

Y 4
. L 11/4

1043

96y4
L 11/4
N 1/92
980-10

N 72/980-10 **NOMINATIONS**

GOVERNMENT
Storage

DOCUMENTS

NOV 14 1980

FARRELL LIBRARY
KAN UNIVERSITY



HEARING
BEFORE THE
COMMITTEE ON
LABOR AND HUMAN RESOURCES
UNITED STATES SENATE
NINETY-SIXTH CONGRESS
SECOND SESSION
ON

EDWIN W. MARTIN, JR., OF VIRGINIA, TO BE ASSISTANT SECRETARY (FOR SPECIAL EDUCATION AND REHABILITATIVE SERVICES) AND CYNTHIA G. BROWN, OF THE DISTRICT OF COLUMBIA, TO BE ASSISTANT SECRETARY (FOR CIVIL RIGHTS), DEPARTMENT OF EDUCATION

JUNE 12, 1980



Printed for the use of the Committee on Labor and Human Resources

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1980

66-818 O

AY
A/H J.
N 25/880-10

DOCUMENTS

NOV 1 1980

U.S. HOUSE OF REPRESENTATIVES
OFFICE OF THE CLERK

LABOR

COMMITTEE ON LABOR AND HUMAN RESOURCES

HARRISON A. WILLIAMS, Jr., New Jersey, *Chairman*

JENNINGS RANDOLPH, West Virginia
CLAIBORNE PELL, Rhode Island
EDWARD M. KENNEDY, Massachusetts
GAYLORD NELSON, Wisconsin
THOMAS F. EAGLETON, Missouri
ALAN CRANSTON, California
DONALD W. RIEGLE, Jr., Michigan
HOWARD M. METZENBAUM, Ohio

RICHARD S. SCHWEIKER, Pennsylvania
JACOB K. JAVITS, New York
ROBERT T. STAFFORD, Vermont
ORRIN G. HATCH, Utah
WILLIAM L. ARMSTRONG, Colorado
GORDON J. HUMPHREY, New Hampshire

LETITIA CHAMBERS, *Staff Director*
STEVEN J. SACHER, *General Counsel*
MARJORIE M. WHITTAKER, *Chief Clerk*
DAVID A. WINSTON, *Minority Staff Director*

NOMINATIONS

THURSDAY, JUNE 12, 1980

U.S. SENATE,
COMMITTEE ON LABOR AND HUMAN RESOURCES,
Washington, D.C.

The committee met, pursuant to notice, at 10 a.m., in room 4232 Dirksen Senate Office Building, Senator Harrison A. Williams, Jr. (chairman) presiding.

Present: Senators Williams, Randolph, Javits, and Stafford.

The CHAIRMAN. The committee will come to order.

Today we continue the process of considering the nominations of important officials to the new Department of Education. The President has nominated two distinguished and very experienced persons to carry forth the duties and responsibilities of this important Department.

Appearing before the committee today is Dr. Edwin W. Martin, Jr., the first nominee for the newly created position of Assistant Secretary for Special Education and Rehabilitative Services and Cynthia G. Brown, the nominee to be Assistant Secretary for Civil Rights.

Dr. Martin has a long and distinguished career as a special educator and public servant. His appointment is applauded and I look forward to the leadership Dr. Martin will bring to this important new position.

It is expected that Ms. Brown will administer the Office for Civil Rights and make an annual report to the Secretary, the President and the Congress which summarizes compliance and enforcement activities and identifies significant civil rights compliance problems with recommendations for corrective action. This position is extremely important and I look forward to Ms. Brown's leadership.

The financial disclosure statements are in order.

I know that this is a good opportunity for us, in pursuing our legislative mandate, to have some questions and review some of the situations that will be before both of you in your positions.

We are certainly very pleased that Senator Randolph, who is chairman of our Subcommittee on the Handicapped, is here to have some opening words for us.

Senator RANDOLPH. Thank you, Mr. Chairman. Ladies and gentlemen, and those who are the nominees, I am very gratified that Senator Stafford and I, who work closely together on the Subcommittee on the Handicapped, are able to be here this morning.

On behalf of the Subcommittee on the Handicapped I am pleased to welcome you here today. It is most important at the outset to stress the importance of the new Office of Assistant Secretary for Special Education and Rehabilitative Services. Careful thought was

given before Senator Muriel Humphrey and I originally sponsored an amendment in 1978 to create such an office. There is abundant data in the volumes of our hearings over the past 4 years which indicate that coordination of Federal programs for the handicapped is absolutely necessary if these programs are going to be effective in providing a continuum of services to all handicapped Americans of all ages. Senator Stafford and I have an intensive interest in this matter.

The coordination of Federal programs for the handicapped, our top priority, is absolutely necessary if specialized services are to be provided to all handicapped individuals—children and adults—in an effective manner.

The CHAIRMAN. How do you describe those who are in truth the handicapped? I would like to have it on the record.

We will take a vote.

Senator RANDOLPH. I have said it a hundred times before audiences everywhere.

Senator STAFFORD. To use that old line, if there is a vote, I am for my friends, and you are both my friends.

Senator RANDOLPH. I think also we have to consider all ages without a cutoff point. I am very thankful the Federal Government, at long last, decided that the worker within the Federal Government is not to be shoved aside at a certain age, if he or she is doing a good job.

Programs should provide a continuum of services to all handicapped Americans—young and old.

It was determined that it would not only be program effective but cost effective if there were one central administrative unit in our government to accomplish this effort. A cooperative effort bringing together rehabilitation, education, and research into one unit, with an assistant secretary to administer the programs, is the first essential step.

One of the first and most important activities will be the selection of people who will assist you, Dr. Martin, in administering this office. I know that you are now in the process of seeking staff and we on the subcommittee, as do members of the full committee on Labor and Human Resources, believe there is a great resource that can and must be called upon to assist you. I'm speaking of the qualified handicapped individuals who must be recruited to work with you on a daily basis at the highest policy level in developing the strategies and activities to implement the programs that have been created by the Congress to help meet the needs of all handicapped Americans. These people should be on your personal staff, helping you make decisions, as well as on the program staff to assist in the implementation of the programs.

I am aware that under your leadership the Bureau of Education for the Handicapped has a record of employing 13 percent of its staff who are handicapped individuals. However, I feel that 13 percent in 13 years is not truly meeting the intent of the affirmative action requirements. The subcommittee has learned in its many hearings that there are handicapped individuals who have the educational background and the career and personal experience that will prove invaluable to your office.

I have a number of questions on a variety of other matters which I will present to you in writing. These include questions on the staff of the National Council on the Handicapped and, in particular, on your goals and agenda for the rehabilitation programs you will supervise. These will be given to you in writing and it is our hope that you will respond to them as soon as possible.

Mr. Chairman, I must inject at this time in the record a commendation of Dr. Dan Taylor who appeared before this committee last Thursday, June 5. His responses to written questions were received in my office on Tuesday, June 10. This is the first time in my recent memory that responses have been received so promptly.

Dr. Martin, I recall working with you when you were staff director of the ad hoc committee on the handicapped in the House of Representatives back in 1966. We have continued that good relationship since then in your role as deputy commissioner for the Bureau of Education for the Handicapped. I look forward to working with you in your new position to achieve our mutual interests in matters relating to the handicapped. I know you will show the same strong leadership in the future as you have in the past and that our handicapped citizens will continue to benefit from your efforts.

I am here, very frankly, to support your nomination.

The CHAIRMAN. Thank you very much, Senator Randolph.

That was inspired, and in turn, inspiring.

Doctor Martin might well get a copy of that and have it in his desk for a reference.

Senator Stafford?

Senator STAFFORD. Thank you.

I would like to welcome both the nominees here. I think Senator Randolph has so eloquently stated the position for the Subcommittee on the Handicapped that I enjoy serving on, that I will simply associate myself with what Senator Randolph has said, both what is on the record and that that was off the record.

At this point we will insert Senator Javits statement.

STATEMENT OF HON. JACOB K. JAVITS, A U.S. SENATOR FROM THE STATE OF NEW YORK

Senator JAVITS. Mr. Chairman, I am pleased to introduce to the committee, Dr. Edwin Martin, the President's nominee to be Assistant Secretary for Special Education and Rehabilitation Services in the Department of Education.

Dr. Edwin Martin is well known to members of this committee for his effective advocacy on behalf of handicapped and gifted children. He began his association with the committee in 1966 when, as a professional staff member of the House Education and Labor Committee's Subcommittee on the Handicapped—chaired by Hugh Carey, now New York's Governor—he worked closely with us in developing title VI of the Elementary and Secondary Education Act—the first Education of the Handicapped Act. In that act, Congress took the first steps in support of the States in educating handicapped children, and established the Bureau of Education for the Handicapped as a major component of the Office of Education.

Harold Howe, II, then U.S. Commissioner of Education, chose Ed to serve as Deputy Director of the new Bureau. In 1970, he was

named by Commissioner James E. Allen as Director of the Bureau, and Associate Commissioner, and in 1977, he was selected as the first Deputy Commissioner for Education of the Handicapped.

In 1969, Dr. Martin began to advocate critical revisions in the Federal role in education of the handicapped from a limited catalytic function to a fundamental national commitment to education for every child. For this, and other initiatives, he was cited by Commissioner Allen in 1970 with an HEW Superior Service Award for "visionary leadership in expanding Federal programing for the handicapped." In 1971, working closely with then Commissioner Sidney P. Marland, Ed began a campaign to establish a national goal of education for all handicapped children by 1980. In the following years he worked with this committee, particularly with Chairman Williams, Senator Randolph and me, on the development of the Education for All Handicapped Children Act, Public Law 94-142.

