled, &quot;An Act to promote the circulation of reading matter among the blind,&quot; a roved April 27, 1904, and Acts supplemental thereto</td>
<td>5/9/34</td>
<td>73-214</td>
<td>None</td>
<td>None</td>
<td>I.R.C. '39</td>
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<tr>
<td>To authorize an increase in the annual appropriation for books for the adult blind</td>
<td>6/14/35</td>
<td>74-139</td>
<td>49</td>
<td>264a</td>
<td>Rev.T.</td>
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<tr>
<td>Social Security Act</td>
<td>8/14/35</td>
<td>74-271</td>
<td>42</td>
<td>1320b et.seq.</td>
<td>None</td>
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<td>To authorize the operation of stands in federal buildings by blind persons, to enlarge the economic opportunities of the blind, and for other purposes</td>
<td>6/20/36</td>
<td>74-732</td>
<td>20</td>
<td>107d et.seq.</td>
<td>None</td>
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<td>To provide special rates of postage on matter for the blind</td>
<td>4/15/37</td>
<td>75-37</td>
<td>39</td>
<td>293c</td>
<td>Rev.T.</td>
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<td>To authorize an increase in the annual appropriation for books for the adult blind</td>
<td>4/23/37</td>
<td>75-47</td>
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<td>135a</td>
<td>None</td>
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<td>To ammend the Interstate Commerce Act (seeing eye dogs)</td>
<td>7/5/37</td>
<td>75-184</td>
<td>49</td>
<td>22</td>
<td>Rev.T.</td>
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<td>To amend the Act approved August 4, 1914, as amended, providing additional aid for the American Printing House for the Blind</td>
<td>8/23/37</td>
<td>74-339</td>
<td>20</td>
<td>101</td>
<td>None</td>
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<td>United States Housing Act of 1937</td>
<td>9/1/37</td>
<td>75-412</td>
<td>42</td>
<td>1437 et.seq.</td>
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<td>To amend the Acts for promoting the circulation of reading matter among the blind</td>
<td>5/16/38</td>
<td>75-523</td>
<td>39</td>
<td>331</td>
<td>Rev.T.</td>
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<td>To create a Committee on Purchases of Blind-made products and for other purposes—Wagner-O'Day Act of 1938</td>
<td>6/25/38</td>
<td>75-739</td>
<td>41</td>
<td>46</td>
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<td>To amend the Act entitled, &quot;An Act to provide books for the adult blind,&quot; approved 3/3/31</td>
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<td>76-118</td>
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<td>To further amend the Acts for promoting the circulation of reading matter among the blind</td>
<td>10/14/41</td>
<td>77-270</td>
<td>39</td>
<td>331</td>
<td>Rev.T.</td>
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<td>To permit seeing eye dogs to enter government buildings when accompanied by their blind masters, and for other purposes</td>
<td>12/10/41</td>
<td>77-330</td>
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<td>291</td>
<td>None</td>
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<td>To amend section 1 of the Act entitled, &quot;An Act to provide books for the adult blind,&quot; approved 3/3/31, as amended</td>
<td>10/1/42</td>
<td>77-7,6</td>
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<td>135a</td>
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<td>To amend Title I of Public Law Number 2, 73rd Congress, March 30, 1933, and the Veterans Regulation to provide for rehabilitation of disabled veterans, and for other purposes</td>
<td>3/24/43</td>
<td>78-16</td>
<td>38</td>
<td>701</td>
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<td>Vocational Rehabilitation Act Amendments of 1943</td>
<td>7/6/43</td>
<td>78-113</td>
<td>29</td>
<td>31 et.seq.</td>
<td>Rep.</td>
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<td>To provide revenue, and for other purposes or &quot;The Revenue Act of 1943&quot;</td>
<td>2/25/44</td>
<td>78-235</td>
<td>50</td>
<td>1191</td>
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<td>To amend the Act entitled, &quot;An Act to provide books for the adult blind&quot;</td>
<td>6/13/44</td>
<td>78-338</td>
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<td>Servicemen's Readjustment Act</td>
<td>6/22/44</td>
<td>78-346</td>
<td>38</td>
<td>693 et.seq.</td>
<td>Rev.T.</td>
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<td>To amend the Act entitled, &quot;An Act to provide books for the adult blind&quot;</td>
<td>8/8/46</td>
<td>79-661</td>
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<td>Revenue Act of 1948</td>
