Presented are model statutory provisions for the education of handicapped children which are intended as a supplement to regular school laws. (The model statutes originally appeared in State Law and Education of Handicapped Children: Issues and Recommendations and have been announced as ED 056 452 and EC 040 597.) A model law for compulsory school attendance is included to cover the problematic tendency to exclude children with special problems from the requirements of regular school attendance. The remaining sections, arranged as a supplementary title of a comprehensive state school law, concern policy, definitions, state and local responsibilities (special education services administration, special education centers, interschool district responsibilities), planning, identification of handicapped children, provision of special educational materials and training, remedies, technical assistance and personnel training, facilities, and finance. (GW)
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U.S. DEPARTMENT OF HEALTH, EDUCATION & WELFARE
OFFICE OF EDUCATION

THIS DOCUMENT HAS BEEN REPRODUCED EXACTLY AS RECEIVED FROM THE PERSON OR ORGANIZATION ORIGINATING IT. POINTS OF VIEW OR OPINIONS STATED DO NOT NECESSARILY REPRESENT OFFICIAL OFFICE OF EDUCATION POSITION OR POLICY.
Every state has a comprehensive school law. It covers the organization and functions of the one or more state education agencies, qualifications for teachers and other school professionals, state-local relations, local public school systems, the role of private schools; and compulsory school attendance.

For normal children, the regular school law is a sufficient and generally all-inclusive legal basis for the free public education they receive or a prescription of the conditions under which they may substitute private schooling.

For the handicapped, supplementary provisions are necessary. Children who have many kinds of physical, mental, emotional, or learning impairments frequently can function in the regular public school setting only if certain aids and auxiliary services designed to ameliorate or overcome the impediments imposed by their handicaps are supplied. In other instances, special environments are needed to enable the handicapped to secure the equivalent of what most children receive entirely from the regular programs or, where this is impracticable, to receive education suited to their conditions and needs. Laws in every state related to special education provide the basis on which the handicapped gain access to the free public education, which is the responsibility of the state to provide.

The following pages contain a comprehensive set of model statutory provisions designed to provide a full legal basis for practicable and effective programs of education for handicapped children. The intention is that they should be considered by states wishing to revise or update their laws relating to the education of the handicapped. Since this group of children is part of the population to which the comprehensive state school law applies and should continue to apply, the models are designed for incorporation into that law.

States considering a major overhaul of their education statutes may wish to regard the models taken in their entirety as a complete set of provisions relating to special education for the handicapped. Other states may wish to consider some of the individual provisions for addition to the existing statutes or as substitutions for particular provisions needing improvement.

The materials are presented in a number of distinct parts. The first of them is brief and applies to all children. It is a compulsory school attendance law in two short sections. It is included because one of the most serious problems in attempting to secure education for the handicapped is the tendency to excuse children with special problems from the requirements of regular school attendance. Statutes which condone or provide for such a course signal a failure of the public educational system to reach large groups of children for which it is intended. In many cases,
they also contravene statutory or constitutional provisions which purport to afford education for all.

The other parts are arranged as a title of a comprehensive state school law. This title relates to special education for the handicapped. It does not replace the regular school law but is a supplement to it.

Brackets [ ] are used to set off alternative language or to indicate areas for insertion of appropriate existing state law or policy.

MODEL COMPULSORY SCHOOL ATTENDANCE LAW

1. Section 1. School Attendance and Instruction Required

2. All children between the ages of [ ] and [ ] shall attend the public schools, or such other schools as may be approved by the [state education agency] for the purposes of satisfying compulsory school attendance requirements, and shall receive instruction therein.

2. Section 2. Programs of Instruction

(a) No child shall be exempt from the requirements of Section 1 hereof, nor shall the authorities legally charged with responsibility for the education of children be relieved from the obligation to provide suitable instruction. The public school authorities shall provide such special programs of education, corrective and related services as may be appropriate to enable all children of the following classes to meet the requirements of Section 1 of this Act:

1. Children who are unable to benefit sufficiently from the regular programs of instruction by reason of their mental, physical, emotional or learning problems, or for any other reason.

2. Children whose degree or kind of disability or illness precludes attendance in a regular school setting.

(b) A child shall be deemed to be of the type described in subsection (a) hereof only upon certification pursuant to rules and regulations of the [state education agency] that he is suffering from physical or mental illness or disease of such severity as to make his presence in a school facility or his travel to and from such facility impossible or dangerous to his health or the health of others. For such children, home, hospital, institutional or other regularly scheduled and suitable instruction meeting standards of the [state education agency] shall be provided by the public schools.
TITLE

EDUCATION OF THE HANDICAPPED

Part I. Policy

Section 100.

 Provision and Implementation

It is the policy of this state to provide, and to require school
districts to provide, as an integral part of free public education, spe-
cial education sufficient to meet the needs and maximize the capa-
bilities of handicapped children. The timely implementation of this
policy to the end that all handicapped children actually receive the
special education necessary to their proper development is declared
to be an integral part of the policy of this state. This section applies
to all handicapped children regardless of the schools, institutions,
or programs by which such children are served.

Section 101.

 Services Mandatory

The [state education agency] shall provide or cause to be pro-
vided by school districts all regular and special education, corrective
and supporting services required by handicapped children to the
end that they shall receive the benefits of a free public education
appropriate to their needs. It shall be within the jurisdiction of the
[state education agency] to organize and to supervise schools and
classes according to the regulations and standards established for
the conduct of schools and classes of the public school system in the
state in all institutions wholly or partly supported by the state which
are not supervised by public school authorities. Schools and classes
so established in wholly state owned institutions shall be financed by
the [state education agency].

Section 102.

 Preference for Regular Programs

To the maximum extent practicable, handicapped children shall
be educated along with children who do not have handicaps and
shall attend regular classes. Impediments to learning and to the
normal functioning of handicapped children in the regular school
environment shall be overcome by the provision of special aids and
services rather than by separate schooling for the handicapped. Spe-
cial classes, separate schooling or other removal of handicapped
children from the regular educational environment, shall occur only
when, and to the extent that the nature or severity of the handicap
is such that education in regular classes, even with the use of sup-
plementary aids and services, cannot be accomplished satisfactorily.
Section 103. Facilities

Physical aspects and specifications of schools, classrooms and other facilities for, or likely to be used by handicapped children, shall be related to their special physical, educational and psychological needs. To this end, school districts, [Special Education Services Associations], agencies of the state and its subdivisions, and any private persons or entities constructing, renovating or repairing facilities with or aided by public funds, which facilities are expressly intended for or are likely to be used by handicapped children, shall plan, locate, design, construct, equip, and maintain them with due regard for the special capabilities, handicaps and requirements of the handicapped children to be accommodated therein.