Under his direction the Bureau's staff also developed a survey and report—known as the Marland report—on the state of education for the gifted and talented children in our Nation. The report, which supported the findings of this committee through its hearings, stated that America was virtually ignoring its most precious leadership potential, and helped us in our efforts to pass the first gifted and talented children's program, which I am honored to have sponsored, as part of the special projects basket of demonstration programs in the Education Amendments of 1974. Under Dr. Martin's leadership, this program proved to be of substantial worth and, with the help of Senator Pell, Senator Stafford, and other members of the Education Subcommittee, the ESEA Amendments of 1978 included a new program of grants to all 50 States to help meet the great potential of our gifted and talented children.

Ed Martin was born in Oceanside, N.Y., grew up in Rockville Centre, where he was graduated from Southside High School. He received his A.B. degree from Muhlenberg College, Allentown, Pa., where he was editor of the college newspaper and elected to "Who's Who Among Students in American Colleges and Universities." He began his work with children and adults with disabilities at the University of Alabama where he received a master of arts degree in speech pathology and audiology. His Ph. D. in speech pathology and psychology was awarded by the University of Pittsburgh.

Before coming to Washington, Ed taught at the University of Alabama where he directed a vocational rehabilitation project, training speech and hearing specialists to work with adults. He continues his interest in teaching today as lecturer in education at Harvard University where he annually offers a graduate seminar on public policy and the handicapped.

Dr. Martin has been honored for his efforts on behalf of America's handicapped citizens by many major organizations representing the disabled: parent groups, educational organizations, and organizations of disabled adults. In 1974, he was awarded an honorary doctorate of humane letters by Emerson College for his civil rights advocacy on behalf of individuals who have suffered discrimination by virtue of race or handicap.

I applaud the President's nomination of Dr. Martin, whose exemplary commitment to the education, rehabilitation, and rights of handicapped individuals makes him the right choice to serve as the first Assistant Secretary for Special Education and Rehabilitation Services.

Although we on the committee know him well from his numerous appearances before us, I am pleased to introduce Ed Martin formally this morning and to support his candidacy.

[The following was submitted for the record:]

QUESTIONS FOR ED MARTIN, ASSISTANT SECRETARY-DESIGNATE, FROM SENATOR JAVITS

1. As you know, I have long been concerned with the condition of education for our gifted and talented children. The programs at the Federal level for the gifted and talented have been under your jurisdiction as the Deputy Commissioner for Education of the Handicapped in the Office of Education, and I am informed that they will continue to be administered by your division in the Department of Education. Could you tell us where in the administrative structure of the Office of the Assistant Secretary the gifted and talented programs will be, and to whom the Director of the Office of Gifted and Talented will report, in terms of line authority?

2. Could you tell us of the status of the Office of Information and Resources for the Handicapped, authorized to be established by the Rehabilitation Amendments of 1978? Senator Randolph and I have taken a particular interest in the establishment of this Office, as that statute requires that it be established in order to provide grants to operate training programs for interpreters of the deaf, which are so critically needed, as well as the basic coordination of programs serving the handicapped. The establishment of the Office has been greatly delayed, and I hope you can shed some light as to its disposition and role within your division.

Senator STAFFORD. With that I am prepared to hear the testimony of our nominees.

The CHAIRMAN. We do appreciate now hearing any statement you would like to make.

Dr. Martin, first.

STATEMENT OF DR. EDWIN W. MARTIN, NOMINEE AS ASSISTANT SECRETARY FOR SPECIAL EDUCATION AND REHABILITATIVE SERVICES, DEPARTMENT OF EDUCATION AND HUMAN SERVICES

Dr. MARTIN. Thank you, Mr. Chairman, Chairman Randolph, Senator Stafford.

I appreciate your opening remarks very much, and I enjoyed the years of working together. I can assure you that the interests of disabled people, finding employment in the Bureau and across the country, is one of our highest concerns, and will continue to be. I am proud of the fact that the Bureau has led the Federal Government in the employment of handicapped people. I think we will continue to do this in the Assistant Secretariat.

My feeling about employing the handicapped is that a quota is not what is needed. One does not set a number. Instead one looks at every applicant in terms of whether that person can do the job. We have done that, and we will continue to do that. I think you can look forward to seeing the positions in the Office of the Assistant Secretary continue to be represented by disabled persons. I appreciate your sensitivity on that area.

Mr. Chairman and members of the committee, I am honored to have the opportunity to come before you as President Carter's and

Secretary Hufstедler's nominee for the position of Assistant Secretary for Special Education and Rehabilitative Services.

I have been very fortunate to have worked with the committee and with your colleagues in the House during the most exciting years of our Nation's history with regard to our concerns for disabled and gifted citizens.

The congressional hearings in 1966 presented a gloomy and depressing picture of partial efforts to educate the handicapped. Parents and educators came before this committee, and the Education and Labor Committee in the House, and spoke of children excluded entirely from schooling, of parents facing huge and unmanageable expenses for private schooling and treatment, of children in education programs being segregated into second-class institutions of substandard facilities, equipment, untrained teachers and so forth.

It was a litany that you have heard since then. In fact, in the hearings in the early seventies when Chairman Williams introduced legislation in 1974 when you introduced and in your own bill, Senator Randolph the same background and testimony were heard.

That is not to say there were not some good, or even excellent programs—there were, and in fact, this led to other problems, of parents moving from community to community, or even State to State seeking publically available programs. It was this record that led to the first education of the handicapped title in the Elementary and Secondary Education Act, passed and signed into law in November of 1966.

One of the most memorable moments of my life was sitting in room EF-100 of the Capitol as the conferees made the decision to establish the Bureau of Education for the Handicapped, to establish a program of grants to the States, and to begin the efforts to assist States in the education of handicapped children. The first year there was \$2.5 million of assistance to States in the 1967 budget. This year the President is asking \$947 million for those same purposes. From approximately 1 million handicapped children in schools at that time, we are now serving more than 4 million.

In the years since 1966, the Congress has passed many acts to improve education and rehabilitation services for the disabled—programs for preschool children, special services for the deaf-blind, programs to develop new educational technology to help the deaf learn from movies and television, technology to help the blind read print, programs to encourage independent living for disabled adults, and most significantly Public Law 94-142, the Education for All Handicapped Children Act, and section 504 of the Rehabilitation Act which prohibits discrimination against disabled persons.

These laws have resulted in enormous improvements in services for the disabled. More than 1 million persons are actively involved each year in rehabilitation programs, about half of these are persons severely disabled. Four million children are enrolled in special education programs. About 9.5 percent of school enrollment, which is close to the 10 to 12 percent of enrollment estimated when Congress was considering Public Law 94-142. More parents are involved positively with school programs than ever before in any

aspect of public education as they interact with schoolteachers and officials in developing the individual education program.

As I have had the opportunity to work in the last year with several international organizations concerning problems of the disabled, I can report to you, that in my opinion, no Nation in the world has made a more profound or effective commitment to bringing disabled people fully into its society. Even the nations with strong national social service and medical programs have not focused as sharply as our Nation has on the rights of disabled people, or as fully on the social attitudes which are necessary to promote independence rather than dependence.

It is not my purpose to suggest that all programs are working at 100-percent efficiency, and that there are no problems. Instead I am attempting to provide a context for looking at the problems. We have set very high goals. We expect every child to be appropriately educated, bar none. We expect no disabled person to suffer from discrimination. And we postulated these aims in the United States through legislation, because we saw in the Nation that we had failed to reach these goals without that legislation—so we started from a system which needed change and improvement. We are making rapid progress, but there is still a long way to go.

I feel that the new Office of Special Education and Rehabilitative Services can be a powerful new tool in the work of making the promise of legislation a day-by-day reality. Years ago, in 1966, the Congress stipulated that there be a bureau.

I might say the wisdom of that decision was not embraced. In fact, it was done over the opposition of a good many administrators at the time. It was a good decision. I have seen that from the first day of the Bureau we have had a place at the table when major decisions were being made—legislative, policy, budget, staffing decisions, and all had to be decided with an eye to the educational needs of disabled children and adults. From the position of Bureau Director it has been possible to work closely with the public, with commissioners, the administration at large, and the Congress to bring about changes in public policy.

In creating the Department of Education, the Congress again has specified its concern for disabled citizens, bringing together the Rehabilitation Services Administration, the National Institute of Handicapped Research and the new Office of Special Education which replaces the Bureau of Education for the Handicapped, into a new Assistant Secretariat. I believe this new organizational entity, which spans the concerns for the disabled from birth through old age, will assure that the needs of the disabled are clearly presented to Secretary Hufstedler and, through the major benefit that the Department of Education provides, the Secretary can make that case directly to the President.

We have already seen evidence that the structure will provide that kind of access, as the Secretary has advanced major budgetary issues affecting the handicapped to the Office of Management and Budget and the President. You might know already that even though we have gone through a substantial belt tightening, that the Secretary's priorities, and the President's priorities have been to avoid cutting programs for the disabled, either adults or children.

It is my hope that the Assistant Secretary for Special Education and Rehabilitative Services, working closely with the Secretary, can provide a Government-wide focus on the status of disabled persons in American society, and can assure that the errors of omission, which have for so long been part of the "out of sight-out of mind" problems facing the disabled do not persist.