<td>4/2/48</td>
<td>80-471</td>
<td>None</td>
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<td>To amend the Civil Service Act to remove certain discrimination with respect to the appointment of persons having any physical handicap to positions in the classified civil service</td>
<td>6/10/48</td>
<td>80-617</td>
<td>5</td>
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<td>To maintain status quo in respect of certain employment taxes and</td>
<td>6/14/48</td>
<td>80-642</td>
<td>42</td>
<td>1301</td>
<td>None</td>
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<td>social security benefits pending action by Congress on extended</td>
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<td>social security coverage</td>
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<td>Authorizing an appropriation for the work of the President's</td>
<td>7/11/49</td>
<td>81-162</td>
<td>None</td>
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<td>Committee on National Employ the Physically Handicapped Week</td>
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<td>To permit the sending of braille writers to or from the blind at</td>
<td>9/7/46</td>
<td>81-230</td>
<td>39</td>
<td>331</td>
<td>Rev.T.</td>
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<td>the same rates as provided for their transportation for repair</td>
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<td>purposes</td>
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<td>To restore to seventy pounds and one hundred inches in girth and</td>
<td>4/9/52</td>
<td>82-308</td>
<td>39</td>
<td>240b</td>
<td>None</td>
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<td>length combined the maximum weight and size limitations for</td>
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<tr>
<td>appliances or parts thereof, for the blind sent through the mails</td>
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<tr>
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<td>To amend the Act approved 8/4/1° as amended, providing additional id for the American Printing House for the Blind</td>
<td>5/22/52</td>
<td>82-354</td>
<td>None</td>
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<td>To amend the Act entitled, &quot;An Act to provide books for the adult blind&quot;</td>
<td>7/3/52</td>
<td>82-446</td>
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<td>Social Security Act Amendments of 1952</td>
<td>7/18/52</td>
<td>82-590</td>
<td>42</td>
<td>415</td>
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<td>To change the Columbia Institution to Gallaudet College, define its corporate powers, and provide for its organization and administration and other purposes</td>
<td>6/28/54</td>
<td>83-420</td>
<td>None</td>
<td>None</td>
<td>None</td>
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<td>To authorize cooperative research in education</td>
<td>7/16/54</td>
<td>83-531</td>
<td>5</td>
<td>626L</td>
<td>Rep.</td>
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<td>To amend the Interstate Commerce Act in order to authorize common carriers and such attendants at the usual fare charged for one person</td>
<td>7/27/56</td>
<td>84-825</td>
<td>49</td>
<td>22 et.seq.</td>
<td>Rev.T.</td>
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<td>A law granting educational assistance to certain local agencies impacted by federal employees</td>
<td>9/30/50</td>
<td>81-874</td>
<td>20</td>
<td>511 et.seq.</td>
<td>None</td>
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<td>Social Security Amendments of 1956</td>
<td>6/2/56</td>
<td>84-880</td>
<td>42</td>
<td>301</td>
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<tr>
<td>To amend the Act to promote the education of the blind, approved March 3, 1879, as amended, so as to authorize wider distribution of books and other special instructional material for the blind, to increase the appropriations authorized for this purpose, and for other purposes</td>
<td>6/2/56</td>
<td>84-922</td>
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<td>107</td>
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<td>To amend an Act entitled, &quot;An Act to provide books for the adult blind&quot;</td>
<td>6/7/57</td>
<td>85-308</td>
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<td>135a</td>
<td>None</td>
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<tr>
<td>To provide in the Department of HEW a loan service of captioned films for the deaf</td>
<td>9/2/58</td>
<td>85-905</td>
<td>42</td>
<td>2491 et.seq.</td>
<td>Rep.</td>
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<td>To encourage expansion of teaching in the education of mentally</td>