Section 104. Responsibilities

It is the responsibility of local governments and school districts to expend effort on behalf of the education of each handicapped child equal to the effort expended on account of the education of each child who does not have a handicap. Any additional effort necessary to provide supplemental aids and services shall be the ultimate responsibility of the state but shall, to the maximum extent practicable, be administered through the local school districts.

Section 105. Private Programs

The responsibility of local governments, school districts, and the state, to provide a free public education for handicapped children is not diminished by the availability of private schools and services. Whenever such schools and services are utilized, it continues to be the public responsibility to assure an appropriate quantity and quality of instructional and related services, and the protection of all other rights, and to ascertain that all handicapped children receive the educational and related services and rights to which the laws of this state entitle them.

Part II. Definitions

Section 200. Definitions

As used in this Title:

(a) "Handicapped child" means a natural person between birth and the age of twenty-one, who because of mental, physical, emotional or learning problems requires special education services.
(b) "Special education" means classroom, home, hospital, institutional or other instruction to meet the needs of handicapped children, transportation and corrective and supporting services required to assist handicapped children in taking advantage of, or responding to, educational programs and opportunities.
(c) "School district" means either a school district or a political subdivision operating a public school or public school system.
(d) "Special education facility" means a school or any portion thereof, remedial or supplemental facility or any other building or structure or part thereof intended for use in meeting the educational, corrective, and related needs of handicapped children.

Part III. State and Local Responsibilities

Establishment of Division

There is hereby established in the [State Education Agency] a Division for the Education of the Handicapped. The Division shall be headed by a Director who shall be qualified by education, training, and experience to take responsibility for, and give direction to, the programs of the [State Education Agency] relating to the handicapped.

Advisory Council

(a) There shall be an Advisory Council for the Education of the Handicapped which shall advise and consult with the [head of the state education agency] and the Director of the Division for the Education of the Handicapped, and which shall engage in such other activities as are hereinafter set forth. The Advisory Council shall be composed of [9] members who are not officers or employees of State agencies and no more than [4] of whom may be officers or employees of local school districts. The [head of the state education agency] shall appoint the members of the Advisory Council for [3] year terms, except that of those first appointed, [3] shall be appointed for terms of one year, [3] for terms of two years and [3] for terms of three years. Vacancies shall be filled for the unexpired term in the same manner as original appointments.
(b) The Advisory Council shall be composed of persons broadly representative of community organizations interested in the handicapped, professions related to the educational needs of the handicapped, and the general public.
(c) The Advisory Council annually shall elect its own chairman and vice chairman. The director of the Division for the Education of the Handicapped shall meet with and act as secretary to the
Advisory Council and, within available personnel and appropriations, shall furnish meeting facilities and staff services for the Advisory Council. The [state education agency] shall regularly submit, as part of its budget requests, an item or items sufficient to cover expenses of the operation of the Advisory Council and of its members in connection with their attendance at meetings of the Advisory Council, and other Advisory Council activities.

(d) The Council shall:

1. Have an opportunity to comment on rules and regulations proposed for issuance pursuant to this Title.
2. Consider any problems presented to it by the [head of the state education agency] or the Director of the Division for the Education of the Handicapped, and give advice thereon.
3. Review the State Plan prepared pursuant to Section 400 of this Title prior to its submission to the governor and legislature and comment thereon to the [head of the state education agency] and the Director of the Division for the Education of the Handicapped.
4. Make an annual report to the governor and legislature, and [the state board of education] which report shall be available to the general public and shall present its views of the progress or lack thereof made in special education by the state, its agencies and institutions, and its school districts during the preceding year.

(e) Funds for the publication of the report referred to in subsection (d) of this Section shall be made available from the regular appropriations to the [state education agency].

Section 302.

Special Education Services Association

A school district may meet its obligations to provide education, corrective, and supporting services for handicapped children, as set forth in this Title, and in any other laws and regulations of the [State education agency], by participating in a Special Education Services Association established and operated pursuant to this Title.

A Special Education Services Association may be the means whereby participating school districts perform all of their special education functions or perform only specified special education functions. In the latter case, participating school districts shall continue to provide special education and related services not provided by such an Association on an individual district basis or in some other manner pursuant to law.

Section 303.

Area and Manner of Establishment

A Special Education Services Association shall provide services for all the area included within the school districts participating in it.
It may be established by [resolution of each of the governing boards
of the school districts participating in it] [by vote of the electors in
each of the participating school districts in the same manner as a
school bond referendum].

Section 304.

Governing Board

The Governing Board of a Special Education Services Association
shall consist of representatives of the participating school districts.
Unless otherwise provided in a written agreement embodied in the
resolutions or propositions by which the Special Education Services
Association is established, each participating school district shall
have one representative. The representatives of each school district
on the Governing Board shall be [elected by the governing board
of the school district from its own members] [elected by the voters
of the school district]. Each such representative shall have one vote
on the Governing Board.

Section 305.

Powers of Governing Board

The affairs of a Special Education Services Association shall be
administered by its Governing Board, and the officers and employees
ter thereof. A Special Education Services Association shall have power
to:

(a) Establish and operate programs and classes for the education
of handicapped children.
(b) Acquire, construct, maintain and operate facilities in which to
provide education, corrective services, and supporting services for
handicapped children.
(c) Make arrangements with school districts participating in the
Special Education Services Association for the provision of special
education, corrective, and supporting services, to the handicapped
children of such school districts.
(d) Employ special education teachers and personnel required to
furnish corrective or supporting services to handicapped children.
(e) Acquire, hold and convey real and personal property.
(f) Provide transportation for handicapped children in connection
with any of its programs, classes or services.
(g) Receive, administer and expend funds appropriated for its use.
(h) Receive, administer and expend the proceeds of any issue of
school bonds or other bonds intended wholly or partly for its benefit.
(i) Apply for, accept, and utilize grants, gifts, or other assistance,
and, if not contrary to law, comply with the conditions, if any,
attached thereto.
(j) Participate in, and make its employees eligible to participate in, any retirement-system, group insurance system, or other program of employee benefits, on the same terms as govern school districts and their employees.

