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The Title I program for the handicapped, the P.L. 89-313 program, makes grants available to State agencies responsible for educating handicapped children. The specific purpose for which these funds are to be used has never been entirely clear. Congress needs to clarify whether the program should finance only those activities which are supplemental to a basic, State-financed educational activity, or should help finance the basic educational program itself. The degree to which P.L. 89-313 funds may be targeted to or from certain groups of handicapped children is not entirely clear. Congress should clarify whether targeting is acceptable and, if it is, the Department of Health, Education, and Welfare (HEW) should implement regulations which clearly state those conditions under which targeting is or is not permissible. If the purpose of the program is primarily to support activities which supplement a State-defined and funded education program, some changes in program administration are needed. Congress should consider legislatively transferring the program to the Education of the Handicapped Act. HEW leadership is needed to develop methods for the interchange of knowledge between State schools and institutions for handicapped children. (Author/SW)

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STATEMENT OF  
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BEFORE THE  
SUBCOMMITTEE ON ELEMENTARY, SECONDARY, AND VOCATIONAL EDUCATION  
OF THE  
HOUSE COMMITTEE ON EDUCATION AND LABOR  
ON  
THE TITLE I PROGRAM FOR THE HANDICAPPED

Mr. Chairman and Members of the Subcommittee. We are pleased to have this opportunity to comment on the results of our work on the Title I State program for the handicapped, commonly referred to as the P.L. 89-313 program. A draft of our report is now with the Department of Health, Education, and Welfare for comment. We expect to issue the final report to the Congress in December 1977.

THE P.L. 89-313 PROGRAM

Public Law 89-313, dated November 1, 1965, amended Public Law 89-10 (20 U.S.C. 236, et. seq.), the Elementary and Secondary Education Act of 1965. Title I of the act provides financial assistance to local education agencies serving areas with concentrations of low-income families, in order to strengthen programs meeting the special education needs of educationally

deprived children. Public Law 89-313 extended this portion of the act to make grants available to State agencies responsible for educating handicapped children.

The P.L. 89-313 program, administered by the Office of Education provides grants through State education agencies to State agencies--such as Departments of Mental Health, Public Welfare, and Education--which are directly responsible for providing a free public education to handicapped children with State funds. State agencies are to use these grant funds for programs and projects which are designed to meet the special education needs of handicapped children in State-operated and State-supported schools. These State schools are located in institutions, hospitals, and other public and private facilities, most of which provide residential, treatment, or other services in addition to education.

In fiscal year 1977, the P.L. 89-313 program provided over \$111 million in grants to 143 agencies in all 50 States, Puerto Rico, Guam, and the District of Columbia. About 3,800 State-operated and State-supported schools and about 2,200 local education agencies participated in providing services to over 200,000 children. Grants to individual States and territories ranged from about \$156,000 for Guam to about \$11,300,000 for New York.

### How the program works

Each October 1, every participating school counts its total enrollment of handicapped children under age 21 who have not progressed beyond the 12th grade and reports this figure through its State agency to the State education agency. This reported figure is known as the school's average daily attendance.

The law provides that for each fiscal year, a State agency is to receive 40 percent of the State's average per pupil educational expenditure for every child counted in average daily attendance on the previous October 1. The amount used as the average per pupil educational expenditure in the above calculation is to be not less than 80 percent or more than 120 percent of the national average per pupil educational expenditure. Another provision of the law ensures that each State agency will receive at least as much P.L. 89-313 funds as it did the previous year--the so-called "hold harmless" provision. For fiscal year 1977, the national average award of the P.L. 89-313 funds per handicapped child was \$552.

After receiving its annual grant, each State agency allocates the funds to its schools; the State agency may use a portion of the funds itself to provide administrative and agency-wide services. To receive P.L. 89-313 funds, an eligible school is required to submit a project application

through its State agency to the State educational agency. In the application, the school indicates the number of children to be served, the nature and design of the intended project, and the objectives to be attained. The State educational agency reviews and approves each project application before the project is funded.

After projects are approved, both the State educational agency and the State agencies are required to monitor their progress. As a further control on each project, every participating school must prepare an evaluation report for the State educational agency at the end of each project, which is generally 1 year in length.

#### Scope of review

Our review was made at the Office of Education headquarters in Washington, D.C., and at State educational agencies, State agencies, and schools in the 10 States of Arizona, Colorado, Georgia, Illinois, Massachusetts, Michigan, Oregon, Pennsylvania, Texas, and Washington. We visited a total of 52 State-operated and State-supported schools having a combined attendance of 12,367 children and which received a total of \$5.6 million in P.L. 89-313 funds for fiscal year 1977. No attempt was made to evaluate the overall quality of education provided at any school nor did we discuss the program with participating children or their parents.