Similarly, the new structure provides an Office of Special Education with concern for the individual educational needs of gifted and talented as well as handicapped children. There is a basic need in American education to diversify instruction, to help the swift and inventive learners as well as those who move at other paces. The system has served the middle range well, but children at the extremes have sometimes been neglected. Across the Nation there's a grassroots interest in strengthened programing for gifted and talented children—and the Department of Education and the Office of Special Education should provide these children new visibility and support.

There is no Assistant Secretariat in the new Department which has a more complex structure than this one, or a more extensive concern. There are between 15 and 20 million Americans who suffer from one form of disability or another. Although many persons have disabilities as children and maintain them throughout their lives, the largest numbers of persons with disabilities suffer them as adults, as a result of illness or accidents.

As Americans live longer lives, and the trends show that each year our average national age grows older, there will be more persons facing the need for society to cease discriminating in employment. Transportation must be available for people to travel to work, to shop, to visit friends, or to obtain needed medical and other services. There must be accessible housing and assistance with independent living so that the disabled who could, with minimum assistance, lead independent lives need not become residents of nursing homes and institutions.

Through educational programs at the elementary and secondary level, through vocational and technical education, and through higher and adult education programs, working closely with rehabilitation programs, and with the new independent living programs we can do much to provide disabled people with the skills, tools, and knowledge to play their part in a successful integration into society. The Assistant Secretary must also play a role in helping society change the attitudinal assumptions which cause disability to persist. Many disabled adults view society's assumptions about their inabilities to be the most serious problem they face.

There are major challenges facing us as we begin this task. Despite the enormous progress in educational programming for the handicapped, there are still serious problems. In some areas of the country, particularly in major cities, services to disabled children lag behind, and there are backlogs of children awaiting assessment and placement. In other areas there are problems in services to minority group children, with too many children being identified as disabled in some instances, and too few children receiving services in others. There are problems in having enough resources to provide the related services that handicapped children need, the physi-

cal and occupational therapy, the mental health services, and so forth.

In the rehabilitation area there are more clients than the system can serve, and there are shortages of medical rehabilitation and other rehabilitation specialists necessary to meet the needs of an expanding population and to meet the special challenges of working with the more severely disabled.

Our efforts in independent living programs, those programs designed and operated by disabled adults which are so promising in reducing dependency in a cost-efficient fashion, are in their infancy. We must help provide additional resources for this effort, not just through the basic rehabilitation program, but also find ways to use the existing resources of other Departments, Labor, Housing, Transportation, etc., to more effectively serve the disabled.

The new National Institute of Handicapped Research has a marvelous potential to assist in this work. There is a small but significant nucleus for future growth, and the Institute, through its research centers and engineering centers, is involved in tremendously exciting work. I visited the center at Tufts University Medical Center a few weeks ago, and was spellbound as I saw their work in helping totally paralyzed persons control their environments through technology that responded to where the disabled person focused his or her eyes. As the person looked at an object, electronically the focus of the eyes was picked up by a TV camera and through a computer system the direction of the gaze could be detected, so the intentions of the person could be identified by looking at the appropriate points in the environment. It is a marvelous and astonishing new way to bring control to totally disabled persons.

In all, Mr. Chairman and members of the committee, as Senator Javits has told you in his kind introduction, I am a professional person who by training and experience has chosen to work in the area of education and rehabilitation of disabled persons. My work in Washington has been a wonderful medium for me to express my training and commitment as I have also used the media of the classroom and the clinic. This new Secretariat, with its enormous span of concerns presents a great challenge and opportunity, and I am grateful to have the chance to be a part of its beginning.

Thank you.

[The prepared statement and biography of Dr. Martin follows:]

STATEMENT OF
DR. EDWIN W. MARTIN

FOR CONFIRMATION AS
ASSISTANT SECRETARY FOR
SPECIAL EDUCATION AND REHABILITATIVE SERVICES

BEFORE THE
COMMITTEE ON LABOR AND HUMAN RESOURCES
UNITED STATES SENATE

WASHINGTON, D.C.

JUNE 12, 1980

Mr. Chairman and Members of the Committee:

I am honored to have the opportunity to come before you as President Carter's and Secretary Hufstedler's nominee for the position of Assistant Secretary for Special Education and Rehabilitative Services.

I have been very fortunate to have worked with the Committee and with your colleagues in the House during the most exciting years of our nation's history with regard to our concerns for disabled and gifted citizens.

The Congressional hearings in 1966 presented a gloomy and depressing picture of partial efforts to educate the handicapped. Parents and educators came before this Committee, and the Education and Labor Committee in the House, and spoke of children excluded entirely from schooling, of parents facing huge and unmanageable expenses for private schooling and treatment, of children in education programs being segregated into second-class institutions of sub-standard facilities, equipment, untrained teachers, etc. That is not to say there weren't some good, or even excellent programs - there were, and in fact, this led to other problems, of parents moving from community to community, or even state to state seeking publically available programs. It was this record that led to the first Education of the Handicapped Title in the Elementary and Secondary Education Act, passed and signed into law in November of 1966.

One of the most memorable moments of my life was sitting in room EF-100 of the Capitol as the Conferees agreed to that Title which began the program of grants to the states to expand programming for

handicapped children and which established, by statute, the Bureau of Education for the Handicapped. That first year there was \$2.5 million to help the states, this year the President's budget, now before the Congress, asks for \$947 million to assist with preschool and school programs. From approximately one million handicapped children in schools we are now serving more than four million.

In the years since 1966, the Congress has passed many Acts to improve education and rehabilitation services for the disabled -- programs for preschool children, special services for the deaf-blind, programs to develop new educational technology to help the deaf learn from movies and television, technology to help the blind read print, programs to encourage independent living for disabled adults, and most significantly Public Law 94-142, the Education for All Handicapped Children Act, and Section 504 of the Rehabilitation Act which prohibits discrimination against disabled persons.

These laws have resulted in enormous improvements in services for the disabled. More than one million persons are actively involved each year in rehabilitation programs, about half of these are persons severely disabled in accord with the recent amendments to the Rehabilitation Act. Four million children are enrolled in special education programs, about 9.5% of school enrollment, as we near the 10-12% enrollment estimated when Congress was considering P.L. 94-142. More parents are involved

positively with school programs than ever before in any aspect of public education as they interact with school teachers and officials through development of the individual education program.

As I have had the opportunity to work in the last year with several international organizations concerning problems of the disabled, I can report to you, that in my opinion, no nation in the world has made a more profound or effective commitment to bringing disabled people fully into its society. Even the nations with strong national social service and medical programs have not focused as sharply on the rights of disabled people, and as fully on the societal attitudes which are necessary to promote independence rather than dependency.

It is not my purpose to suggest that all programs are working at 100% efficiency, and that there are no problems. Instead I am attempting to provide a context for looking at the problems. We have set very high goals. We expect every child to be appropriately educated, bar none. We expect no disabled person to suffer from discrimination. And we postulated these aims through legislation, because we saw in the nation that we had failed to reach these goals without that legislation--so we started from a system which needs change and improvement. We are making rapid progress, but there is still a long way to go.

I feel that the new office of Special Education and Rehabilitative Services can be a powerful new tool in the work of making the promise of legislation into day by day reality. Years ago the Congress stipulated that there be a Bureau, a major administrative unit in the Office of Education. It was

not warmly endorsed by all parties, but I have seen the wisdom of that organizational decision. From the first day of the Bureau we have had a place at the table when major decisions were being made--legislative, policy, budget, staffing decisions, all had to be decided with an eye to the educational needs of disabled children and adults. From the position of Bureau director it has been possible to work closely with the public, with Commissioners, the Administration at large, and the Congress to bring about changes in public policy.

In creating the Department of Education the Congress again has specified its concern for disabled citizens, bringing together the Rehabilitation Services Administration, the National Institute of Handicapped Research and the new Office of Special Education which replaces the Bureau of Education for the Handicapped, into a new Assistant Secretariat. I believe this new organizational entity, which spans the concerns for the disabled from birth through old age, will assure that the needs of the disabled are clearly presented to Secretary Hufstedler and, through the major benefit that the Department of Education provides, the Secretary can make that case directly to the President. We have already seen evidence that the structure will provide that kind of access as the Secretary has advanced major budgetary issues affecting the handicapped to the Office of Management and Budget and the President. It is my hope that the Assistant Secretary for Special Education and Rehabilitative Services, working closely with the Secretary, can provide a government-wide focus on the status of disabled persons in American society, and can assure that the errors of omission, which have for so long been part of the "out of sight-out of mind"

problems facing the disabled do not persist. Similarly, the new structure provides an Office of Special Education with concern for the individual educational needs of gifted and talented as well as handicapped children. There is a basic need in American education to diversify instruction, to help the swift and inventive learners as well as those who move at other paces. The system has served the middle range well, but children at the extremes have sometimes been neglected. Across the nation there is a grass roots interest in strengthened programming for gifted and talented children - and the Department of Education and the Office of Special Education should provide these children new visibility and support.

There is no Assistant Secretariat in the new Department which has a more complex structure or a more extensive concern. There are between 15 and 20 million Americans who suffer from one form of disability or another. Although many persons have disabilities as children and maintain them throughout their lives, the largest numbers of persons with disabilities suffer them as adults, as a result of illness or accidents.

As Americans live longer lives, and the trends show that each year our average national age grows older, there will be more persons facing the need for society to cease discriminating in employment. Transportation must be available for people to travel to work, to shop, to visit friends, or to obtain needed medical and other services. There must be accessible housing and assistance with independent living so that the disabled who could with minimum assistance lead independent lives need not become residents of nursing homes and institutions.

