

The ABCs of Special Education

A HANDBOOK FOR PARENTS

March 1982



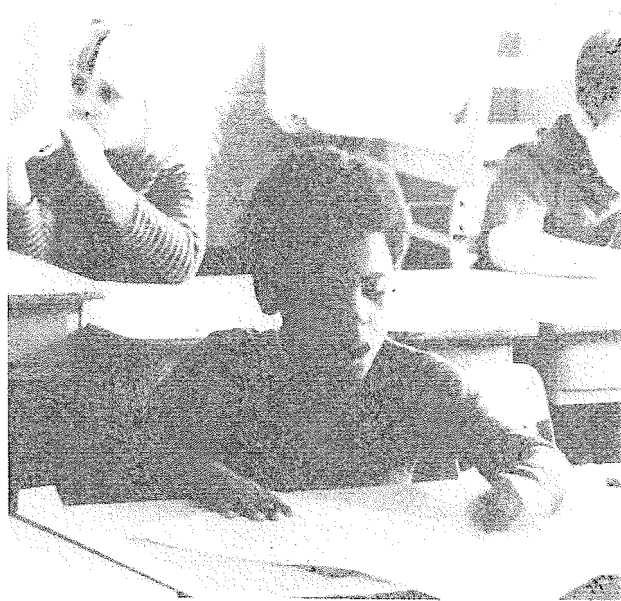
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the Illinois Advisory Committee to the United States Civil Rights. The contents of this handbook should be referred to the United States Commission on Civil Rights, Illinois Advisory Committee.

El ABC Sobre Educación Especial

UN FOLLETO PARA LOS PADRES

Marzo de 1982



Un folleto de la junta Estatal de Asesoramiento de Illinois a la Comisión de Derechos Civiles de los Estados Unidos. El contenido de este folleto no deberá ser atribuido a la Comisión de Derechos Civiles de los Estados Unidos, solo a la junta Estatal de Asesoramiento de Illinois.

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The United States Commission on Civil Rights, created by the Civil Rights Act of 1957, is an independent, bipartisan agency of the executive branch of the Federal Government. By the terms of the act, as amended, the Commission is charged with the following duties pertaining to discrimination or denials of the equal protection of the laws based on race, color, religion, sex, age, handicap, or national origin, or in the administration of justice: investigation of individual discriminatory denials of the right to vote; study of legal developments with respect to discrimination or denials of the equal protection of the law; appraisal of the laws and policies of the United States with respect to discrimination or denials of equal protection of the law; maintenance of a national clearinghouse for information respecting discrimination or denials of equal protection of the law; and investigation of patterns or practices of fraud or discrimination in the conduct of Federal elections. The Commission is also required to submit reports to the President and the Congress at such times as the Commission, the Congress, or the President shall deem desirable.

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The ABCs of Special Education

A HANDBOOK FOR PARENTS

This handbook was prepared for use by parents. However, it will be useful to students, educational officials, community school groups, and others interested in promoting equal educational opportunities for all students.

The purpose of this handbook is to help parents learn about their rights under Public Law 94-142, The Education for All Handicapped Children Act, November 28, 1975.

You may obtain more copies of this handbook from:

Illinois Advisory Committee to the U.S.
Commission on Civil Rights
Midwestern Regional Office
230 S. Dearborn St., Room 3280
Chicago, IL 60604