#### NEED TO CLARIFY PROGRAM DIRECTION

Twelve years have passed since enactment of the P.L. 89-313 program. Significantly changed conditions since that

time have created a need to now clarify the direction of the program.

The P.L. 89-313 program was originally enacted in 1965 to make available Federal funds to assist States in providing education for institutionalized handicapped children. The specific purpose for which these funds were to be used has never been entirely clear--whether to finance only those activities which are supplementary to a basic, State-financed education program, or to help finance the basic educational program itself. Our review showed that not only is there confusion and conflict concerning the purpose of the program in legislation and regulations, but we found that neither the Federal Government nor many States have defined the terms "basic" or "supplemental" as related to education of handicapped children. In the early years of the program these distinctions between basic and supplementary purposes were not important because there was little in the way of existing State programs to provide even minimal education of institutionalized handicapped children.

In the intervening years, however, conditions have changed dramatically. Special education techniques have developed considerably since the late 1960s. The right to education by the handicapped has become a recognized national policy. New Federal laws, State laws, and court decisions have affirmed that education of handicapped children is a

fundamental State responsibility. These changed conditions add considerable significance, as well as confusion, to the basic versus supplemental question, in terms of the respective responsibilities of the participants in this Federal-State partnership.

Our review at State agencies and schools for the handicapped in 10 States disclosed a variety of interpretations of these responsibilities. More importantly, we found wide inconsistencies in the use of P.L. 89-313 funds--frequently for activities which appeared to be basic in nature, and sometimes for custodial and life support activities rather than for educational purposes. Although many of these States have not defined basic education for their handicapped children, many of the services purchased with P.L. 89-313 funds could be considered the States' responsibilities under today's conditions.

The following are examples of P.L. 89-313 funds used for projects and activities which appeared to be basic rather than supplementary

--a school for the deaf used P.L. 89-313 funds to pay the salary of an audiologist, without whom the school cannot operate, according to the principal.

--P.L. 89-313 funds were providing a substantial portion of the basic education program at a school for emotionally disturbed children because the State does not provide sufficient funds to allow the school to educate all students.

--Another school was using its fiscal year 1977 P.L. 89-313 grant to provide services required by or resulting from State laws, but for which State funds were not made available. Included in the project were (1) vehicles to transport children to State-required classrooms, (2) a photocopier to meet the heavy paperwork requirements of the State law, (3) a summer program which extended the school year an additional 2 months, as required by State law, and (4) three educational aides to bring the student-teacher ratios to State-mandated levels.

Among the most controversial problems we ran into at the schools we visited was the relevance of certain expenditures of Federal funds to the schools' education programs. Neither P.L. 89-313, as amended, nor HEW regulations are entirely clear as to what kinds of services or benefits may be properly included within the definition of education, and therefore chargeable to Federal grants.

We found a variety of charges which, while undoubtedly necessary to the operation of a facility or of custodial, life supporting, or other benefits to the enrolled children, appeared to be of questionable relevance to the school's formal education program. For example

--one school spent over three-fourths of its grant for routine psychological testing and medical and dental

care services for its students. The school director stated that these charges were for ordinary health services, which are specifically required by State law, not for diagnostic services or other special needs of handicapped children. In addition, most of the health care services had been paid with State funds in prior years.

--another school used over 40 percent of its P.L. 89-313 funds to pay for six dormitory attendants to provide custodial care for its handicapped children such as making beds, cleaning rooms, and dressing and toileting them.

--another project used about \$40,000 in P.L. 89-313 funds over a 2-year period to remodel one kitchen and purchase equipment, utensils, and supplies for it and one other kitchen. For one of the kitchens, the institution purchased 2,880 dishes and items of silverware and 371 items of cookware, bakeware, preparation and serving utensils, and other miscellaneous items.

At several projects, school officials believed that any services which benefit children are educational and therefore are legitimate charges to the P.L. 89-313 grant. One of the school administrators stated that since the school's facilities existed to provide an education to children, any and all expenses incurred in operating the facilities were for educational purposes and could be provided with P.L. 89-313 funds.

As a result Federal funds are being used to pay for programs and activities which are now recognized by the States to be their responsibilities to provide. Thus, opportunities to use Federal funds to enrich programs beyond minimal levels and to finance innovative teaching techniques and reforms are often lost. As currently structured and operated, the P.L. 89-313 program acts as a disincentive to States to meet their new mandates and expand the state-of-the-art.