Through educational programs at the elementary and secondary level, through vocational and technical education and through higher and adult education programs, working closely with rehabilitation programs and with the new independent living programs we can do much to provide disabled people with the skills, tools and knowledge to play their part in a successful integration into society. The Assistant Secretary must also play a role in helping society change the attitudinal assumptions which cause disability to persist. Many disabled adults view society's assumptions about their inabilities to be the most serious problem they face.

There are major challenges facing us. Despite the enormous progress in educational programming for the handicapped, there are still serious problems. In some areas of the country, particularly in major cities, services to disabled children lag behind and there are backlogs awaiting assessment and placement. In other areas there are problems in services to minority group children, with too many children being identified as disabled in some instances, and too few children receiving services in others. There are problems in having enough resources to provide the related services that handicapped children need, the physical and occupational therapy, the mental health services, etc.

In the rehabilitation area there are more clients than the system can serve, and there are shortages of medical rehabilitation and other rehabilitation specialists necessary to meet the needs of an expanding population and to meet the special challenges of working with the more severely disabled.

Our efforts in independent living programs, those programs designed and operated by disabled adults which are so promising in reducing dependency in a cost-efficient fashion, are in their infancy. We must help provide additional resources for this effort, not just through the basic rehabilitation program, but also find ways to use the existing resources of other Departments, Labor, Housing, Transportation, etc. to more effectively serve the disabled.

The new National Institute of Handicapped Research has a marvelous potential to assist in this work. There is a small but significant nucleus for future growth, and the Institute, through its research centers and engineering centers, is involved in tremendously exciting work. I visited the center at Tufts University Medical Center a few weeks ago and was spellbound as I saw their work in helping totally paralyzed persons control their environments through technology that responded to where the disabled person focused his or her eyes.

In all, Mr. Chairman and Members of the Committee, as Senator Javits has told you in his kind introduction, I am a professional person who by training and experience has chosen to work in the area of education and rehabilitation of disabled persons. My work in Washington has been a wonderful medium for me to express my training and commitment as I have also used the media of the classroom and the clinic. This new Secretariat, with its enormous span of concerns, presents a great challenge and opportunity and I am grateful to have the chance to be part of its beginning.

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

PART I: ALL THE INFORMATION IN THIS PART WILL BE MADE PUBLIC

Name: MARTIN (LAST) Edwin (FIRST) W. (OTHER)

Position to which nominated: Assistant Secretary for Spec Educ and Date of nomination: June 6, 1980

Date of birth: 3 (DAY) 9 (MONTH) 31 (YEAR) Place of birth: Rehab Services Oceanside, New York

Marital status: Married Full name of spouse: Peggy A. Smith Martin

Name and ages of children: Scott Andrew - born 1958

Bruce Leslie - born 1961

Education:	Institution	Dates attended	Degrees received	Dates of degrees
	<u>Muhlenberg College</u>	<u>1949</u>	<u>A.B.</u>	<u>1953</u>
	<u>University of Alabama</u>	<u>1953</u>	<u>M.A.</u>	<u>1955</u>
	<u>University of Pittsburgh</u>	<u>1957</u>	<u>Ph.D.</u>	<u>1960</u>
	<u>Emerson College</u>		<u>L.H.D.</u> <u>(Honora Causa)</u>	<u>1974</u>

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Superior Service Award: Department of Health, Education & Welfare
"For Visionary Leadership in developing, broadening and implementing
a Federal commitment to the special education needs of Handicapped
Children, 1970

Nomination by U.S. Office of Education as candidate for "Ten Top
Young Men in Government", 1970

Citation of Honor, League School, New York, 1971

Distinguished Service Award, National Rehabilitation Institute, 1971

Honors and Awards(Continued):

Selected as Visiting "Master", Old Masters Program,
Purdue University, 1972

Doctor of Humane Letters, Emerson College, 1974

Certificate of Appreciation, National Association
for Retarded Citizens, Arlington, Texas 1975

Governmental Activities Award, United Cerebral Palsy, 1975

Statesmanship Award, Association for Children with
Learning Disabilities, 1977

Executive in Residence, Ohio University, "in recognition
of Outstanding Leadership in American Education", May 1977

Honors of the Association, Maine Speech and Hearing
Association, 1977

Distinguished Service Award, National Association of
State Directors of Special Education, 1978

New Mexico Federation for Exceptional Children -
Outstanding Contribution Award, 1978

Outstanding Service Award, Louisiana Association for
Retarded Children, 1978

Alexander Graham Bell Award, "For Inspiring Leadership
and Commitment to Individualized Education Programming",
1979

Distinguished Service Citation, National Technical
Institute for the Deaf, 1979

Pi Lambda Theta - National Honor and Professional Association
in Education for Excellence in Education, (to be presented)
August, 1980, Indianapolis.

Memberships (continued)

American Academy of Pediatrics Committee on Children
with Handicaps, Liaison Associate, 1974-76

Professional Advisory Committee, National Easter Seal
Society for Crippled Children and Adults

Government
experience:

List any advisory, consultative, honorary or other part-time service or positions with Federal, State, or local governments other than those listed above.

1965	Expert Consultant, Division of Handicapped
Feb.-May	Children and Youth, U.S. Office of Education

Published
writings:

List the titles, publishers and dates of books, articles, reports or other published materials you have written.

See Attachment 3(a).

Political
affiliations
and activities:

List all memberships and offices held in or financial contributions and services rendered to all political parties or election committees during the last five years.

No offices or services

1979	-DNC \$25.00; Congressional Campaign Committee \$20.00
1978	Democratic Party \$40.00; Humphrey Memorial Campaign \$25.00
1977	Democratic Party \$45.00; N.C.E.C. - \$25.00
1976	NCEC \$50.00; Rep. Brademas \$50.00, Rep. Fisher \$25.00
	Democratic Party \$30.00
1975	\$50.00 record not available, probably Democratic Party or Congressional campaign and/or NCEC

PUBLICATIONS: (CHAPTERS, COLLECTIONS, ETC.)

The Self as a Central Concept in Speech Therapy for Persons Who Stutter, "New Directions in Stuttering", with L. Ward and T.E. Johnson.
ed. Dominick Barbara Springfield, Illinois, 1965.

"Federal Efforts to Expand Preschool and Early Childhood Programs for the Deaf," Proceedings of the Danavox Symposium, Copenhagen, Denmark, 1972, 76-80.

"Vocational Technical Education for the Deaf," Proceedings of the Danavox Symposium, Copenhagen, Denmark, 1972.

"Client Centered Therapy as a Theoretical Orientation for Speech Therapy", ASHA, 5 (1963), 576-578.

"Communication Problems of the Mentally Retarded", Alabama Journal on Mental Health, Vol. 17, No. 4, 6-8. (1963)

"Review: Understand Those Feelings", E. McDonald, Journal of Speech and Hearing Disorders (1966)

"Breakthrough for the Handicapped: Legislative History", Exceptional Children (March, 1968), 493-503.

"Special Education: New Priority, New Money", Nation's Schools, (October, 1969)

"A New Outlook for Education of Handicapped Children", American Education (April, 1970), 7-10.

"Better Education for Handicapped Children in the United States", with Alan J. Weston, Slow Learning Child (Australia, 1970).

"Public Law 91-230, the Elementary and Secondary Education Act Amendments of 1969: Title VI, The Education of the Handicapped Act, with Martin LaVor, Trudy Bryan, and Rhona Schefflin, Exceptional Children (September, 1970).

"New Public Priorities: Education of Handicapped Children", Compact (The Journal of the Education Commission of the States), Vol. 5, No. 4 (August, 1971), 4-7.

- "The Need for Assistance to Young Handicapped Children and Their Families", Educational Horizons, Vol. 50, No. 2 (Winter, 1971-72), 74-77.
- "Individualism and Behaviorism as Future Trends in Educating Handicapped Children", Exceptional Children, (March, 1972), 517-525.
- "Introducing the National Media Center for Special Education", Audiovisual Instruction (February, 1973), p. 5.
- "Parent Groups: The Function of Organization", with Harvey W. Liebergott, Acta Symbolica (June, 1973).
- "The Role of Parent Organizations", Exceptional Parent, 3 (June, 1973).
- "Some Thoughts on Mainstreaming", in Mainstream Currents, Grace Warfield, Editor, Council for Exceptional Children, Reston, Virginia, 1974.
- "Administration of Special Education in the Soviet Union", Windows on Russia - report of the U.S./U.S.S.R. Seminar on Instruction of Handicapped Children U.S. Government, 1974.
- "Speech and Language Development", Windows on Russia, U.S. Government, 1974, with Jack Matthews.
- "Breakthrough for the Handicapped: Legislative History", Exceptional Children: Educational Resources and Perspectives, Samuel A. Kirk and Francis E. Lord, Editors, - Houghton Mifflin, Boston, 1974.
- "Public Policy and Early Childhood Education: A Buddhist Garden", Implementing Child Development Programs, Education Commission of the States, Denver, 1974.
- "An End to Dichotomous Constructs: A Reconceptualization of Teacher Education", Journal of Teacher Education, Vol. XXV, Summer 1974, p. 217-220.
- "Some Thoughts on Mainstreaming" Exceptional Children, Vol. 41, November, 1974, p. 150-154.
- "Some Thoughts on Mainstreaming", High School Journal, 1975, (reprinted from Exceptional Children, November 1974).
- "The Right to Learn", Learning Disabilities, Selected ACLD Papers; Samuel A. Kirk and Jeanne M. McCarthy, editors, Houghton Mifflin, Boston, 1975.
- "Integration of the Handicapped Child in Regular Schools", in Proceedings of the 2nd International Rehabilitation Medicine Association.