(k) Do such other things as are necessary and incidental to the execution of any of the foregoing powers, and of any other powers, conferred upon Special Education Services Associations elsewhere in this Title or in other laws of this state.

Section 306. Special Education Centers

(a) A Special Education Services Association may establish and operate one or more special education centers to provide diagnostic, therapeutic, corrective, and other services, on a more comprehensive, expert, economic and efficient basis than can reasonably be provided by a single school district. Such services may be provided in the regular schools by personnel and equipment of a center or, whenever it is impractical or inefficient to provide them on the premises of a regular school, the center may provide services in its own facilities. To the maximum extent feasible, such centers shall be established at, in conjunction with, or in close proximity to one or more elementary and secondary schools.

(b) Centers established pursuant to this Section also may contain classrooms and other educational facilities and equipment to supplement instruction and other services furnished to handicapped children in the regular schools, and to provide separate instruction to children whose degree or kind of handicap makes it impracticable or inappropriate for them to participate in classes with normal children.

(c) Centers established pursuant to this Section may include dormitory and related facilities and services in order to permit handicapped children who may not reasonably go to and from home daily to receive educational and related services.

(d) No facilities may be acquired or constructed pursuant to this Section unless application therefor has been made by the Special Education Services Association to the Division of Education for the Handicapped and a permit for such facilities has been issued by the Division. The permit may contain such conditions as the Division may deem appropriate to assure conformity with the policy of this Title. No permit shall be issued unless the Division of Education for the Handicapped is satisfied that every effort has been and is being made to accommodate the educational or related services in regular school buildings or on regular school premises, and, that separate facilities are necessary.
Section 307.  
Relation to School Districts

(a) A Special Education Services Association shall provide education, corrective and supporting services for all handicapped children who are residents thereof, except for special education, corrective, and supporting services that are provided directly by the state, and any special education, corrective, and supportive services as, pursuant to the agreement under which the Association functions, are expressly reserved for continued provision by the individual school districts. To the maximum extent practicable, a Special Education Services Association shall make such provision in the regular schools of the school districts served by the Special Education Services Association or in its own facilities established and operated pursuant to Section 305 of this Title. A Special Education Services Association shall make arrangements with, and payments to, private schools, institutions, and agencies, for services to handicapped children only if it is unable to provide satisfactory service with its own facilities and personnel, and the facilities and personnel of its member school districts.

(b) A Special Education Services Association shall provide home or hospital instruction, corrective, and supporting services to handicapped children, but only in cases where the nature and severity of the handicap make the provision thereof in the regular schools, or in other facilities of the Special Education Services Association, the state, or in suitable private facilities, impracticable.

(c) A school district may qualify, for the purposes of state aid, as a Special Education Services Association, if it provides a full complement of educational, corrective and supporting services, exclusive of services provided directly by the state, for all handicapped children resident within its boundaries. Upon application made pursuant to Section 308 (c) of this Title the [state education agency] shall determine whether the applicant school district meets the requirements of the subsection.

Section 308.  
Application for Special Education Services Association Status

(a) Any Special Education Services Association which is in the process of formation, and which proposes to qualify for state aid, shall submit the interschool district agreement pursuant to which it proposes to function to the [state education agency]. Such submission may be either prior or subsequent to adoption of the agreement and the resolution or proposition required by Section 302 of this
Title but no Special Education Services Association shall receive state aid unless it has been approved therefor by the [state education agency].

(b) The [state education agency] shall approve a Special Education Services Association for state aid if it determines that:

1. The Association complies with all provisions of this Title, or if the Association is not yet in operation, that it will have the resources and authority to comply therewith.

2. The geographic area served or to be served by the Special Education Services Association is not so located or of such a configuration as to exclude one or more other school districts from effective participation in a Special Education Services Association or from forming a viable Association of their own.

(c) A school district may apply for and receive the status of a Special Education Services Association by submitting to the [state education agency] an appropriate resolution of its governing board requesting such status. The provisions of Section 309 hereof shall not apply to an application submitted pursuant to this subsection, but the application shall not be approved unless the [state education agency] finds that the school district complies with subsection (b) 1 of this Section, and that it maintains a full complement of special education facilities and programs.

Section 309.

Interschool District Agreement

(a) Each Special Education Services Association, other than one composed of a single school district, shall function pursuant to and in accordance with an interschool district Agreement (hereinafter referred to as "the Agreement"). The Agreement may be incorporated in the resolution or other action establishing the Special Education Services Association or may be a separate document. In any case, however, it shall be adopted either by affirmative vote of each of the governing boards of the school districts participating in the Special Education Services Association or by affirmative vote of the electors in each such school district.

(b) An Agreement shall contain:

1. A precise identification of the party school districts.

2. An enumeration or other precise delineation of the services to be provided by the Special Education Services Association.


4. Provisions defining the relationships between the party school districts and the Special Education Services Association in regard to the responsibilities for regular education of handicapped children and
special education, corrective and supporting services for handicapped children.

5. Provisions fixing the financial responsibilities of each party school district to the Special Education Services Association or setting forth formulas, procedures and other specific methods for the calculation thereof.

6. A minimum duration for the Agreement.

7. Provisions for amendment, renewal, withdrawal from or termination of the Agreement.


9. Financial settlement, if any, with a withdrawing school district.

10. Any other necessary or appropriate provisions.

(c) Prior to becoming effective, an Agreement shall be submitted to the [state education agency] and the Attorney General, and it shall not go into effect unless approved thereby. Failure to respond to a submission within [90] days shall constitute approval thereof.

(d) 1. The [state education agency] shall approve a submitted Agreement, unless it finds that the provisions thereof do not accord with this Title and the policies set forth herein, or unless it finds that the Agreement does not contain sufficient evidence that the Special Education Services Association will have the means of providing the facilities, personnel and services necessary to fulfill its obligations toward handicapped children.

2. The Attorney General shall approve a submitted Agreement, unless he finds it to be in improper form, or unless he finds one or more of its provisions contrary to law.

Section 310.

Contracts Not Prohibited

Nothing in this part shall be construed to prevent a school district from providing educational, corrective, or supporting services for handicapped children by contracting with another school district to provide such services for handicapped children from such other district.

Section 311.