We therefore recommend that the Congress clarify the direction of the P.L. 89-313 program by specifying whether the program should finance only those activities which are supplementary to a basic, State-financed educational activity, or to help finance the basic educational program itself.

If the Congress decides the program is intended for basic support with few, if any, restrictions on the uses of funds, then consideration should be given to relaxing the Federal administration of the program in favor of increased State administration. If, on the other hand, the Congress were to direct that the program cover only those activities and programs which are supplementary to basic, State-funded activities, methods should be found which will assure that the States meet their responsibilities. This could be accomplished by (1) requiring the States to define and fund "basic education" or "basic educational standards" as a condition of eligibility for P.L.

89-313 grants, or (2) the Congress or the Office of Education prescribing more specifically the permissible purposes and uses of the grant funds.

TARGETING: NEED FOR CLARIFICATION

The degree to which P.L. 89-313 funds may be targeted to or away from certain groups of handicapped children is not entirely clear. The original legislation permitted unlimited targeting, in that some children could receive the benefit of all funds while others need not receive any benefit. More recent legislation, Public Law 93-380 dated August 21, 1974, and implementing Office of Education instructions make it clear that this is inappropriate, but suggest that some undefined degree of targeting may be permissible. Thus, since all children counted generate a specific dollar amount of P.L. 89-313 funds, we considered "targeting" to occur when funds are allocated in such a manner that the children or their school receives a greater or lesser amount than they generate, that is, a greater or lesser amount than their percapita or proportional share.

Our review of the allocation of fiscal year 1977 funds in 10 States showed that, despite the 1974 legislative amendment, targeting is still a widespread practice at two levels of the allocation process. First, when the State agencies made their allocations to their 1,152 schools, targeting took place in 74 percent of the cases--24 percent of the schools received greater or lesser than their proportional share, and 50 percent received no funds at all. For example, in one State, 503 schools were eligible to receive P.L. 89-313

funds in fiscal year 1977, but only 87, or 17 percent, actually received an award of funds. Similarly, in another State, 206 schools were eligible but only 82, or 40 percent, received funds.

The second place targeting occurs is at the schools which use the P.L. 89-313 funds to provide educational services to the children. We categorized these services as either

- primary services consisting of direct instruction or educationally related services provided to a child on a regular basis by staff such as teachers, aides, and therapists, or
- secondary services consisting of (1) incidental services provided to a child on an irregular or infrequent basis by psychiatrists, social workers, counselors, librarians, etc.; and (2) indirect services, such as training of teachers and parents, transportation, equipment and supplies, and school administration.

At the 52 schools we visited in the 10 States, 79 percent of the funds were targeted to provide primary and secondary services to 48 percent of the children. The other 21 percent of the funds were used to provide only secondary services to 42 percent of the children. The remaining 10 percent of the children received no P.L. 89-313 funded services at all. In many cases, the secondary services provided were quite remote from the students and, when allocated to each child, amounted to very little.

For example, one school received \$127,054, of which it used \$112,979 to provide primary services to 30 of its 226 children and \$14,075 to provide secondary services to all children. This resulted in an average benefit of \$3,819 for the

targeted children and \$53 for the others. The secondary services consisted of one half-time counselor and a share of administrative costs. Another school used all \$159,160 it received to provide services to 153 of its 652 students, an average of of \$1,040 per targeted child. The remaining 499 children received no benefits whatsoever from these P.L. 89-313 funds.

In order to comply technically with the provision of Public Law 93-380 requiring that all children counted for purposes of generating funds be served with those funds, State agencies that do not award funds directly to many of their eligible schools provide so-called agency-wide services instead. These services include administration, consultation, evaluation, and other services which are available from the State agency headquarters, generally on an as-requested basis, to all schools for the handicapped in that State agency system.

We found that in most cases, these agency-wide services were likely to be diluted, remote, and of little proportional value to the children, raising a question of whether this practice, in itself, meets the intent of the legislative requirement to serve each child. For four of the State agencies, the benefits per child were less than \$25.00. As a specific example, one State agency provided funds to only 41 of its 152 eligible schools. The 1,444 children at the 41 recipient schools each received an average benefit of \$1,142. For the remaining 111 schools and their 2,750 eligible children, \$109 of agency-wide services represents the maximum benefit each of the children could have received from P.L. 89-313 funds.