<td>9/6/58</td>
<td>85-926</td>
<td>20</td>
<td>611 et seq.</td>
<td>Rep.</td>
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<td>retarded children through grants to institutions of higher learning</td>
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<td>and to state educational agencies</td>
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<td>Social Security Amendments of 1950</td>
<td>9/13/60</td>
<td>86-778</td>
<td>42</td>
<td>1306a</td>
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<td>To make available to children who are handicapped by deafness the</td>
<td>9/22/61</td>
<td>87-276</td>
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<td>671</td>
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<td>specially trained teachers of the deaf needed to develop their</td>
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<td>abilities and to make available to individuals suffering speech</td>
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<tr>
<td>and hearing impairments the specially trained speech pathologists</td>
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<tr>
<td>and audiologists needed to help them overcome their handicaps</td>
<td></td>
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<tr>
<td>To amend the Act to promote the education of the blind, approved</td>
<td>9/22/61</td>
<td>87-294</td>
<td>20</td>
<td>102 et seq.</td>
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<td>March 3, 1879, as amended, so as to authorize wider distribution of</td>
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<tr>
<td>books and other special instruction materials for the blind, and to</td>
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<tr>
<td>increase the appropriations authorized for this purpose, and to</td>
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<td>otherwise improve such Act</td>
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TABLE 9--Continued

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<tr>
<td>To authorize the employment without compensation from the Government of readers for blind Government employees, and for other purposes</td>
<td>8/29/62</td>
<td>87-614</td>
<td>5</td>
<td>43a</td>
<td>Rep.</td>
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<td>To provide for the production and distribution of educational and training films for use by deaf persons, and for other purposes</td>
<td>9/28/62</td>
<td>87-715</td>
<td>42</td>
<td>2491</td>
<td>Rep.</td>
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<td>To establish in the Library of Congress a library of musical scores and other instructional materials to further educational, vocational, and cultural opportunities in the field of music for blind persons</td>
<td>10/9/62</td>
<td>87-765</td>
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<td>To amend the Public Health Service Act to provide for the establishment of an Institute of Child Health &amp; Human Development</td>
<td>10/17/62</td>
<td>87-838</td>
<td>42</td>
<td>292c 292d</td>
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<td>Social Security Act Amendments of 1963</td>
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<td>The National Defense Education Act</td>
<td>12/18/63</td>
<td>88-210</td>
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<td>2301 et.seq.</td>
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<td>To authorize the President to issue annually a proclamation designating the first week in March of each year as &quot;Save Your Vision Week&quot;</td>
<td>12/30/63</td>
<td>88-242</td>
<td>36</td>
<td>169a</td>
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<td>Hospital &amp; Medical Facilities Amendments of 1964</td>
<td>8/18/64</td>
<td>88-443</td>
<td>42</td>
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<td>Social Security Amendments of 1965</td>
<td>10/13/64</td>
<td>88-641</td>
<td>42</td>
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<td>10/13/64</td>
<td>88-650</td>
<td>42</td>
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<td>Elementary &amp; Secondary Education Act of 1965, as amended</td>
<td>4/11/65</td>
<td>89-10</td>
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<td>National Technical Institute for the Deaf Act</td>
<td>6/8/65</td>
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<td>Community Health Service Extension Amendments of 1965</td>
<td>8/5/65</td>
<td>89-109</td>
<td>42</td>
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<td>Heart Disease, Cancer and Stroke Amendments of 1965</td>
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<td>89-239</td>
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<td>None</td>