Withdrawal and Dissolution

(a) A school district which is included in a Special Education Service Association may withdraw from participation in any part of the Association only with the approval of the Director of the Division for the Education of the Handicapped after he has conferred with the district and is satisfied that such withdrawal is in the interest of the handicapped children in the Association and the school dis-
Such withdrawal shall be effective only if the school board has the approval of the Director of the Division of the Education of the Handicapped to establish a comparable part of a program. Such withdrawal shall not be effective until the end of the next full school year. The withdrawing school district shall be liable for its proportionate share of all operating costs until its withdrawal becomes effective, shall continue to be liable for its share of debt incurred while it was a participant and shall receive no share in the assets.

(b) An Association established under this part may be dissolved by action of its governing board, but such dissolution shall not take place until the end of the school year in which the action was taken. When an Association is dissolved, assets and liabilities shall be distributed to all entities which participated in the Association.

Part IV. Planning

Section 400.

State Plan

(a) The [state education agency], acting through its Division for the Education of the Handicapped, shall make and keep current a plan for the implementation of the policy set forth in Part I of this Title. The plan shall include:
1. A census of the handicapped children in the state showing the total number of such children and the geographic distribution of handicapped children as a whole.
2. Provision for diagnosis and screening of handicapped children.
3. An inventory of the personnel and facilities available to provide instruction and other services for handicapped children.
4. An analysis of the present distribution of responsibility for special education between the state and local school systems and general units of local government, together with recommendations for any necessary or desirable changes in the distribution of responsibilities.
5. Identification of the criteria for determining how handicapped children are to be educated.
6. Standards for the education to be received by each of the several categories of handicapped children in regular schools or school districts and in state institutions, including methods of assuring that education afforded the handicapped will be as nearly equivalent as may be to that afforded regular children and also will take account of their special needs.
7. A program for the preparation, recruitment and inservice training of personnel in special education and allied fields, including participation, as appropriate, by institutions of higher learning, state and local agencies, and any other public and private entities having relevant expertise.
8. A program for the development, acquisition, construction and maintenance of facilities, and new, enlarged, redesigned and replacement facilities needed to implement the policy of this Title.

9. A full description of the state plan for providing special education to all handicapped children in this state, including each of the matters enumerated herein, and any other necessary or appropriate matters.

10. Any additional matters which may be necessary or appropriate, including recommendations for amendment of laws, changes in administrative practices and patterns of organization, and changes in levels and patterns of financial support.

(b) The plan required by subsection (a) hereof shall be presented to the Governor and the Legislature and made available for public distribution no later than [ ]. Thereafter, amendments to or revisions of the plan shall be submitted to the Governor and Legislature and made available for public distribution no less than [90] days prior to the convening of each regular session of the Legislature. All such submissions, except for the initial submission of the plan, shall detail progress made in fulfilling the plan and in implementing the policy of this Act.

Section 401.
Local Planning and Responsibility

(a) On or before [ ], each school district shall report to the [state education agency] the extent to which it is then providing the special education for handicapped children necessary to implement the policy of this Title. The report also shall detail the means by which the school district or political subdivision proposes to secure full compliance with the policy of this Title, including:

1. A precise statement of the extent to which the necessary education and services will be provided directly by the district pursuant to law requiring such direct provision.

2. A precise statement of the extent to which standards in force pursuant to Section 400(a)6 of this Title are being met.

3. An identification and description of the means which the school district or political subdivision will employ to provide, at levels meeting standards in force pursuant to Section 400(b) of this Title, all special education not to be provided directly by the state.

(b) After submission of the report required by subsection (a) hereof, the school district shall submit such supplemental and additional reports as the [state education agency] may require, in order to keep the plan current. By rule or regulation, the [state education agency] shall prescribe the due dates, form and all other necessary or appropriate matters relating to such reports.
(c) For the purposes of this Section, handicapped children being furnished special education in state schools or other state facilities shall continue to be the planning responsibility of the school district in which they would be entitled to attend school if it were not for the direct provision of special education to them by the state. A record of each such child, the nature and degree of his handicap and of the way in which his educational needs are being met shall be kept by the school district.

Section 402.

Interstate Cooperation

Any state and local plans made pursuant to this Part shall take into account the advantages and disadvantages in providing special education to particular kinds of handicapped children through cooperative undertakings with other jurisdictions. In addition to any arrangements that may be made pursuant to Sections 302-305 of this Title, the state or school district may enter into agreements with other school districts or states to provide such special education: provided that a child receiving special education outside the school district in which he would normally attend public school shall continue to be the responsibility of such school district and nothing herein shall be deemed to relieve the school district from compliance with the requirements of this Title.

(b) Agreements made pursuant to this Section may include the furnishing of educational and related services, payment of reasonable costs thereof, the making of capital contributions toward the construction or renovation of joint or common facilities or facilities regularly made available by one party jurisdiction to the handicapped children of another party jurisdiction, and furnishing of or responsibility for transportation, lodging, food and related living costs.

(c) Any child given educational or related services and any parent or guardian of such child, pursuant to this Section and any agreement made pursuant hereto, shall continue to have all civil and other rights that he would have if receiving like education or related services within the subdivision or school district where he would normally attend public school. No agreement made on the authority of this Section shall be valid unless it contains a provision to such effect.

Part V. Identification of Handicapped Children

Section 500.

Children Attending School

Every school district shall test and examine, or cause to be tested and examined, each child attending the public and private schools within its boundaries in order to determine whether such child is...
handicapped. The tests and examinations shall be administered on a regular basis in accordance with rules and regulations of the [State Education Agency]. As used in this Part, the term "schools" shall mean kindergartens and grades 1-12 and, if the school district provides educational programs below kindergarten level or above grade 12 to all children attending such programs.

Section 501.

Limitation

The requirements of Section 500 shall not apply to children attending private schools, if the children are not residents of this state provided that if the state or the school district had an agreement with another state or school district requiring such tests and examinations, the school district shall administer them and report the results to the school district of the child’s residence.

Section 502.

Records

Every school district shall make and keep current a list of all handicapped children required to be tested and examined pursuant to Sections 500 and 501 of this Title who are found to be handicapped and of all children who are residents of the school district and are receiving home, hospital, institutional or other special education services in other than regular programs.

Part VI. Provision of Special Education Materials and Training

Section 600.