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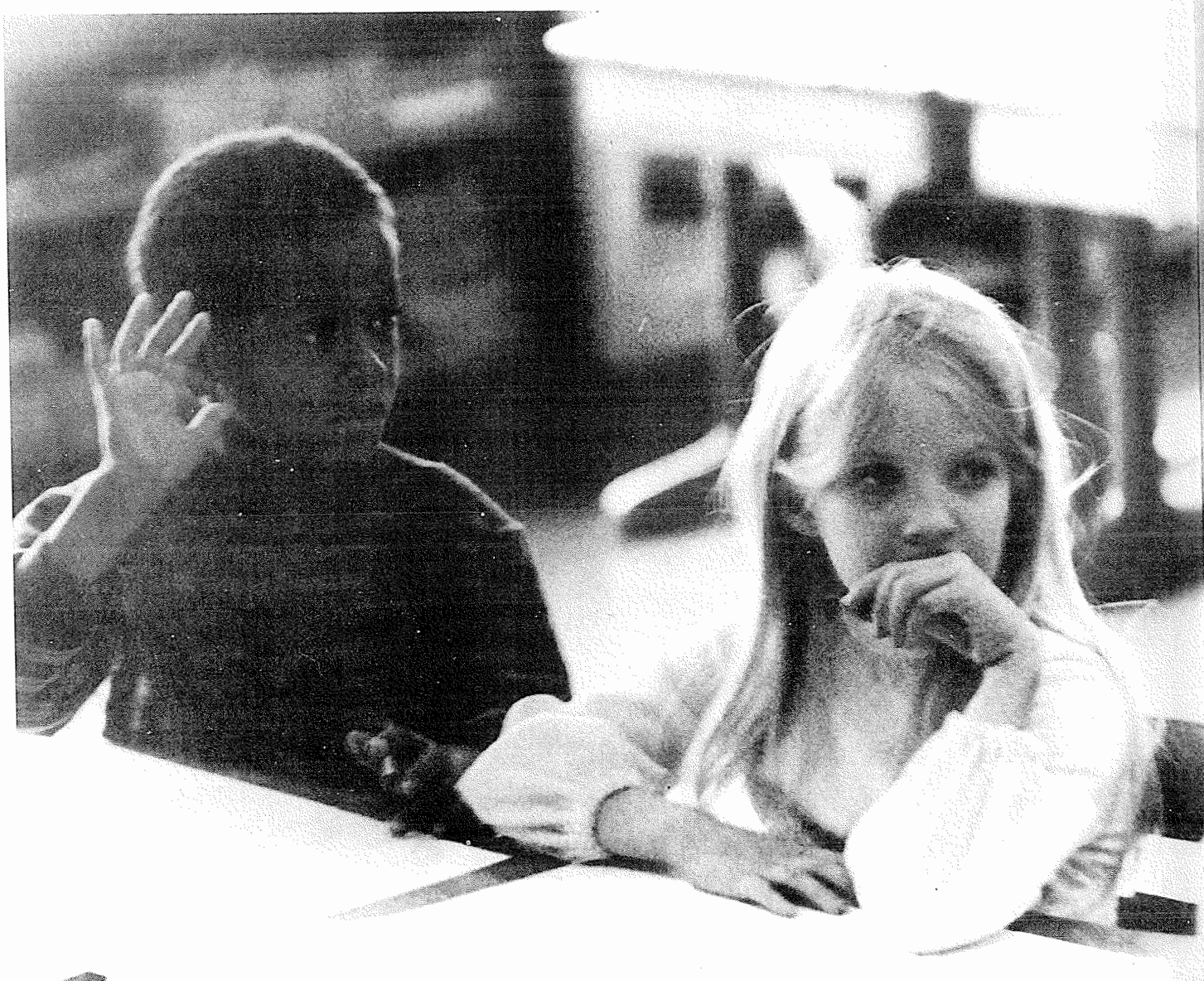
Acknowledgements

This handbook was written by Preston E. Ewing, Jr., member of the Illinois Advisory Committee and an Education Consultant for the National Center for the Educational Rights of children. The handbook was the principal assignment of Valeska S. Hinton, Equal Opportunity Specialist. Ewing and Hinton served as principal investigators. Valuable assistance was also provided by Delores Miller, Ada Williams, Mary Davis, and Walter Bynes, support staff. This project was carried out under the supervision of Clark G. Roberts, Regional Director.

All photographs are for illustrative purposes only. They do not imply any direct relationship between any particular person and the text. Photography by Preston Ewing and Linda Larson. This Spanish translation has been prepared by Irma Claudio, Committee member.

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Introduction

In 1965, the State of Illinois adopted legislation which mandated each local school district to provide special education programs for specified handicapped children by July 1, 1969. Subsequently, this law was expanded and clarified to include all handicapped children between the ages of three and twenty-one years.

On November 28, 1975, President Ford signed Public Law 94-142, The Education for All Handicapped Children Act. This law mandates the provision of a quality educational system to all handicapped children. The delivery of such a system will depend upon the development and implementation of regulations by the State Office of Education that accurately address this legislation in relationship to the educational process.

Implicit in this legislation is a strict system of educational accountability. Since education is a life-long process, it is essential that educators identify where children "are" in a developmental sequence and where they "should be" so that appropriate written individual educational programs can be developed. Thus educators will be held accountable for their ability to move children through this sequence within predetermined time intervals. The new legislation, if implemented according to meaningful regulations, will enhance learning for all handicapped children.

The Congressional intent expressed by Public Law 94-142 is that local school districts be granted Federal funds to provide free appropriate educational opportunities for all handicapped children in the setting judged to be least restrictive for each individual child, that is, educating handicapped students with their non-handicapped peers. State and local funds already available to the local school district on behalf of

handicapped children must be spent first. Public Law 94-142 funds are intended to pay for the excess costs of operating special education programs and services.