"Who Will Deliver Education to Preschool Children", One Child Indivisible, J.D. Andrews, editor, National Association for the Education of Young Children, Washington, D.C., 1975.

"The Regional Resource Center Strategy", - Six Men in Search of an Elephant, Apropros, the Ohio State University, 1975.

"Trends, Issues and Needs in Mental Retardation - A conversation with Edwin W. Martin, Jr., and Raphael Simches", Marylane Soeffing, editor, Education and Training of the Mentally Retarded, Vol. 10, No. 1, February, 1975, p. 36-46.

"The Right to Education: Issues facing the Speech and Hearing Profession", ASHA: A Journal of the American Speech and Hearing Association, Vol. 17, No. 6, June 1975, p. 384-387.

"Mainstream Educator Training", Johnson, Weatherman and Rehmann, eds, Handicapped Youth and the Mainstream Educator, Leadership Series in Special Education Vol. IV, University of Minnesota, Minneapolis, 1975, p. 165-172.

"The Federal Commitment to Education of the Severely and Profoundly Retarded:" in Educating the 24-Hour Retarded Child, National Association for Retarded Citizens, Arlington, Texas, 1975, p. 26-34.

"Integration of the Handicapped Child to Regular Schools", Mainstreaming: Origin and Implications, University of Minnesota, Maynard Reynolds, editor, 1976.

"On Education of the Severely/Profoundly Handicapped and Justice Douglas" Review, American Association for the Education of the Severely/Profoundly Handicapped, January, 1976, Vol. 1, No. 3, p. 115-123.

"Integration of the Handicapped Child in Regular Schools", Mainstreaming Origins and Implications, Proceedings Dean's Project Conference, University of Minnesota, 1976.

"On Justice Douglas and Education for the Severely/Profoundly Handicapped", Journal of Special Education, Vol. 10, No. 2, 1976, p. 123-126.

"Mental Retardation: A Changing Perspective", Education and Training of the Mentally Retarded, Vol. II, No. 3, October, 1976, p. 287-292.

"The Media and Attitudes Toward the Handicapped International Roundtable: How the Handicapped are Presented to the General Public", UNESCO, Paris, 1977.

"A Look Into the Future", (Preface) Futures of Education for Exceptional Students, Maynard C. Reynolds, editor, National Support Systems, University of Minnesota, Minneapolis, 1978, iii-vi.

"Perspectives on Free Appropriate Public Education", University of Vermont, Proceedings", 1978, p. 9-17.

New Directions in Vocational Education for the Handicapped - Implications for Research and Development, monograph #35, Ohio State University, 1979.

"Washington Report", "Phi Delta Kappan, George Neill, Interviews Series, 1979.

"The Past is Prologue", Special Paper Series, National Technical Institute for the Deaf, Rochester, New York - (in press).

SPEECHES AND PUBLIC APPEARANCES:

More than 1,000 speeches, primarily national, state and regional professional and educational associations. Appearances on numerous television and radio programs including the TODAY Show and the Dinah Shore Show, and GOOD MORNING AMERICA.

BIOGRAPHICAL LISTINGS:

Who's Who in America and various other national and international listings.

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

NA

2. State whether you have any plans after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization.

No

3. Has a commitment been made to you for employment after you leave Federal service?

No

4. Do you intend to serve the full term for which you have been appointed or until the next Presidential election, whichever is applicable?

Yes

Potential conflicts of interest:

1. Describe any financial arrangements, deferred compensation agreements or other continuing financial, business or professional dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

None

I have secured permission of my superiors in the past for college teaching and I disassociate myself from any dealings with the Universities involved.

2. List any investments, obligations, liabilities, or other financial relationships which constitute potential conflicts of interest with the position to which you have been nominated.

None

3. Describe any business relationship, dealing or financial transaction which you have had during the last five years whether for yourself, on behalf of a client, or acting as an agent, that constitutes a potential conflict of interest with the position to which you have been nominated.

None

4. List any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any Federal legislation or of affecting the administration and execution of Federal law or policy.

None

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items.

Would secure appropriate consent prior to future college
teaching.

The CHAIRMAN. Before we turn to Ms. Brown, we would like to recognize our colleague, Senator Javits, who I know I want to associate with the beginning of this hearing.

Senator JAVITS. May I ask unanimous consent that my remarks precede the testimony?

The CHAIRMAN. Very well.

Senator JAVITS. I commend Dr. Ed Martin to the committee. I have had considerable experience with him. He served on Governor Carey's staff, and was a professional staff member of the House Education and Labor Committee's Subcommittee on the Handicapped. He has been at HEW now for 13 years and since 1977 as Deputy Commissioner for Education of the Handicapped.

As far as my experience with him was concerned, he carried out the congressionally mandated study on the gifted and talented, which led to our initiating that program in 1974, and was instrumental in helping draft the legislation which I sponsored in 1978. I think he is an objective professional, Mr. Chairman. I have a lot of other details in my statement which I asked be made a part of the record.

The CHAIRMAN. It will be.

Senator JAVITS. And that he will serve us well, and that he will go very carefully into the concerns of the community which deals with the education of the handicapped and vocational education.

I know the lion of that group is sitting right next to the chairman, Senator Randolph. I believe, Senator, and I would not pretend to have the record you do in this field—but I am deeply involved. I believe he does have the professional qualifications, and the professional objectivity so he will respond, and I believe also from my experience with him that he will be very responsive to this committee.

If we differ with him, I think he will give a good account of himself in terms of accounting to us, or changing. So for those reasons, and being fully knowledgeable as to the situation in which he enters a very sensitive job, I commend him to the committee.

The CHAIRMAN. Thank you very much.

Senator JAVITS. May I ask the Chair, I have two questions for the Secretary-designate. May I entrust those to the Chair to ask for me?

The CHAIRMAN. Certainly.

Senator RANDOLPH. May I just make a comment while our colleague, Senator Javits, is here?

During the fruitful years of the work of this committee, with particular reference to the subject matter which we have before us today, the commitment of Senator Javits has encouraged me, as well as other members of the subcommittee and the committee, to move forward when often perhaps we might have been a little slow in moving in the areas of complete understanding and service.

I do not say this in any cursory fashion. But I say that we have been well assisted by the service of Senator Javits in many, many areas, over which this committee has legislative jurisdiction.

Senator JAVITS. Thank you very much, Senator Randolph.

The CHAIRMAN. We certainly share that knowledge of Senator Javits, all aspects of Labor and Human Resources have been helped by Senator Javits.

Now we have the request from Congressman Panetta that he be here to introduce you to the committee. He is on important business right now. I gather it is the budget resolution. I do not know the details of his contribution, but I would have a feeling that he was on the side of those of us who have tried to assure a more equitable balance in the budget.

Now, I am happy to note that you and I share two very important things. Was Plainfield, N.J., your birth place?

Ms. BROWN. Yes, it was.

The CHAIRMAN. Mine, too. Oberlin College was your college of undergraduate degree?

Ms. BROWN. Yes, it was.

The CHAIRMAN. Me too.

It is time we hear from you, Cynthia Brown.

STATEMENT OF CYNTHIA G. BROWN, NOMINEE AS ASSISTANT SECRETARY OF EDUCATION FOR CIVIL RIGHTS, DEPARTMENT OF EDUCATION

Ms. BROWN. I am delighted we have so much in common.

Mr. Chairman and members of the committee, I am honored to appear before the committee to request your approval and the consent of the U.S. Senate for my nomination as Assistant Secretary for Civil Rights. I would like to take a few moments to describe for you what I see as the role of the Office for Civil Rights in the Education Department.

In establishing the Department of Education the Congress also sought to strengthen enforcement of the Federal statutes that are intended to assure equal educational opportunity. The Assistant Secretary for Civil Rights will therefore have increased opportunity to establish a fair and effective compliance program for enforcing the nondiscrimination laws.

The antidiscrimination laws passed by the Congress reflect a fundamental promise the Nation has long made to its citizens—that everyone has the right to develop his or her talents to the fullest. The civil rights laws also provide the administrative mechanism for insuring equal opportunity in Federal programs. In so doing, they permit the Federal Government to carry out its constitutional obligation to insure public funds do not support discrimination.

One of the major goals of the new Department will be to see that the promise of American citizenship is kept. There have been significant civil rights accomplishments and over the years the Office for Civil Rights in the former Department of Health, Education, and Welfare has contributed to the progress. We must be mindful, however, that many individuals continue to be victims of discriminatory treatment and denied equal educational opportunity.

The challenges for fair and effective civil rights enforcement are far more difficult than when I first joined the Office for Civil Rights in 1966. At that time, we were enforcing only one statute, title VI of the Civil Rights Act of 1964, and our efforts were essentially confined to formerly de jure southern school systems and the issue of student reassignment.

In recent years, the Office's enforcement responsibilities were increased dramatically to include title IX of the Education Amend-

ments of 1972, the Emergency School Aid Act, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975. As a result of these additional responsibilities, millions of people are protected by the civil rights laws this Office is charged with enforcing. Further, the compliance issues under the statutes, as well as the evidentiary requirements in substantiating discrimination, have increased in their complexity and sensitivity.

In my previous position as principal Deputy Director, I was able to help implement several important initiatives that led to revitalizing the civil rights compliance effort in HEW. Because of extensive management improvements, we were able to substantially reduce a backlog of discrimination complaints that had developed under the previous administration. For the first time in the Agency's history, a person filing a complaint of discrimination can now expect a prompt determination. We expect to receive about 9,000 individual complaints during fiscal years 1980 and 1981. Each complaint must be fully investigated and resolved in accordance with the time frames established in the 1977 consent order in *Adams v. Harris*.

