Testimony for IDEA Hearing
U. S. Senate Health, Education, Labor, and Pensions Committee
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Good Morning!

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

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

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

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

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

I also recall two other young high school students in the past six years, who had not only Cognitive Impairments, but also some very involved Physical Impairments that required Developmental Adapted Physical Education, along with related services such as Occupational and Physical Therapy. These particular children also had Cerebral Palsy, and had both required Rhyzotomy surgeries on several occasions. I can't say enough about the strides that both of these young individuals made due to the provision of specialized

Special Education services. I particularly recall when one of these young individuals, a young lady, walked forward and presented her Work Experience Employer with an award of appreciation for Supervising her on a job site. A second such occasion occurred when she walked forward and received her high school diploma. That's truly when it hit me that the services provided to her as a result of IDEA had made a great impact. The heartfelt thanks from the parents, upon this young lady's graduation, were also overwhelming as they publicly thanked us while tears trickled down their cheeks.

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

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

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

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

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

2.) A second item I would like to address is the process of Complaint Investigation, as well as avenues to avoid hearings as a result of the complaints. It is the view of many that this system works very well. In 2001, for example, the number of hearings across the nation totaled 3020. This statistic when compared to the 6.2 million children on IEPs is not staggering. In comparison to these national percentages, Minnesota only had 10 hearings based on 110,000 IEPs. This may be due in part to the fact that in Minnesota there is an initial

step of Informal Conciliation. It has been my personal experience to approach situations from a perspective of "what can we do to work this out?" This is different than taking a stand that agreement can't be reached. By approaching situations like this, and exploring avenues of agreement, I was personally fortunate to never be involved in a hearing. The channels of communication opened by this type of process have been very rewarding, and helped to implement IDEA with greater ease. This conciliation step, however, is not a requirement of IDEA. Based on the current status of IDEA, a parent can file a complaint at any time, at which point an investigation begins to unfold. It is my perspective that if IDEA could be changed to incorporate conciliation or other informal dispute resolution processes, that it would significantly reduce the number of complaints and hearings. It is also my perspective that the steps would help to work through difficult situations with much greater satisfaction, and to enhance the implementation of IDEA. A second step that could help to strengthen IDEA would be to institute an enhanced mediation process. In initiating this, a greater understanding of the perspectives of both the school and the parents would be the end result. Another promising example is that in Minnesota we are piloting Facilitated IEP's, where a state trained independent facilitator actually facilitates the IEP meeting. We think this could be a huge step in reducing adversarial situations and litigation, and to help the process become more "user friendly" for everyone involved.

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

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

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