The failure of numerous school districts to comply with the *Rules and Regulations to Govern the Administration of Special Education* rest in great part on the fact that the public awareness requirements of those Regulations are ignored by the State Office of Education and the local school districts. By being uninformed, the public allows the local school districts to do only those things they are interested in doing in the area of special education despite the detailed requirements of the Regulations. Parents know little or nothing about the school's responsibility to provide special education programs or the rights of parents that are clearly defined in the Regulations. The problem is enlarged by the fact that too many administrators and almost all teachers have little or no knowledge of their responsibilities under the Regulations. This combination of ignorant public and school administration, perpetuated by the insensitive Office of Education, is acting to deny many students the right to educational programs consistent with their academic needs. Public awareness is not only a right, but it is necessary if the promises of the laws and Regulations are to become realities.

1. What is special education

Special education is special programs and services to help students who are hard of hearing or seeing, deaf, have speech problems, learning problems, seriously emotionally disturbed, mentally disturbed, physically handicapped or have other health problems, or behavior problems.



2. The Federal law on special education

The Federal law known as "Public Law 94-142," requires that school districts give equal educational opportunities to students in need of special education. The law tells of all the rights of the students and their parents.

Based on what is best for the students, parents have the right to get their children into special education programs, change the special education programs, or get their children out of special education programs.

Persons, age 3 to 21 years old, have a right to special education programs if they need them.

3. Your right to know

Schools have the duty of informing parents and the community of each school's special education programs and the rights of parents and students under those programs. All school records on special education programs are public records that are open for public inspection. This does not include records that have the names of other students. Parents can inspect and receive copies

of *all* records the school has on their child. The school district is required to offer training to parents so that they can understand special education, the programs and their rights.

4. Student records

You have a right to:

- * Inspect *all* records the school has concerning your child.
- * Obtain copies of records at a cost no greater than the cost of reproducing them. Parents unable to pay, must be given copies of records free of charge.
- * Have explained any information in the records that is not clearly understood by the parents.
- * Seek changes in the record if the parents believe any of the information is wrong, misleading and a violation of the child's and parent's privacy.
- * A hearing if the school refuses a request by a parent to change information in the student's school records. If the hearing officer does not rule in favor of the parents, a statement of the parents' about the information may be placed in the child's file.

* Determine what person, if any, besides school employees, who may see your child's records. No information in your child's records can be released to persons not involved in the education of your child without parent permission except by order of a court of law or in an emergency where the information is needed to protect the health or safety of the student or other persons.

School records include the following information the school has about a student:

Grades, test scores, reports on health, accidents, misconduct, punishment, attendance, awards, family background, school employee written opinions that are shared with others, and membership in school organizations. This includes information in the form of tape recordings, photographs, letters, notes, and any other reports.

Parents should inspect their child's school record at least once a year. It should be done before:

1. The student transfers to another school.

2. The parents meet with the school to develop an education plan for the student.
3. The parents take part in a hearing to settle a disagreement with the school.

If the school fails to respect the above rights concerning school records a complaint can be file with:

The Family Educational Rights and Privacy Act
Office

U.S. Department of Education
330 'C' Street, S.W. Room 4511
Washington, D.C. 20203

5. Testing the student

Before the school can test a student to determine if the student needs special education, the school must get permission from the parents. If the parents do not give permission, the school can not test the student. If the school insists that the student be tested, the the school must call for a hearing before a hearing officer to determine if the child should be tested. At the hearing,



parents have a right to state their reasons why they do not want their child tested. The Parents can use witnesses and evidence at the hearing. They can also question any witnesses the school uses.

Tests used by the school must be in the language the student speaks and reads. The persons who test the student must speak the languages of the student.

The tests must be approved to test certain things about the student, and the tests should be free of race and culture discrimination.

If the parents disagree with the results of the tests, the parents can get someone else to test the student and the results of the new test must be used by the school in making a decision. The parents can request that the school pay for the testing the parents have had someone other than the school do. If the school refuses, the parent can request a hearing to show that the school should pay because the school's testing was not correct, incomplete, was never performed or it is too old.

6. Student education plan

Every special education student must have an education plan written by the parents and the school each school year. The plan should be agreed to before the beginning of each school year, and it is the responsibility of the school to do all that is agreed to in the education plan.

Whenever the parents or the school believe that the education plan should be changed, a new meeting should be called to discuss the changes wanted the plan must include the following:

- A statement of what the student already knows.
- What the school will teach the student during the school year.
- What the student is expected to learn during the school year.
- What services the school will provide other than teaching.
- What will be done to see if the student is making progress as the school year goes on.
- Types of punishment.
- Dates of when the program will begin and end.