[Unit] Established

There shall be in the Division for the Education of the Handicapped a "Special Education Materials and Training Unit," hereinafter called ["the Unit"], for the purpose of assisting in the education of handicapped persons.

Section 601.

Functions

In addition to any functions in which it may engage pursuant to other provisions of this Title or other laws, the [Unit] may:

(a) Develop, test, demonstrate, maintain, purchase or otherwise acquire, store, produce if not reasonably obtainable from commercial sources, and make available equipment, materials, and special supplies and devices particularly useful in connection with the education of handicapped persons.

(b) Study, develop, and disseminate information concerning techniques for teaching handicapped persons.
(c) Collect, evaluate, and disseminate research data and other information related to special equipment, materials, supplies, devices, techniques and training.

(d) Provide instruction in the operation or use of equipment, materials, supplies, and devices of the type referred to in item 1 of this enumeration.

(e) Provide in-service training for teachers of handicapped persons and other persons requiring special skills or understanding in connection with the education of handicapped persons.

(f) Accept, administer, and utilize federal aid and any other grants, gifts, or donations of funds, equipment, materials, supplies, facilities, and services in connection with any of its authorized functions, and comply with any requirements or conditions attached thereto: provided that the same are not inconsistent with law.

Section 602.

Availability of Programs

(a) The [Unit] shall furnish, lend, or otherwise make available its equipment, materials, supplies, and devices to public school systems, private nonprofit schools, special schools or institutions for handicapped children, and public and private nonprofit institutions of higher learning.

(b) Public and private nonprofit institutions and organizations operating programs of vocational rehabilitation [recognized or approved] pursuant to [cite appropriate statute] also shall be eligible in the same manner as institutions qualifying under subsection (a) hereof.

(c) Pre-school public and private nonprofit programs for the education of handicapped children also shall be eligible in the same manner as institutions qualifying under subsection (a) hereof, if approved by the [Unit].

(d) Handicapped persons may apply for and receive equipment, materials, supplies and devices on an individual basis of the [Unit] has established loan or other services for making the same available to users not covered by subsections (a)-(c) hereof and has provided appropriate procedures therefor.

(e) The [Unit] shall make equipment, materials, supplies, or devices available pursuant to subsections (a)-(c) hereof only on written application made in such form and manner as it may prescribe. The application shall be approved, and equipment, materials, supplies, or devices furnished only if the [Unit] is satisfied that the applicant has a need therefor and is capable of putting them to appropriate use. Applications shall contain information concerning the number of handicapped children for whom the applicant is pro-
Section 603. Regional Service

(a) Except as may be provided pursuant to this Section, the [Unit] shall provide equipment, materials, supplies, devices and in-service training only to schools and school systems, institutions, organizations, and persons in this state.

(b) In view of the specialized character of the functions of the [Unit], it is recognized that its support and utilization on a multi-state or regional basis may promote efficiency and economy, and may make it possible for more persons in need of special education to receive it. Accordingly, it is the policy of this state to encourage multistate and regional cooperation to that end.

(c) The [State Department of Education] may enter into contracts with other states or their appropriate educational agencies for the furnishing of services, equipment, materials, supplies, or devices by the [Unit]. Such contracts may provide for the carrying on of any one or more functions which the [Unit] is authorized to perform in such manner as to serve schools and school systems, institutions, organizations, and persons in such other state or states: provided that unless the activities covered by the contract are financed entirely by the other state or states, including the maintenance of a separate staff or the pro rata contribution to the salaries and other compensation of staff partly employed for the benefit of one or more other states and this state, no school or school system, institution, organization, or person may be furnished with equipment, materials, supplies, devices, or training who would be ineligible to receive the same under the laws of this state.

(d) Contracts made pursuant to this Section shall provide for: 1. their duration;
   2. appropriate consideration and the payment thereof;
   3. the nature and extent of the equipment, materials, supplies, devices, and training to be furnished and received;
   4. the performance of inspections and examinations and the making of reports; the evaluation thereof; and the granting or denial of benefits on the basis thereof;
   5. any other necessary and appropriate matters.

(e) Consideration provided by any contract made with the [State Department of Education] pursuant to this Section shall be at least sufficient to cover the cost of any equipment, materials, supplies, or devices furnished, and an equitable share of the operating costs in

viding instruction or, in the case of a new institution or program, the number expected to be so served; the type or types of handicap; and such other information as the [Unit] may require.
connection with any in-service training given to persons from other states. It shall be a guiding principle for the making of contracts pursuant to this Section that if the use made or to be made of the [Unit] by another state is in excess of [10] per cent of the use made by this state and schools and school systems, institutions, organizations, or persons in this state, consideration required from such other state shall include an equitable contribution to overhead and capital costs, as well as to operating costs and costs of equipment, materials, supplies, and devices furnished.

Section 604.

Contracting Authority

The [State Education Agency] is authorized to enter into contracts for the furnishing of equipment, materials, supplies, devices, and personnel training that are peculiarly useful in the teaching of handicapped children. The [State Education Agency] may pay such consideration, out of funds available therefor, as may be appropriate and equitable in the circumstances. If another state, public agency, or private nonprofit agency establishes and maintains a substantial, specialized program for the development, production, procurement, and distribution of special equipment, materials, supplies, and devices, or for the training of personnel useful in the teaching of handicapped children, and if the contract or contracts entered into pursuant to this Section assure this state of substantial benefits therefrom on a continuing basis, consideration paid by the [State Education Agency] may be calculated to include overhead and capital costs as well as more immediately operational costs and the costs of any articles or services furnished or to be furnished.

Section 605.

Availability of Articles and Services

Any articles or services secured by or through the [State Education Agency] pursuant to contracts made under authority of this Title may be made available to any school systems, special schools, or other persons and entities entitled to participate in or receive benefits from special services to the handicapped. The ultimate apportionment and bearing of costs as among the state, subdivisions thereof and other persons and entities shall be in accordance with law.

Section 606.

Inspections, Reports, and Records

(a) The [Unit] may inspect the facilities of any applicant for or recipient if its equipment, materials, supplies, and devices and
may examine any pertinent records in order to determine facts rele-
vant to the administration of this Title. For this purpose, the [Unit]
and its duly authorized representatives shall have access to the prem-
ises and any pertinent records of the applicant or recipient at all
reasonable times.

(b) The [Unit] may require reasonable reports from any recip-
ient institution or program detailing the uses made of equipment,
materials, supplies, and devices made available pursuant to this
Title, and of the workability or beneficial effects obtained therefrom.