The success of these efforts will enable us to devote greater attention to OCR-initiated compliance reviews, which are the most effective means of achieving compliance with the civil rights authorities. These reviews are in-depth examinations of the practices of institutions receiving Federal funds to determine their compliance with a broad range of regulatory requirements. They affect six times as many individuals as complaint investigations. They usually lead to remedies that benefit groups of minorities, women, and handicapped persons whose opportunities have been limited due to patterns and practices of unlawful discrimination. Compliance reviews also assure that vulnerable groups, such as the very poor, or non-English speaking individuals, who tend not to file complaints, have their civil rights protected.

Compliance reviews are selected to target resources on problems that appear to be serious and widespread. If we continue to select our compliance reviews carefully, we can benefit many persons who continue to suffer discrimination. It will be possible, for example, to remove many children from segregated classrooms, to provide effective instruction to students who speak little or no English, to provide greater access of women, minorities, and the disabled to vocational education, graduate, and professional programs, and to remove barriers that have denied equal educational opportunity to the handicapped.

In enforcing the laws, we must work hand-in-hand with the federally assisted schools and colleges. Enlisting the cooperation and support of education officials is critical to obtaining voluntary compliance. This can be accomplished concurrently with another important Department goal—strengthening the capacity of educational institutions to provide quality education.

We need to better inform school systems and colleges and universities of the nondiscrimination requirements. It would be my intention to improve the development of clear and consistent compliance standards. In this regard, the Office for Civil Rights can clarify policy in areas where recipients need more concrete guidance and

eliminate delays and inconsistencies in applying standards to individual complaint cases or compliance reviews.

We must also continue to upgrade our efforts at providing technical assistance to educational institutions in complying with the civil rights laws. These activities are intended to provide education officials with the information and skills needed to apply the laws to particular circumstances. The goal should be a technical assistance program that will result in long-term benefits by helping to prevent and eliminate discriminatory practices, thus reducing the potential for complaints and time-consuming field investigations.

Finally, civil rights enforcement cannot be the sole responsibility of one office within the Department of Education. We will continue working with the operating agencies of the Department to incorporate civil rights concerns into all phases of their program decision-making and operations. In this way, civil rights can be made an integral part of all programs that the Department administers.

Mr. Chairman, the Office for Civil Rights has made considerable progress in recent years, and I have been privileged to be a part of some important accomplishments. This progress must continue. Further, I am committed to increasing our effectiveness in order to address the complex civil rights problems that the Nation faces today.

Thank you.

[The prepared statement and biography of Ms. Brown follows:]

STATEMENT OF
CYNTHIA G. BROWN

FOR CONFIRMATION AS
ASSISTANT SECRETARY OF EDUCATION
FOR CIVIL RIGHTS

BEFORE THE
COMMITTEE ON LABOR AND HUMAN RESOURCES
UNITED STATES SENATE

WASHINGTON, D.C.
JUNE 12, 1980

Mr. Chairman and Members of the Committee:

I am honored to appear before the Committee to request your approval and the consent of the United States Senate for my nomination as Assistant Secretary for Civil Rights.

In establishing the Department of Education the Congress also sought to strengthen enforcement of the Federal statutes that are intended to assure equal educational opportunity. The Assistant Secretary for Civil Rights will therefore have increased opportunity to establish a fair and effective compliance program for enforcing the nondiscrimination laws.

The antidiscrimination laws passed by the Congress reflect a fundamental promise the nation has long made to its citizens--that everyone has the right to develop his or her talents to the fullest. The civil rights laws also provide the administrative mechanism for ensuring equal opportunity in Federal programs. In so doing, they permit the Federal Government to carry out its constitutional obligation to ensure public funds do not support discrimination.

One of the major goals of the new Department will be to see that the promise of American citizenship is kept. There have been significant civil rights accomplishments and over the years the Office for Civil Rights in the former Department of Health, Education, and Welfare has contributed to the progress. We must be mindful, however, that many individuals continue to be victims of discriminatory treatment and denied equal educational opportunity.

The challenges for fair and effective civil rights enforcement are far more difficult than when I first joined the Office for Civil Rights in 1966. At that time, we were enforcing only one statute, Title VI of the Civil Rights Act of 1964, and our efforts were essentially confined to formerly de jure southern

-2-

school systems and the issue of student reassignment. In recent years, the office's enforcement responsibilities were increased dramatically to include Title IX of the Education Amendments of 1972, the Emergency School Aid Act, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975. As a result of these additional responsibilities, millions of people are protected by the civil rights laws this office is charged with enforcing. Further, the compliance issues under the statutes, as well as the evidentiary requirements in substantiating discrimination, have increased in their complexity and sensitivity.

In my previous position as Principal Deputy Director, I was able to help implement several important initiatives that led to revitalizing the civil rights compliance program in HEW. Because of extensive management improvements, we were able to substantially reduce a backlog of discrimination complaints that had developed under the previous Administration. For the first time in the agency's history, a person filing a complaint of discrimination can now expect a prompt determination. We expect to receive about 9,000 individual complaints during Fiscal Years 1980 and 1981. Each complaint must be fully investigated and resolved in accordance with the time frames established in the 1977 consent order in Adams v. Harris.

The success of these efforts will enable us to devote greater attention to OCR-initiated compliance reviews, which are the most effective means of achieving compliance with the civil rights authorities. These reviews are in-depth examinations of the practices of institutions receiving Federal funds to determine their compliance with a broad range of regulatory requirements. They affect six times as many individuals as complaint investigations. They usually lead to remedies that benefit groups of minorities, women, and handicapped

-3-

persons whose opportunities have been limited due to patterns and practices of unlawful discrimination. Compliance reviews also assure that vulnerable groups, such as the very poor or non-English speaking individuals, who tend not to file complaints, have their civil rights protected.

Compliance reviews are selected to target resources on problems that appear to be serious and widespread. If we continue to select our compliance reviews carefully, we can benefit many persons who continue to suffer discrimination. It will be possible, for example, to remove many children from segregated classrooms; to provide effective instruction to students who speak little or no English; to provide greater access of women, minorities, and the disabled to vocational education, graduate and professional programs; and to remove barriers that have denied equal educational opportunity to the handicapped.

In enforcing the laws, we must work hand-in-hand with federally assisted schools and colleges. Enlisting the cooperation and support of education officials is critical to obtaining voluntary compliance. This can be accomplished concurrently with another important Department goal--strengthening the capacity of educational institutions to provide quality education.

We need to better inform school systems and colleges and universities of the nondiscrimination requirements. It would be my intention to improve the development of clear and consistent compliance standards. In this regard, the Office for Civil Rights can clarify policy in areas where recipients need more concrete guidance and eliminate delays and inconsistencies in applying standards to individual complaint cases or compliance reviews.

We must also continue to upgrade our efforts at providing technical assistance to educational institutions in complying with the civil rights laws. These activities are intended to provide education officials with the information

and skills needed to apply the laws to particular circumstances. The goal should be a technical assistance program that will result in long-term benefits by helping to prevent and eliminate discriminatory practices, thus reducing the potential for complaints and time-consuming field investigations.

Finally, civil rights enforcement cannot be the sole responsibility of one office within the Department of Education. We will continue working with the operating agencies of the Department to incorporate civil rights concerns into all phases of their program decision-making and operations. In this way, civil rights can be made an integral part of all programs that the Department administers.

Mr. Chairman, the Office for Civil Rights has made considerable progress in recent years and I have been privileged to be a part of some important accomplishments. This progress must continue. Further, I am committed to increasing our effectiveness in order to address the complex civil rights problems that the nation faces today.

THANK YOU.

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

PART I: ALL THE INFORMATION IN THIS PART WILL BE MADE PUBLIC

Name: Brown (LAST) Cynthia (FIRST) G. (OTHER)
 Position to which nominated: Assistant Secretary for Civil Rights Education Department Date of nomination: June 6, 1980
 Date of birth: 3-18-43 (DAY) (MONTH) (YEAR) Place of birth: Plainfield, New Jersey
 Marital status: Single Full name of spouse: Not Applicable
 Name and ages of children: Not Applicable

Education:	Institution	Dates attended	Degrees received	Dates of degrees
	<u>Maxwell Graduate School of Citizenship, Syracuse Univ.</u>	<u>8/1965</u>	<u>MPA</u>	<u>June 1966</u>
	<u>Univ of Cincinnati Cincinnati, Ohio</u>	<u>Summer 1963</u>		
	<u>Oberlin College Oberlin, Ohio</u>	<u>9/1961 - 6/1965</u>	<u>BA/Gov't</u>	<u>July 1965</u>
	<u>Western Hills High Sch. Cincinnati, Ohio</u>	<u>9/1958 - 6/1961</u>	<u>Diploma</u>	<u>June 1961</u>
	<u>Milwood Jr. High School Kalamazoo, Michigan</u>	<u>9/1955 - 6/1958</u>		

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Oberlin College - Honors in Government
Syracuse University - MPA, Graduated with Honors

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations for the last five years and any other prior memberships or offices you consider relevant.

Organization	Office held (if any)	Dates
National Women's Political Caucus, Washington, D.C.		1978 - Present
Wash., D.C. Urban League		1966 - 1968
Washington, D.C. American Society for Public Administration, D.C.		1966 - 1967 and 1975 - 1976
Girl Scouts of America Cincinnati, Ohio		1950 - 1958
Women's Equity Action League Washington, D.C.		1976 - 1977

Employment record: List below all positions held since college, including the title or description of job, name of employer, location of work, and dates of inclusive employment.