To develop this education plan for the student, the school must see when the parents can attend a meeting to sit down with a special education teacher and a school administrator to discuss what education program and services are best for the student. Once a date has been agreed to, the school must send a written notice to the parents. When the parents and the school agree on the education plan, the parents should sign it. If the parents do not agree with the school, the parents do not have to sign the education plan and, by law, the school can not force the student into a special education program against the wishes of the parent. When the parents and the school disagree, the parents or the school can request a hearing to get a decision on who is right and what is best for the student.

7. Where will the student go to school?

Special education students have the legal right to be educated in the same school and the same classrooms with children who are not special education students.

Putting special education students into separate schools and separate classrooms away from other students can not be done unless the school can prove it can not educate the special education students in the same buildings and classrooms with students who are not special education students.

If the parents disagree with the school on where the student will be educated, the parents can request a hearing to decide what is best for the student. The school must provide transportation to the special education student when needed.

8. How to solve disagreements

If the parents can not agree with the school on what special education program is best for the child, the parents have a right to a hearing before a hearing officer who is not connected with the school district in any way. Before the hearing, the parents have the right to have copies of all the records the school has on the student.

The hearing is not like a hearing in a court of law. Parents can have anyone they choose to help them prepare for the hearing and present their facts at the hearing. Parents can also bring friends and witnesses to the hearing, and they can ask questions of all of the school's witnesses



who take part in the hearing. The hearing can be open to the public if that is the wish of the parents. If parents don't speak the language spoken at the hearing, the school must provide a translation for the parents. While there is a disagreement between the parents and the school, no charge can be made in the student's education program unless the parents agree to a change. The parents continue to have this right until the disagreement is solved through a hearing or a court of law. If either the parents or the school disagree with the decision that comes from the hearing, they may appeal it.

9. Private school and State schools

The school district may decide to place a student in a private school or a state school. If the parents disagree, they can refuse to allow their child to attend such a school unless in a hearing, the school district can prove that it is not possible to educate the student in the regular public schools. Until this is proven the school cannot force the student to attend a private school or a state school.

Parents can request that their child be placed in a private school or a state school. If the school refuses to pay the cost, the parents can request a hearing in which they can state their reasons why the child needs to attend the (?)

10. Can the school claim a lack of money?

If a student is in need of services or programs, the school must provide them or make arrangements to have them provided. *A lack of money is not an excuse.* If the school does not have the money, it must get the money from within the school district or from the state or federal government. If the school tries but fails to get the money, then the school must reduce programs and services to other students to the same level of educational opportunity available to special education students.

11. What fees you pay

The money paid by parents of special education students for books and other materials should be *no greater* than the amount paid for students who are not in special education programs.

12. Putting the student out of school

Students in Special education programs can not be put out of school for their behavior. However, if such students become dangerous to others, themselves or school property, they can be removed from school for a *short while* so that the school and the parents can make new plans to correct the behavior. The school cannot change the students' education plan unless the parents agree, and the student must be given education services while out of school. Students cannot be punished for behavior that is caused by them not receiving the correct program and services.

13. Summer School

During the summer months some special education students forget a lot of what they learned during the school year. For this reason, the schools are required by law to have summer school for those students in need of it.

14. Substitute parents for students

Special education students whose parents are unknown or can't be found must be given a substitute parent by the school to protect the education rights of the students. This must also be done for special education students who are wards of the state.