State agency and school officials generally defended their own allocation practices--whether targeting or not targeting--as educationally and/or administratively necessary. Those who targeted funds--either to schools or to children within schools--generally believed they were using the funds where they were most needed and that the availability of P.L. 89-313 funded agency-wide services for all schools and students, however minimal, met the requirements of the law. Conversely, those who allocated funds and services on a proportional basis believed this practice to now be legally required and the only reasonable method, since the specific needs of the children are so difficult to determine, especially at the State level.

A few moments ago we pointed out that there is confusion over the purpose and direction of the P.L. 89-313 program. Should the Congress resolve the confusion by directing that the program pay for only supplemental or excess services over and above the States' basic programs we believe the need to spread P.L. 89-313 funds to all eligible children, as intended by P.L. 93-380, would be minimized. This is because the children would be receiving a basic education commensurate with their needs from State funds. Those children who had additional or supplemental needs beyond the basic could then be the primary beneficiaries of the P.L. 89-313 funds, making the practice of targeting a justifiable and effective educational tool.

Until such time as that occurs, however, we believe that additional guidance is needed from the Congress and the executive branch on the question of targeting.

Therefore, since the controversy on targeting involves a question of educational effectiveness, we recommend that the Congress clarify whether targeting is acceptable and, if so, generally the extent to which it is acceptable. We also recommend that based on the action taken by the Congress, the Secretary of HEW direct the Commissioner of Education to issue implementing regulations which clearly state those conditions under which targeting is or is not permissible, and any limitations that must be adhered to in order to meet the intent without sacrificing educational objectives.

#### OBSERVATIONS ON PROGRAM ADMINISTRATION

The nature and extent of changes needed to improve the administration of the P.L. 89-313 program depend, in our opinion, upon decisions on the future direction of the program which we discussed earlier. If P.L. 89-313 funds are to be available for relatively unrestricted general educational purposes, including financing basic educational activities without first having the States define what they will fund, we believe that minimal Federal management is sufficient. On the other hand, if the purpose of the program primarily is to support activities which supplement a State-defined and funded education program, some changes and improvements in program administration are needed.

#### Legislative placement of the P.L. 89-313 program

P.L. 89-313 became an amendment to title I of the Elementary and Secondary Education Act of 1965 because the term

"educationally deprived" was recognized as properly including handicapped children who were in State schools or institutions and who were ineligible to participate in the title I program. At that time no separate, comprehensive Federal legislation covered education of handicapped children. In 1970, several handicapped-related educational enactments were consolidated into P.L. 91-230, the new Education of the Handicapped Act. P.L. 89-313 was not among these acts but remained a part of title I protecting the program's funding.

There have been two major consequences of the continuing existence of P.L. 89-313 in title I: (1) management of the program at the Federal level has been fragmented, limited, and complicated, and (2) its visibility for Congressional review and analysis has been severely restricted.

First, because the program statutorily falls under the Elementary and Secondary Education Act, the Office of Education's Bureau of Elementary and Secondary Education was made responsible for administering the program. In 1968, a year after the Bureau of Education for the Handicapped was created to administer all handicap education programs, the Bureau of Elementary and Secondary Education delegated program administration authority to the Bureau of Education for the Handicapped but retained for itself the fiscal functions.

This split in administration for P.L. 89-313 has limited the vested interest each of the two Bureaus has had in the management of the program and, in our opinion, is one of the

major causes of the limited amounts of program guidance, technical assistance, monitoring, and dissemination which we also found. For the States, this split in administration has also meant that directives come from both the Bureau of Education for the Handicapped and the Bureau of Elementary and Secondary Education and that the States' annual program plans must be approved by both Bureaus before a grant award can be disbursed.

The second adverse effect of the placement of P.L. 89-313 in title 7 is that it has severely restricted the visibility of the program in budget justifications. Consequently, in our opinion, the opportunity for the Congress to review and analyze the strengths and weaknesses of the program--its operation, its administration, and its effectiveness--has been hampered.

In our discussions on the pros and cons of the existing legislative placement of the P.L. 89-313 program, Bureau of Education for the Handicapped officials did not believe that the program should be transferred from title I to the Education for the Handicapped Act. They expressed concern that such a transfer would subject the program to comparison with less well-funded handicap programs, and would therefore likely have an adverse effect on the amount of funds made available to operate the program in the States. We believe, however, that Congress should consider legislatively transferring the program to the Education of the Handicapped Act for the aforementioned reasons.

### Guidance and oversight functions

Our review showed that the Bureau of Education for the Handicapped guidance to the States on program operations is largely fragmented. Also, although 12 years have passed since enactment of P.L. 89-313, there are still no separate Federal regulations on the program. Until recently, the Bureau of Education for the Handicapped technical assistance and program monitoring were largely unplanned and principally confined to answering correspondence and reviewing periodic reports.