- 11/79 - 5/6/80 -- Education Department Transition Task Force Leader
300 Independence Avenue, S.W., Washington, D.C.
- 9/78 - 11/79 -- DHEW Office for Civil Rights, Principal Deputy Director
330 Independence Avenue, S.W., Washington, D.C.
- 5/77 - 9/78 -- Deputy Director for Compliance and Enforcement, DHEW
Office for Civil Rights - 330 Independence Avenue, S.W., D.C.
- 10/75 - 4/77 -- Co-project Director, Lawyer's Committee for Civil
Rights Under Law -- 755 "15th" Street, N.W., D.C.
- 7/70 - 11/75 -- Program Associate, Children's Defense Fund
1520 New Hampshire Avenue, N.W., Washington, D.C.
- 7/66 - 7/70 -- Civil Rights Specialist, DHEW Office for Civil Rights
7th & D Streets, S.W., Washington, D.C.
- 6/64 - 8/64 -- Researcher, Greater Cleveland Associated Foundation
Cleveland, Ohio
- 6/62 - 8/62 -- Greater Cincinnati Scout Camp, Camp Counselor
Ross Ohio (I think) Name of Camp was Camp Ross Trails -(I think)

Government
experience:

List any advisory, consultative, honorary or other part-time service or positions with Federal, State, or local governments other than those listed above.

NIE Consultant Reader

Published
writings:

List the titles, publishers and dates of books, articles, reports or other published materials you have written.

"Nixon Administration Desegregation" Inequality in Education, Harvard Center for Law and Education, August 3, 1971.

"Busing, Leaving the Driving to U.S. . . ." Inequality in Education, Harvard Center for Law and Education, December 1971

"The South's New Dual School System: A Case Study", New South, Fall 1972

Articles in Federal Education Project Newsletter, 1976.

Political
affiliations
and activities:

List all memberships and offices held in or financial contributions and services rendered to all political parties or election committees during the last five years.

12/26/79 - Carter Mondale Campaign (\$250.00)

7/4/79 - Carter-Mondale Campaign (\$50.00)

9/9/78 - David Clark for Council Committee, Washington, D.C. (\$10.00)

6/8/78 - Robert Brown Campaign Committee, Macon, Georgia (\$50.00)

5/20/78 - Women's Campaign Fund (\$50.00)

12/18/77 - Democratic Party (\$50.00)

9/4/76 - Leon Panetta for Congress Committee (\$50.00)

7/22/76 - Jimmy Carter Campaign (\$50.00)

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

Not Applicable

2. State whether you have any plans after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization.

No

3. Has a commitment been made to you for employment after you leave Federal service?

No

4. Do you intend to serve the full term for which you have been appointed or until the next Presidential election, whichever is applicable?

Yes

Potential conflicts of interest:

1. Describe any financial arrangements, deferred compensation agreements or other continuing financial, business or professional dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

None

2. List any investments, obligations, liabilities, or other financial relationships which constitute potential conflicts of interest with the position to which you have been nominated.

None

3. Describe any business relationship, dealing or financial transaction which you have had during the last five years whether for yourself, on behalf of a client, or acting as an agent, that constitutes a potential conflict of interest with the position to which you have been nominated.

None

4. List any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any Federal legislation or of affecting the administration and execution of Federal law or policy.

I did not engage in lobbying for the purpose of directly or indirectly influencing the passage, defeat or modification of any Federal legislation. However, between 1970 and 1971, at the request of interested congressional staff, I provided technical assistance on pending civil rights amendments and bills, and education bills affecting low-income and minority children.

Between 1970 and 1977, on my own initiative or at the request of federal officials, I wrote letters and met with those officials concerning the administration and execution of the Emergency School Aid Act, Title I of the Elementary and Secondary Education Act, the Vocational Education Act, and all civil rights statutes enforced by the Office for Civil Rights.

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items.

Not Applicable

The CHAIRMAN. Thank you very much. Why do we not have both nominees available for questions as we proceed?

Senator Stafford?

Senator STAFFORD. To save time and to indicate where I stand in the matter of questions, I am personally impressed with the qualifications and the statements of each of the nominees, and I have no questions to ask them this morning. I am prepared to support their recommendation for affirmation by the Senate, whenever this committee sends their names to the Senate.

The CHAIRMAN. We appreciate that, Senator Stafford. We believe we are in a position to use our polling process on these two nominees, which we have been using for other Department nominees. But there has been one member that has not responded on earlier nominations, and I hope we can confer later on that.

Senator STAFFORD. Polling the nominees out of the committee would be acceptable to me, speaking personally.

The CHAIRMAN. Doctor Martin, your work and experience is broad, indeed. It has been predominantly in the field of special education.

I wonder if you could share with us your plans to obtain assistance and guidance from persons in the other areas of your responsibility, particularly rehabilitation and research?

Dr. MARTIN. Yes, sir, fortunately, in the earlier years of my special training as a speech pathologist and audiologist, I was trained primarily to work with adults, and worked in rehabilitation centers, both as a graduate student and then as the director of a rehabilitation training grant at the University of Alabama. During that time I had the opportunity to work with a number of rehabilitation specialists, both counsellors in State agencies who recommended clients to us and also rehabilitation medical physicians.

So I find this opportunity has been an interesting and exciting one for me, to reopen my contacts in those communities, and I have already begun that. I have been up to Tufts, as I mentioned in the statement, talking with people in the rehabilitation center there. I have met with State directors of rehabilitation.

Over the last 2 or 3 years, the State directors of rehabilitation services, the directors of State vocational education services, and the State special educator directors have all met with us to talk about joint planning. I have also begun conversations with Dr. Rusk, Howard Rusk, who, as you know, will chair the new Council on the Handicapped. He and I have a meeting in New York scheduled next Wednesday.

I am feeling comfortable, although I have a lot to learn, in catching up with the rehabilitation side of things.

The CHAIRMAN. Excellent. In recent hearings that we have had regarding the public law entitled the "Education for all Handicapped Children Act" (Public Law 94-142), the Subcommittee on the Handicapped held those hearings and there was considerable testimony concerning the need for earlier childhood education for the handicapped in the preschool period.

I wonder what is the Office of Special Education currently providing in services to these children?

Dr. MARTIN. Well, we have been operating on several different program levels, Senator. Years ago, in about 1972 or 1973, we made

early childhood education a priority of the then Bureau of Education for the Handicapped. In so doing, we attempted to direct discretionary funds at the disposal of the Commissioner to these purposes.

In the years since we have funded about 400 or 500 model early childhood projects across the country. It is a \$20 million a year program at the present, and it has spun off literally hundreds of models.

In Public Law 94-142, the Congress created an incentive program to provide encouragement to school districts to enroll children who are between 3 and 5 years of age. The districts would get a grant or entitlement under Public Law 94-142 and they would also get extra funds from whatever funds might be appropriated by the Congress for the incentive program.

The numbers of preschool children being educated is gradually increasing. There are now about 220,000 across the country, and it has been growing by roughly 10 percent a year.

My own hope would be that we would be able to move forward in the next years to serve all preschool children as we set the goal for all children in 1978. I think we need to provide universal preschool education for all handicapped children, and that as soon as the resources allow, I would hope to be able to do that.

The CHAIRMAN. What efforts are now being made, and what plans do you have for coordination with other agencies who do provide preschool services, Head Start, for example, is one?

Dr. MARTIN. We have had an historic relationship with Head Start. We encouraged Head Start people, to include handicapped children into their program, and the Congress, several years ago passed a statute to that effect. Since that time we have provided a great deal of technical assistance to the Head Start program, not only directly through staff of the Department of Education, but also through our model projects that I mentioned. A number of those were jointly funded, and to this day we continue to work closely with them.

In fact, one of our former staff members has just joined them to head up their efforts. I think I can promise you good coordination in the Head Start area. The new National Center for Handicapped Research has, as part of its duties, concern for preschool children, and we are delighted to have that new partner in the team, as well.

The CHAIRMAN. That is very encouraging.

Recently a report by Education Advocates, Inc., was released. I am sure you are familiar with it. It was quite critical of the Federal role in enforcing compliance with Public Law 94-142.

Could you describe any steps that the Department of Education has taken to examine the issues that have been raised by the report of the education advocates?

Dr. MARTIN. Yes; there has been a good deal of action. I think the report can be helpful in focusing concerns. The Secretary has appointed a special task force headed by the General Counsel, which includes Cindy Brown, myself, and others on the staff, to review thoroughly, not only the questions raised by the advocates coalition, but also to look forward to what kind of steps we could take that would improve the compliance with section 504 and

Public Law 94-142. The first interim draft of that report has been completed, and is before the Secretary for consideration.

In addition to that, we have had a good many meetings at the staff level, because key to this issue I think would be improved coordination between the Office for Civil Rights and the Office of Special Education, and the new Department will really facilitate that, and make it much easier than it was when we were in separate agencies.

The CHAIRMAN. How do you describe the Federal contribution to the resources that go to the communities for education for all handicapped? This is one that always, of course, comes forth in community criticisms, that the Federal Government makes heavy demands, and does not provide the resources to make it possible to successfully implement the program.

Dr. MARTIN. I think there is truth to that basic concern. But there are certain mitigating circumstances as well. The truth is that the funding at this time, from State and local and Federal resources, is not enough. Some of the problems of educating all of the children—the problems that led you to be the sponsor of this legislation, persist—that is the fact that the school system was far from providing needed services.