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<td>Federal Assistance to State Operated &amp; Supported Schools for the Handicapped</td>
<td>11/1/65</td>
<td>89-313</td>
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<td>Vocational Rehabilitation Act Amendments of 1966</td>
<td>11/8/65</td>
<td>89-333</td>
<td>29</td>
<td>31</td>
<td>None</td>
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<td>Library Services &amp; Construction Act Amendments of 1966</td>
<td>7/19/66</td>
<td>89-511</td>
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<td>351</td>
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<td>An Act to provide books for the adult blind</td>
<td>6/30/66</td>
<td>89-522</td>
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<td>Military Medical Benefits Amendments of 1966</td>
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<td>1071</td>
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<td>Model Secondary School for the Deaf Act</td>
<td>10/1/66</td>
<td>89-694</td>
<td>None</td>
<td>None</td>
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<td>Comprehensive Health Planning, &amp; Public Health Services Amendments of 1966, &quot;Partnership for Health&quot;</td>
<td>11/3/66</td>
<td>89-749</td>
<td>20</td>
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<td>Elementary &amp; Secondary Education Act Amendments of 1966</td>
<td>11/3/66</td>
<td>89-750</td>
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<td>To amend Title V of the Higher Education Act and redesignate it as the Educational Professions Development Act</td>
<td>6/29/67</td>
<td>90-35</td>
<td>20</td>
<td>1101</td>
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<td>To amend the Library Services &amp; Construction Act</td>
<td>11/24/67</td>
<td>90-154</td>
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<td>Mental Retardation Amendments of 1967</td>
<td>11/4/67</td>
<td>90-170</td>
<td>42</td>
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<td>Partnership for Health Amendments of 1967</td>
<td>12/5/67</td>
<td>90-174</td>
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<td>Elementary &amp; Secondary Education Amendments of 1967</td>
<td>1/2/68</td>
<td>90-247</td>
<td>20</td>
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<td>None</td>
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<tr>
<td>To increase size of the Board of Directors of Gallaudet College</td>
<td>7/23/68</td>
<td>90-415</td>
<td>None</td>
<td>None</td>
<td>Spec.</td>
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<tr>
<td>To establish a register of blind persons in the District of Columbia, to provide for the mandatory reporting of information concerning such persons and for other purposes</td>
<td>8/3/68</td>
<td>90-458</td>
<td>None</td>
<td>None</td>
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<td>Elimination of Architectural Barriers to Physically Handicapped</td>
<td>8/12/68</td>
<td>90-480</td>
<td>42</td>
<td>4134a</td>
<td>None</td>
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<td>Establishment of National Eye Institute</td>
<td>8/16/68</td>
<td>90-489</td>
<td>42</td>
<td>289: et.seq.</td>
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<td>Title</td>
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<td>Health Services and Facilities Amendments of 1968</td>
<td>10/15/68</td>
<td>90-574</td>
<td>42</td>
<td>2690a</td>
<td>None</td>
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<td>To authorize the President to issue a proclamation designating the first week in June of 1969 as &quot;Helen Keller Memorial Week&quot;</td>
<td>5/28/69</td>
<td>91-17</td>
<td>None</td>
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<td>Spec.</td>
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<td>To provide for a National Center on Educational Media and Materials for the Handicapped and for other purposes</td>
<td>8/20/69</td>
<td>91-61</td>
<td>42</td>
<td>2493</td>
<td>Rep.</td>
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<td>Older Americans Act Amendments of 1969</td>
<td>9/17/69</td>
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<td>Tax Reform Act of 1969</td>
<td>12/30/69</td>
<td>91-172</td>
<td>26</td>
<td>6056</td>
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<td>To insure that certain federally constructed facilities be constructed so as to be accessible to the physically handicapped</td>
<td>3/5/70</td>
<td>91-205</td>
<td>42</td>
<td>2702</td>
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<td>To extend the Migrant Health Act for three years, and provide increased authorization therefor</td>
<td>3/12/70</td>