Because of the size and complexity of the P.L. 89-313 program, participating State agencies and schools need regulations, guidance, assistance, and periodic assessments to properly conduct program operations and carry out their other responsibilities with a reasonable degree of uniformity. Our review showed that the Bureau of Education for the Handicapped could do more to provide the needed assistance, and that confusion still remains in many States on how the program should operate.

### Dissemination of program results

The P.L. 89-313 program structure, including the legislation and HEW regulations, calls for dissemination of knowledge gained through activities funded by the program. School officials with whom we met generally believe that they had knowledge to share and that an interchange would

be beneficial to all educators of the handicapped. Yet we found little sharing of knowledge taking place between institutions within a given State and even less between States. The principal reasons given by the educators were that (1) they were too busy coping with their immediate, day-to-day problems, and (2) the fear that spending money for dissemination would reduce the amount available for direct child services. We believe, therefore, that HEW leadership is needed to develop simplified methods for, and encourage interchange of knowledge between, State schools and institutions for handicapped children.

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This concludes our statement, Mr. Chairman. We will be happy to answer any questions you may have.

STATES AND SCHOOLS WHERE GAO  
REVIEWED P.L. 89-313 ACTIVITIES

<u>State and school</u>	<u>Primary handicap</u>
<u>Arizona</u>	
Arizona Children's Hospital Maricopa County Hospital	Mentally retarded and other health impaired
Arizona State School for the Deaf and the Blind	Deaf and blind
Arizona Training Program at Coolidge	Mentally retarded
Arizona Training Program at Tucson	Mentally retarded
Neuva Vista School - Arizona State Hospital	Emotionally disturbed
<u>Colorado</u>	
Boulder County Board for the Developmental Disabilities	Mentally retarded
Denver Board for the Mentally Retarded and Seriously Handicapped	Mentally retarded
Colorado School for the Deaf and the Blind	Deaf and blind
Colorado State Hospital	Emotionally disturbed
Ridge State Home and Training School	Mentally retarded
<u>Georgia</u>	
Georgia Academy for the Blind	Blind
Georgia Mental Health Institute	Emotionally disturbed
Georgia Regional Hospital at Atlanta	Mentally retarded and emotionally disturbed

<u>State and school</u>	<u>Primary handicap</u>
<u>Illinois</u>	
Andrew McFarland Mental Health Center	Mentally retarded and emotionally disturbed
Illinois Braille and Sight Saving School	Blind
Illinois School for the Deaf	Deaf
Lincoln Developmental Center	Mentally retarded
Mid Central Association	Mentally retarded
<u>Massachusetts</u>	
Belchertown State School	Mentally retarded
Boston School for the Deaf	Deaf
May Institute for Autistic Children	Autistic
Monson State Hospital	Mentally retarded
Perkins School for the Blind	Blind
Residential Rehabilitation Center	Mentally retarded
<u>Michigan</u>	
Genesee Intermediate School District	Mentally retarded
Hawthorn Center	Emotionally disturbed
Michigan School for the Blind	Blind
Michigan School for the Deaf	Deaf
Plymouth Center for Human Development	Mentally retarded

APPENDIX I

APPENDIX I  
(page 3)

State and school

Primary handicap

Oregon

Dammasch Hospital

Emotionally disturbed

Fairview Hospital and Training  
Center

Mentally retarded

The Farm Home

Emotionally disturbed

Jackson County Intermediate  
Education District

Mentally retarded

Lane Intermediate Education  
District

Mentally retarded

Oregon State School for the  
Deaf

Deaf

Regional Facility for the Blind  
(Eugene)

Blind

Southern Oregon Child Study  
and Treatment Center

Emotionally disturbed

Pennsylvania

Centennial School

Emotionally disturbed

Elwyn Institute

Mentally retarded

Overbrook School for the  
Blind

Blind

Texas

Austin State School

Mentally retarded

Dallas County Mental Health and  
Mental Retardation Center

Mentally retarded

Houston Independent School  
District

Deaf

Texas School for the Blind

Blind

State and school

Primary handicap

University of Texas Medical  
Branch

Other health impaired

Washington

Fircrest School

Mentally retarded

Francis Haddon Morgan Children's  
Center

Autistic

Interlake School

Mentally retarded

Lakeland Village School

Mentally retarded

Rainier School

Mentally retarded

Washington State School for  
the Blind

Blind

Washington State School for  
the Deaf

Deaf