(c) The [Head of the State Education Agency] may provide for
the consolidation of inspections, examinations of records, and making
of reports pursuant to this Section with other inspections, exami-
nations, and reports made or required to be made by the [State
Education Agency] or may permit them to be separate, as in his
judgment is most appropriate to the proper administration of this
Title and the promotion of general efficiency.

Section 607. Relationship of the Unit to Other Entities

(a) Unless the function is performed for it by a Special Edu-
cation Services Association each school district and state institution
shall establish and maintain a special education resources center
which shall perform the functions of procurement, maintenance,
servicing and distribution of special education equipment, supplies
and materials to the schools of the district and to any other persons
or entities to which they are made available pursuant to law. Special
education equipment, supplies, and materials made available to
schools and other entities shall be provided, made available and
inventoried by such center.

(b) To the extent of its capabilities, a special education resources
center may establish and operate or cooperate with others in estab-
lishing and operating programs of in-service training similar to those
authorized for the state unit by Part VIII of this Title.

(c) Centers established as required by this Section shall cooperate
with and may borrow or otherwise obtain from the state unit, regional
instructional materials centers, federal and other governmental agen-
cies, and appropriate private agencies such equipment, supplies and
materials as may be available therefrom and may be responsible for
their proper distribution to and collection from schools and other
entities entitled to receive and utilize them.

(d) It is the purpose of this Section to promote the efficient
and expert use of special education aids and to discourage their
being positioned, kept or made available for use by persons and
under conditions not conducive to their proper employment. The Division for the Education of the Handicapped shall develop, revise and keep in force regulations and guidelines for the operation of centers and for their relationships to schools or other proper recipient entities. The state Unit shall assist centers in their programs of training, equipment servicing, distribution and general administration. (e) The state Unit shall encourage the maintenance of centers by Special Education Services Associations on behalf of their participating school districts, except in those instances where an individual school district has qualified as a Special Education Services Association.

Part VII. Remedies

Section 700.

Administrative and Judicial Review

(a) A child, or his parent or guardian, may obtain review of an action or omission by state or local authorities on the ground that the child has been or is about to be:

1. denied entry or continuance in a program of special education appropriate to his condition and needs.

2. placed in a special education program which is inappropriate to his condition and needs.

3. denied educational services because no suitable program of education or related services is maintained.

4. provided with special education or other education which is insufficient in quantity to satisfy the requirements of law.

5. provided with special education or other education to which he is entitled only by units of government or in situations which are not those having the primary responsibility for providing the services in question.

6. assigned to a program of special education when he is not handicapped.

(b) The parent or guardian of a child placed or denied placement in a program of special education shall be notified promptly, by registered certified mail return receipt requested, of such placement, denial or impending placement or denial. Such notice shall contain a statement informing the parent or guardian that he is entitled to review of the determination and of the procedure for obtaining such review.

(c) The notice shall contain the information that a hearing may be had, upon written request, no less than [15] days nor more than [30] days from the date on which the notice was received.

(d) No change in the program assignment or status of a handicapped child shall be made within the period afforded the parent
or guardian to request a hearing, which period shall not be less
than [14] days, except that such change may be made with the
written consent of the parent or guardian. If the health or safety
of the child or of other persons would be endangered by delaying
the change in assignment, the change may be sooner made, but with-
out prejudice to any rights that the child and his parent or guardian
may have pursuant to this Section or otherwise pursuant to law.

(e) The parent or guardian shall have access to any reports,
records, clinical evaluations or other materials upon which the deter-
mination to be reviewed was wholly or partially based or which could
reasonably have a bearing on the correctness of the determination.
At any hearing held pursuant to this Section, the child and his parent
or guardian shall be entitled to examine and cross examine witnesses,
to introduce evidence, to appear in person, and to be represented
by counsel. A full record of the hearing shall be made and kept,
including a transcript thereof if requested by the parent or guardian.

(f) A parent or guardian, if he believes the diagnosis or evalua-
tion of his child as shown in the records made available to him
pursuant to subsection (e) to be in error, may request an independent
examination and evaluation of the child and shall have the right to
secure the same and to have the report thereof presented as evidence
in the proceeding. If the parent or guardian is financially unable to
afford an independent examination or evaluation, it shall be provided
at state expense.

(g) The [state education agency] shall make and, from time to
time, may amend or revise rules and regulations for the conduct of
hearings authorized by this Section and otherwise for the imple-
mentation of its purpose. Among other things, such rules and regu-
lations shall require that the hearing officer or board be a person
or composed of persons other than those who participated in the
action or who are responsible for the omission being complained
of; fix the qualifications of the hearing officer or officers; and provide
that the hearing officer or board shall have authority to affirm,
reverse or modify the action previously taken and to order the
taking of appropriate action. The rules and regulations shall govern
proceedings pursuant to this Section, whether held by the [state
education agency] or by a [local education agency].

(h) The determination of a hearing officer or board shall be sub-
ject to judicial review [in the manner provided by the state admin-
istrative procedure act] [in the manner provided for judicial review
of determinations] of the [state or local education agency] as the
case may be. [If there is no applicable procedure, appropriate statu-
tory provisions should be added here].

(i) If a determination or hearing officer or board is not fully
complied with or implemented the aggrieved party may enforce it by a proceeding in the Court. Any action pursuant to this subsection shall not be a bar to any administrative or judicial proceeding by or at the instance of the [state education agency] to secure compliance or otherwise to secure proper administration of laws and regulations relating to the provision of regular or special education.

(j) The remedies provided by this Section are in addition to any other remedies which a child, his parent or guardian may otherwise have pursuant to law.

Section 701.

Enforcement Not Affected

Nothing in this Title shall be construed to limit any right which any child or his parent or guardian may have to enforce the provision of any regular or special educational service; nor shall the time at which school districts are required to submit plans or proceed with implementation of special education programs be taken as authorizing any delay in the provision of education or related services to which a child may otherwise be entitled.

Section 702.

Direct State Action

(a) If, at any time after [a school district is found by the [state education agency] to have failed to provide necessary education to all handicapped children who by law are entitled to receive the same from such school district, the [state education agency] may withhold all or such portion of the state aid for the regular public schools as, in its judgment, is warranted. The denial of state aid hereunder may continue until the failure to provide special education required is remedied. Whether or not the [state education agency] elects to withhold aid pursuant to the preceding sentence, it may provide the education directly.