<td>91-209</td>
<td>42</td>
<td>242h</td>
<td>None</td>
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<td>To provide grants for construction of community mental health centers</td>
<td>3/13/70</td>
<td>91-211</td>
<td>42</td>
<td>2691</td>
<td>Rep.</td>
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<td>To extend programs of assistance for elementary and secondary education</td>
<td>4/13/70</td>
<td>91-230</td>
<td>20</td>
<td>241b</td>
<td>Rep.</td>
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<td>To broaden National Employ the Physically Handicapped Week to apply to all handicapped workers</td>
<td>10/8/70</td>
<td>91-442</td>
<td>36</td>
<td>155</td>
<td>None</td>
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<td>To provide long term financing for expanded urban mass transportation programs</td>
<td>10/15/70</td>
<td>91-453</td>
<td>49</td>
<td>1601a</td>
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<td>To revise certain criteria for handling mentally retarded persons in the Forest Haven Institution in the District of Columbia</td>
<td>10/22/70</td>
<td>91-490</td>
<td>None</td>
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<td>To improve family planning services and population research activities of the federal government</td>
<td>12/24/70</td>
<td>91-572</td>
<td>42</td>
<td>3505c</td>
<td>Rep.</td>
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<tr>
<td>To authorize Gallaudet College to maintain and operate the Kendall School as a demonstration elementary school for the deaf</td>
<td>12/24/70</td>
<td>91-587</td>
<td>None</td>
<td>None</td>
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<td>Occupational Safety and Health Act of 1970</td>
<td>12/29/70</td>
<td>91-596</td>
<td>29</td>
<td>661</td>
<td>None</td>
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<td>To extend for one year the authorization for various programs under the Vocational Rehabilitation Act</td>
<td>12/31/70</td>
<td>91-610</td>
<td>29</td>
<td>31</td>
<td>Rep.</td>
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<td>To provide assistance in developing and administering lead-based paint elimination programs</td>
<td>1/13/73</td>
<td>91-695</td>
<td>42</td>
<td>4801</td>
<td>Rep.</td>
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<tr>
<td>Wagner-O'Day Amendments</td>
<td>6/23/71</td>
<td>92-28</td>
<td>41</td>
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<td>Military Medical Benefits Amendments</td>
<td>7/29/71</td>
<td>92-58</td>
<td>10</td>
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<td>Intermediate Care Amendments of 1971</td>
<td>12/28/71</td>
<td>92-223</td>
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<td>Free or reduced-rate transportation for attendants for the blind</td>
<td>6/22/72</td>
<td>92-316</td>
<td>45</td>
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<td>Education Amendments of 1972</td>
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<td>Social Security Benefit increase</td>
<td>7/1/72</td>
<td>92-336</td>
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<td>Maternal and Child Health Amendments</td>
<td>7/10/72</td>
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<td>Economic Opportunity Amendments of 1972</td>
<td>9/19/72</td>
<td>92-424</td>
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<td>Rights of the blind and other physically handicapped in the District of Columbia</td>
<td>10/21/72</td>
<td>92-515</td>
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<td>National Advisory Commission on Multiple Sclerosis Act</td>
<td>10/25/72</td>
<td>92-563</td>
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<td>Small Business Investment Act Amendments of 1972</td>
<td>10/27/72</td>
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<td>Older Americans Comprehensive Services Amendments of 1973</td>
<td>5/3/73</td>
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<td>National Autistic Children's Week</td>
<td>6/15/73</td>
<td>93-42</td>
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<td>Health Programs Extension Act of 1973</td>
<td>6/18/73</td>
<td>93-45</td>
<td>42</td>
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<td>Committee for Purchase of Products and Services of the Blind and Other Handicapped</td>
<td>7/30/73</td>
<td>93-76</td>
<td>41</td>
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<td>9/26/73</td>
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<td>Domestic Volunteer Services Act of 1973</td>
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<td>Amtrak Improvement Act of 1973</td>
<td>11/3/73</td>
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<td>Supplemental Security Income Benefits</td>