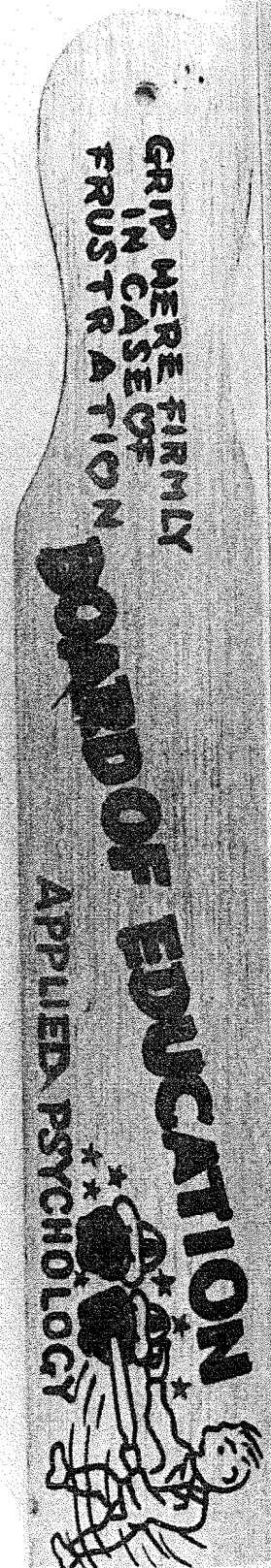
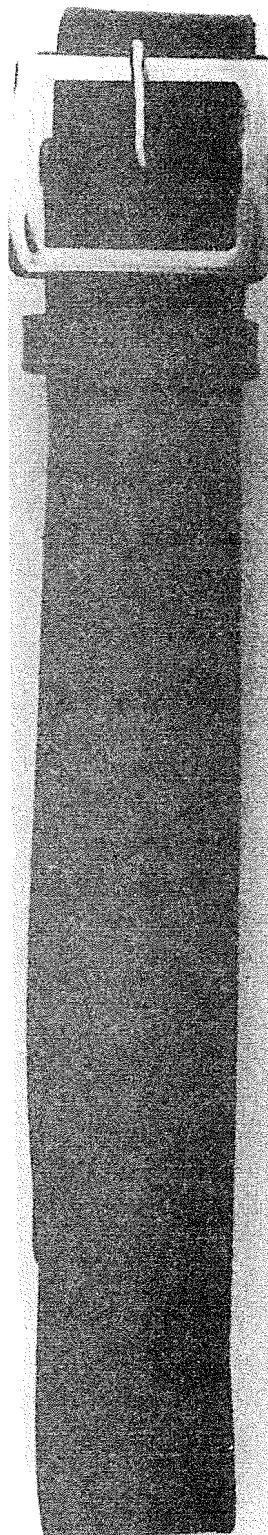
15. Complaints

Complaints about violations of special education laws and regulations can also be made to state education officials and the U.S. Department of Education. Parents, other persons and organizations can also make complaints.

16. Graduation

Special education students have a right to attend school until they are 21 years old. Parents have a right to disagree to the graduation of their children from high school if they believe that more education is needed by the students. When the parents agree to graduation, the school is no longer required to provide education programs to the students.

The education plan that is developed each year for special education students should contain the education programs that will qualify the student for graduation.





17. For more information. . . .

More information on special education programs, services and regulations should be available from the school district. The State office of education is also a place where parents can get additional information. *You may also contact —*

Office For Civil Rights

Department of Education
330 Independence Avenue, S.W.
Washington, D.C. 20201

Regional Offices

REGION I. Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont

John Bynoe, Director
Office for Civil Rights
140 Federal St., 14th Floor
Boston, Massachusetts 02110
617/223-4405

REGION II. New York, New Jersey, Puerto Rico, Virgin Islands

Charles Tejada, Director
Office for Civil Rights
Federal Building
26 Federal Plaza, Room 3908
New York, New York 10007
212/264-4633

REGION III. Delaware, District of Columbia,
Maryland, Pennsylvania, Virginia, West Virginia

Dewey Dodds, Director
Office for Civil Rights
P.O. Box 13716
3535 Market St.
Philadelphia, Pennsylvania 19101
215/596-6772

REGION IV. Alabama, Florida, Georgia, Kentucky,
Mississippi, North Carolina, South Carolina,
Tennessee

William Thomas, Director
Office for Civil Rights
101 Marietta St.
Atlanta, Georgia 30323
401/221-2954

REGION V. Illinois, Indiana, Minnesota, Michigan,
Ohio, Wisconsin

Kenneth Mines, Director
Office for Civil Rights
300 South Wacker Drive, 8th Floor
Chicago, Illinois 60606
312/353-2521

REGION VI. Arkansas, Louisiana, New Mexico,
Oklahoma, Texas

Taylor August, Director
Office for Civil Rights
1200 Main Tower Building, 19th Floor
Dallas, Texas 75202
214/767-3951

REGION VII. Iowa, Kansas, Missouri, and Nebraska

Jesse L. High, Director
Office for Civil Rights
1150 Grand Ave.
Kansas City, Missouri 64106
816/374-2223

REGION VIII. Colorado, Montana, North Dakota,
South Dakota, Utah, and Wyoming

Gilbert Roman, Director
Office for Civil Rights
1961 Stout St., Room 1185
Denver, Colorado 80294
303/837-5695

REGION IX. Arizona, Idaho, Oregon, and
Washington

Robert Brown, Acting Director
Office for Civil Rights
1275 Market St., 14th floor
San Francisco, California 94103

REGION X. Alaska, Idaho, Oregon, and Washington

Gary Jackson, Acting Director
Office for Civil Rights
1321 Second Ave.
Seattle, Washington 98101
206/442-1992