(b) No action pursuant to subsection (a) hereof shall be taken by the [state education agency], except after public hearing on due notice, and on a record that establishes the failure of the school district to provide special education of adequate quantity and quality.

(c) If the [state education agency] acts to provide special education pursuant to this Section, such action may include:

1. The hiring, employment, and direction of special education teachers and any necessary supporting professional and other personnel.

2. The incorporation of such personnel into the affected school system.
3. The procuring and employment of such supplies, equipment and facilities as may be reasonably necessary or appropriate.

4. The furnishing of such administrative supervision and services as may be necessary to make the special education program effective.

5. The direct provision in state institutions or facilities of the special education, except that no child shall be removed from the school district in which he would regularly be entitled to receive special education, without the consent of such child's parent or guardian.

6. Any other incidental matters reasonably necessary to implement any one or more of the foregoing.

(d) Any costs incurred by the [state education agency] in administering subsections (a)-(c) of this Section shall be direct charges against the school district and shall be paid thereby. If a school district shall resist timely payment, the [state education agency] may make payment and reimburse itself by appropriate judicial proceedings against the school district.

(e) During any time when the [state education agency] is providing special education pursuant to this Section, it shall be a purpose of the [state education agency] to assist the school district to assume or reassume its full responsibilities for the provision of education for handicapped children. However, no state aid pursuant to Part X of this Title shall be given to a school district during or for any period when the provision of special education on its account is being administered directly by the [state education agency] pursuant to this Section. The [state education agency] shall return responsibility to the school district as soon as it finds that it is willing and able to fulfill its responsibilities pursuant to law.

Part VIII. Technical Assistance and Personnel Training

Section 800.

Technical Assistance

The [state education agency], upon the request of any school district, shall provide technical assistance in the formulation of any plan or subsequent report required pursuant to Section 401 of this Title. However, any such assistance shall be only advisory and consultative in character and shall not be designed to transfer either in whole or in part, the responsibility for or actual development of the plan or report.

Section 801.

In-Service Training

The in-service training programs of the Special Education Mater-
rials and Techniques Unit shall be available to any teacher of handicapped persons in the regular employ of any school system, institution, organization, or program which could be an eligible applicant for equipment, materials, supplies, or devices pursuant to Section 602 of this Title. However, the locations, times, duration, and specific educational or experience prerequisites for particular training programs or courses shall be determined by the [Unit].

Section 802.

Training

(a) The Division for the Education of the Handicapped may make traineeship or fellowship grants to persons who are interested in working in programs for the education of handicapped children, for either part-time or full-time study in programs designed to qualify them as special education personnel. Persons to qualify for a traineeship must have earned at least [sixty] semester hours of college credit and persons to qualify for a fellowship must be graduates of a recognized college or university. Such traineeships and fellowships may be in amounts of not more than [$ ] per academic year for traineeships and not more than [$ ] per academic year for fellowships with [$ ] per year per legal dependent except in addition, an additional sum up to [$ ] annually for each grantee may be allowed to any approved institution of higher learning in this state for the actual cost to the institution, as certified by the institution. Part-time students and summer session students may be awarded grants on a prorata basis.

(b) The Division for the Education of the Handicapped may contract with any approved institution of higher learning to offer courses required for the training of special education personnel at such times and locations as may best serve the needs of handicapped children in this state.

(c) The Division for the Education of the Handicapped shall administer traineeship and fellowship accounts and related records of each person who is attending an institution of higher learning under a traineeship or fellowship awarded pursuant to this Section.

(d) Following the completion of the program of study, the recipient of a traineeship or fellowship is expected to accept employment within one year in an approved program of education for handicapped children in this state on the basis of one-half year of service for each academic year of training received through a grant made under this Section. A person who fails to comply with this provision may, at the discretion of the Division for the Education of the Handicapped be required to refund all or part of traineeship or fellowship monies received.
Section 803.

Grants

The Division may provide grants to public and private agencies for such research, development, and model programs as are required to promote effective special education.

Section 900.

Part IX. Facilities

Regular School Facilities

(a) Every school district of this state constructing, renovating, remodeling, expanding or modifying school buildings or other structures intended as adjuncts thereto shall plan, design, construct and equip all such buildings and structures in such manner and with such materials as will facilitate use by all handicapped children who may reasonably be expected to enter upon the premises and to make use of them for instructional, remedial or supplementary services. This Section shall be interpreted and administered in the light of the policy of this state to educate and provide services for handicapped children in or in close proximity to the regular schools to the maximum practicable extent.

(b) No school or school-related construction, renovation, remodeling, expansion or modification shall be eligible for state aid pursuant to [cite appropriate statute]: unless the [state education agency] finds that it is in conformity with subsection (a) hereof and [title of state law prohibiting architectural barriers for the handicapped].

Section 901.

Plans and Specifications

(a) Plans and specifications for every special education facility shall be prepared in two parts, as follows:

1. A statement of the educational and related objectives and functions to be served and the uses to be made of the facility.

2. Architectural plans and specifications.

(b) Plans as required by subsection (a) hereof shall be submitted to the [state education agency] for approval thereby. Such approval shall be a prerequisite to the awarding of any construction contract in connection with the facility, except for contracts for the development of the plans and specifications required to be submitted: nor shall any construction commence or permit therefor be issued prior to approval of the plans and specifications by the [state education agency].

(c) Approval shall be given only if the Division of Education for the Handicapped determines that the architectural plans and
specifications properly implement the stated educational and related
objectives and functions, and if the [state school construction agency]
determines that the architectural plans and specifications provide for
design, materials, and equipment appropriate to serve the stated
objectives and functions. If the submission is of plans and specific-
fications for a building or other structure which does not include a
special education facility, approval by the Division of Education for
the Handicapped shall be limited to a certification that the submit-
mimg authority has other facilities adequate to meet the needs of
handicapped children.

(d) No facility to which this Section applies shall be accepted by
any agency of this state, or any school district, [Special Education
Services Associations], or subdivision unless it conforms to the plans
and specifications as approved, or as amended pursuant to sub-
section (e) hereof.