<td>3/28/74</td>
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<td>General Education Amendments</td>
<td>4/18/74</td>
<td>93-269</td>
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<td>National School Lunch &amp; Child Nutrition Act of 1974</td>
<td>6/30/74</td>
<td>93-326</td>
<td>42</td>
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<td>Extend Food Stamp Eligibility to SSI Recipients</td>
<td>7/8/74</td>
<td>93-335</td>
<td>7</td>
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<td>National Research Act</td>
<td>7/12/74</td>
<td>93-348</td>
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<td>Wagner-O'Day Act Amendments</td>
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<td>Foreign Equipment Import Duty (Social Security rider)</td>
<td>8/7/74</td>
<td>93-368</td>
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<td>8/21/74</td>
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<td>Housing and Community Development Act of 1974</td>
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<td>Juvenile Delinquency &amp; Prevention Act of 1974</td>
<td>9/7/74</td>
<td>93-415</td>
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<td>Import Duty on Horses (Social Security rider)</td>
<td>10/26/74</td>
<td>93-464</td>
<td>19</td>
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<td>National Mass Transportation Assistance Act of 1974</td>
<td>11/26/74</td>
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<td>Rehabilitation Act Amendments of 1974</td>
<td>12/7/74</td>
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<td>March of Dimes Month</td>
<td>12/30/74</td>
<td>93-561</td>
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<td>National Health Planning &amp; Development Act of 1974</td>
<td>1/4/75</td>
<td>93-641</td>
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<td>Federal-Aid Highway Amendments of 1974</td>
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<td>23</td>
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<td>Community Services Act of 1974</td>
<td>1/4/75</td>
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<td>42</td>
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<td>To extend SSI to continue food stamp eligibility for recipients</td>
<td>6/28/75</td>
<td>94-44</td>
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<td>Special Health Revenue Sharing Act</td>
<td>7/29/75</td>
<td>94-63</td>
<td>42</td>
<td>268 et seq.</td>
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<td>Developmentally Disabled Assistance and Bill of Rights Act</td>
<td>10/4/75</td>
<td>94-103</td>
<td>42</td>
<td>6000 et seq.</td>
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<td>Education for All Handicapped Children Act</td>
<td>11/29/75</td>
<td>94-142</td>
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<td>Helen Keller National Center for Deaf-Blind Youths and Adults Act</td>
<td>2/11/76</td>
<td>94-228</td>
<td>43</td>
<td>615 et seq.</td>
<td>None</td>
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<td>Rehabilitation Act Extension</td>
<td>3/23/76</td>
<td>94-240</td>
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<td>The Education Amendments of 1976 (strengthens provisions for handicapped youth in vocational education)</td>
<td>10/12/76</td>
<td>94-482</td>
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<td>The Education Amendments of 1978 (includes Gifted and Talented Children's Education Act of 1978 and includes extension of provisions of P.L. 94-142 to Department of Defense Overseas Schools)</td>
<td>11/1/78</td>
<td>95-561</td>
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<td>The Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978</td>
<td>11/6/78</td>
<td>95-602</td>
<td>29</td>
<td>701</td>
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<td>An Act to Create a Federal Department of Education (established Office of Special Education and Rehabilitation Services)</td>
<td>10/17/79</td>
<td>96-88</td>
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<td>The Omnibus Budget Reconciliation Act of 1981 (includes Education Consolidation and Improvement Act of 1981)</td>
<td>8/13/81</td>
<td>97-35</td>
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<td>The Education for All Handicapped Children Amendments of 1983</td>
<td>12/2/83</td>
<td>98-199</td>
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*Rep.: Repealed. Where "Rep." appears, the former section was repealed prior to, or at the time of, the enactment of the revised Title and was not restated in the revised Title.

Title and was not restated.


"Implementing the Right to a Free Appropriate Public Education."