(e) Subsequent to approval of plans and specifications pursuant
to this Section, they may be amended on a showing that the stated
educational and related objectives and functions have been replaced
by other suitable objectives and functions and that the architectural
plans and specifications have been modified to conform to the new
objectives and functions, or that the proposed amendment of archi-
tectural plans and specifications will not impair the suitability of
the facility for the previously stated objectives and functions. Amend-
ments shall be submitted and approved in the same manner as orig-
inal submissions.

(f) Any entity which may be eligible for state aid pursuant to
[cite statute providing state aid to construction of special education
facilities], may qualify therefor only on submission and approval
of plans and specifications in accordance with this Part.

Section 902.

Rules, Regulations and Manual

(a) The [state education agency] shall issue, and from time to
time amend and revise, rules and regulations for the implementation
of this Part. Such rules and regulations shall include procedures for
submission and review of plans and specifications and may include
requirements for additional information to be furnished by school
districts, Special Education Services Associations, or entities con-
structing or proposing to construct special education facilities.

(b) The [state education agency] shall develop and publish a
manual containing educational, and architectural standards to be
met by special education facilities. The manual shall be incorporated
in the rules and regulations issued pursuant to this Part and and no
approval or acceptance of a facility shall be lawful, except on com-
pliance with the standards contained therein.
(c) The manual shall be developed, amended, and revised with due regard for standards applicable to the construction of special education facilities issued by recognized professional organizations. 

(d) Public and private builders and operators of special education facilities may consult with the [state education agency] concerning any matter related to the administration of this Part or any special education facility proposed to be constructed or operated by them, but no such consultation and no representation made shall be construed as an approval of plans and specifications. Such approval may be given only pursuant to Section 901 of this Act.

Section 1000. 

State Aid to be Provided

The state shall provide financial aid in each school year to school districts and other [public entities] [entities entitled by the laws of this state to receive school aid] for educational and related services provided by them for handicapped children. Such aid shall be determined and paid in accordance with this Part and rules and regulations of the [state education agency].

Section 1001.

Elements to be Aided

State financial aid pursuant to this Title may be claimed by and shall be paid to any public school district or other [public entity] [entities entitled by the laws of this state to receive school aid] for each of the following elements:

(a) The education of handicapped children in the regular school programs of the district or entity.

(b) The education of handicapped children in special classes, schools and programs designed to meet their special needs; and the furnishing of corrective or remedial services designed to ameliorate or eliminate physical, mental, emotional, or learning disabilities or handicaps.

(c) The furnishing of transportation.

Section 1002.

Amounts of Aid

(a) For purposes of entitlement to state aid, handicapped children shall be counted in the same manner as other children. [Per pupil aid shall be determined on the same basis as for normal children pursuant to [[cite appropriate section of state law]].] [Units shall be allotted for handicapped children in accordance with [[cite
appropriate provision of Minimum Foundation Program Laws],
except that allowance of any lesser number of pupils to comprise
a standard or minimum unit shall continue as provided in [[cite
appropriate section of state law]].
(b) In addition to the state aid claimed and paid pursuant to
subsection (a) hereof, any school district or Special Education Serv-
ces Association which has maintained an approved program of edu-
cation for handicapped children during any school year shall be
entitled to and receive reimbursement from the state for the excess
cost of the individuals in said program above the cost of pupils in
the regular curriculum which shall be determined in the following
manner:
1. Each district shall keep an accurate, detailed, and separate
account of all money's paid out by it for the maintenance of each
of the types of classes and schools for the instruction and care of
pupils attending them and for the cost of their transportation, and
shall annually report thereon, indicating the excess cost for element-
ar or high school pupils for the school year ending [over
the last ascertained average cost for the instruction of regular chil-
dren in the elementary public schools or public high schools as the
case might be, of the school district for a like period of time of
attendance.
2. Each Special Education Services Association shall keep an
accurate, detailed, and separate account of all monies paid out
by it for the maintenance of each of the types of classes and schools
for the instruction and care of pupils attending them and for the
cost of their transportation, and shall annually report thereon, indic-
ating the excess cost for elementary or high school pupils for the
school year ending in [over the last ascertained average cost
for the instruction of regular children in the elementary public
schools or public high schools as the case might be, of the school
districts served by the Special Education Services Association for a
like period of attendance.
(c) [In addition to any state aid for the transportation of chil-
dren to and from school and other transportation in connection
with school-related activities], the [state education agency], upon a
claim properly substantiated, shall pay 100 percent of the costs of
special buses and other special equipment actually employed in
transporting handicapped children.

Section 1003.
Apportionment of Aid
If any of the educational or other services aided pursuant to this
Part are provided partly by one school district or other entitled
entity and partly by another such district or entity, and if there is
no valid contract or agreement by which one of the districts or
entities is the proper claimant for all the aid in question, each such
district and entity shall be entitled to claim and receive a propor-
tionate share of State aid in accordance with its actual assumption of
costs. The [state education agency] shall provide for the calculation
and apportionment of state aid in cases covered by this subsection.

Section 1004.

Special Fund

(a) There is hereby established a Special Education Fund in the
state treasury. Each budget of the [state education agency] shall
contain an appropriation item for the Fund. It is the legislative intent
that the Fund shall be kept at a level that will permit an annual
rate of expenditure therefrom of not less than [$ ].

(b) The [state education agency] shall make grants from the
Fund to school districts, special education services associations, and
other appropriate entities. The purposes of such grants shall be to
make it possible for the recipients to: 1. secure technical assistance
with planning, design, acquisition, and construction of facilities or
equipment for the education of handicapped children. 2. Supplement
otherwise available but inadequate funds for planning, design acqui-
sitions, or construction of facilities or equipment for the education
of handicapped children.

(c) In applying for grants under this Section, a school district,
special education services association, or other appropriate entities
shall demonstrate that it proposes to use the aid for a purpose iden-
tified in the state plan made pursuant to Section [ ] of this
title as requiring particular current attention or for a purpose selected
by the division of education for the handicapped as one currently
to receive concentrated efforts at improvement.

(d) Grants pursuant to this Section shall be in addition to regular
or special aid otherwise available from the state for educational
purposes.

Section 1005.

Federal Aid

The [state education agency] may apply for, administer, receive,
and expend any federal aid for which this state may be eligible in
the administration of this Title. If such aid is available for a multi-
state or regional program in which this state participates pursuant
to one or more contracts in force pursuant to this Title, the [state
education agency] may apply for and devote all or a portion of the
federal aid to the multistate or regional program.