Since the act was passed, and in fact, since we began the hearings on it, there has been an enormous change in the country. The number of children served has doubled since 1975. But at the same time, there are historic problems in the system, and as we have had an absolute goal of service for every child, comprehensive services, transportation services, services for physical and occupational therapy, services for children that are emotionally disturbed, all of those services cost money, and all of them in fact exceed what school districts had historically expended in some instances.

Again, the pattern was irregular. Some States, and some communities, did provide comprehensive services. I think the progress that has been made, however, from current funding, needs to be looked at, as well. For example, the first year before the act was passed funding was at about the \$100 million level. Under President Carter it has grown from \$250 million in his first budget to over \$1 billion this year, with approximately \$950 million going to the States.

So the Federal Government has made a rapid change, in absolute terms, in its level of commitment.

Further, 49 of the 50 States have a State law which mandates essentially the same kind of services, but these laws were not really being followed, which is why section 504 and Public Law 94-142 were necessary. But it is reasonable to say that the services for handicapped children is basically a State responsibility.

The Federal effort has been to provide a spur and also a carrot, and I think the carrot is there. But I do understand, and I would be less than honest not to tell you part of the problem facing school districts across the country is finding resources to do the good job they want to do, and that the statute expects.

The CHAIRMAN. Is there a way to express quantitatively the Federal share?

Dr. MARTIN. Yes; it is 12 percent of the excess costs at this moment. The authorized ceilings were on an incremental basis,

starting at 5 percent, going to 10, 20, 30, and ultimately 40 percent. So the authorization and appropriation separation is between the 40-percent level that might have been authorized for the next year, 1982, and the 12 percent in the current budget.

The CHAIRMAN. I missed your point. What are the prospects for 40 percent?

Dr. MARTIN. The prospects for 40 percent are, unfortunately, slim indeed. That was the authorization figure.

The CHAIRMAN. What will be projected for 1982?

Dr. MARTIN. The President's budget that is before the Congress projects 12 percent.

The CHAIRMAN. I mean the next budget that is in preparation.

Dr. MARTIN. It will be presented in January by the President, yes.

The CHAIRMAN. What will be your effort in this regard for that budget?

Dr. MARTIN. I cannot speak about that in specific terms, but you can be sure that I will be advocating for as significant an increase as possible. I can say to you that from the first day that Secretary Hufstедler and I have had an opportunity to work on the budget, I found her priorities are to increase and preserve resources for disadvantaged children, for the handicapped, and I think we will have a very sensitive advocacy in the Department of Education.

As I pointed out, increases under President Carter exceed \$650 million, so I think the general feeling of the administration is positive.

The CHAIRMAN. Aside from the professional groupings and the advocates report that I just mentioned, what is your sense, your impression and feelings, of the effort thus far and its effectiveness in communities to reach people who would have been previously overlooked, and are now because of this law brought into education? What is the layman's impression of the effort?

Dr. MARTIN. I think there is, in general, very widespread support for this legislation, and appreciation, there is a very widespread recognition that there has been enormous improvement. There are people in the audience representing parent groups, coalitions, interested professional organizations. I think they could express to you their agreement with what I am saying to you.

But, as I mentioned in the statement, the act has a 100 percent goal, and so long as one handicapped child in a community is not getting special education and related services, or is getting too few services, the fact that many children are doing better is not much comfort to that child, or to that child's parent. So there are frustrations, and they are expressed.

But the overwhelming feeling, I think, is that the act is moving forward, that these problems must be attended to. We cannot simply rest as long as there are children who are overclassified or underrepresented. But I think the public support is good, indeed.

Also, parents that have been sampled by nongovernment agencies concerning their feelings about the individual education program are very positive. I have seen two separate studies. One showed that 70 percent of the parents were favorably impressed with IEP, and the other about 85 percent. The mitigating circumstance however, there is that our data suggest that only about half

of the parents are directly involved in this process, and that leaves a lot of room for improvement in terms of getting parents involved.

So my feeling is that it is, in the words of Charles Dickens, the best of times, the worst of times. We have never had more for special education, more children, more services. At the same time, the failures are more galling, and more frustrating. So there is a creative tension. I look forward to every effort we can make to resolve that tension, and I have reason, to think that in 5 or 10 years the system will have accommodated itself to disabled children, and it will not be the public policy question that it has been as we try to undertake this historic change.

The CHAIRMAN. In another area of professional concern, the American Academy of Pediatrics recently testified during an oversight hearing held in the House, of their involvement and concerns regarding the diagnosis and treatment of handicapped children.

What efforts have you made in the past, and what plans do you have for the future, of involving pediatricians?

Dr. MARTIN. I think one of our most promising examples of cooperation between education and medicine has been with the Academy of Pediatrics. The Bureau made a special training grant to the academy to develop a curriculum module so that pediatricians in training would be familiarized with the problems of handicapped children, not just the medical problems, but the educational needs, the characteristics of Public Law 94-142. It has been a model project.

The committee on children of the handicapped of the academy has been working in liaison with us over several years. They have looked for ways to expand the interest and participation of pediatricians. We have had meetings at conventions, but there you tend to attract an audience which is already interested. So this new approach that will be developed by the pediatricians themselves, in concert with special education consultants, of their choosing, will begin to affect training in the colleges of medicine across the country.

The other side of the problem, where pediatricians and other physicians feel some concern, is that the statute at the Federal level does not specify that each State must require these specialists to be part of the diagnosis of the children. The statute is silent about that and, obviously, the States vary. Some State laws require medical specialists to be involved in the identification of handicapped children and some States require medical specialists to be involved for certain classes of children, such as for emotionally disturbed children. I think probably the purpose of the academy's testimony to the Congress is to raise the question of whether or not this should be a nationally imposed requirement, or one left to the State legislators to decide.

On a voluntary basis, we are working to try to encourage and include participation of physicians. We are working to provide appropriate training to pediatricians in cooperation with the academy. But we are not in a position to impose a national requirement.

The CHAIRMAN. Are they included on the State Advisory Council's to any degree?

Dr. MARTIN. I do not know that. The discretion for choosing councils lies with the State officials, and we have not done a count. I would be pleased to explore that, if you would like, Senator.

The CHAIRMAN. We have other questions on this matter. Let me try one that gets more precise. Many pediatricians are concerned that education administrators, without physician consultation, are deciding, for example, that a handicapped child needs only 2 days of speech therapy.

Can you give us some insight into this problem, and how you might deal with this situation in the future? Can you give us a feel for what you would consider wise procedures?

Dr. MARTIN. You have hit what I have a hunch is going to be a sensitive example. Speech pathologists and audiologists, as part of their professional training, and the assumption of their responsibilities, not only in educational settings, but in many clinical settings, are the specialists who determine the extent of services and the necessity of providing services for children with speech problems. There is, from time to time, a medical setting, where the program is under the supervision of the physician. There are then judgments on behalf of the total patient that are obviously made by a physician in charge. But the general question you raise presents, I would say, two levels of problems.

One is that I think speech professionals would tell you that they are the appropriately trained professionals to make the judgment as to when children need speech therapy, as clinical psychologists would want to determine that in the mental health area.

The school systems have historically certified the people that deliver services in that system, using physicians for medical services. But they certify speech pathologists as specialists, and special education teachers, under the authority of the State. I do not think that speech therapy is a major issue to physicians.

I think there are probably other issues. For example, the services to orthopedically handicapped children, physical therapy, where physician prescriptions are the standard for delivery of services, and I think school systems should, and do yield to medical specialties on the question of extent and duration of services there. The only place this becomes an issue might be in a hearing, an IEP hearing.

Suppose you, as a parent, feel your child needs more days a week of physical therapy than the school system recommends, or than the physician who is making that recommendation for the school system recommends. The IEP process is supposed to try to reconcile those differences. In a few instances across the country there have been arguments between parents and others as to what was the sufficient degree of service. The question was, were their children receiving sufficient services, or were costs holding down the frequency of services, rather than medical needs determining such services.

So it does get a little tricky in that area. That is my personal feeling.

The CHAIRMAN. That is one of the questions we have, whether the budgetary problems facing education administrators have an impact on the handicapped.

Dr. MARTIN. I think they do. I think superintendents and administrators will be the first to tell you that they feel the pressure to provide the range of services. But obviously, there are fiscal pressures on them as well as whatever administrative issues might arise.

The CHAIRMAN. I think the other questions I have for you, I will submit for your written response.

Ms. Brown, the Office for Civil Rights Relationship and division of responsibility with the General Counsel will have a significant impact on the Department's civil rights and compliance responsibilities.

I wonder if you could indicate the division of responsibilities? Also, what do you see as your responsibilities within the Department?

Ms. BROWN. The Department of Education Organization Act for the first time gave the Office for Civil Rights a statutory existence and resulted in some change in how we relate to the General Counsel's office, in the Education Department compared with how we related to the General Counsel's office in HEW.

In the Department of Education, the Office of Civil Rights is able to hire its own attorneys and carry out the full responsibilities of the statute. To be more precise, we now have attorneys in the office who carry out administrative hearings before an administrative law judge when we are unable to get voluntary compliance with the civil rights laws we enforce.

In HEW the attorneys who carried out these hearings were in the Office of General Counsel and under the General Counsel's supervision. But those attorneys will now be under my supervision. The General Counsel serves as the Secretary's legal adviser and the Secretary has overall responsibility for management of the entire Department of Education, which includes the Office for Civil Rights. The General Counsel will assist the Secretary as counsel in her management responsibilities. Actually, the General Counsel who has been appointed in the Department of Education, is a person with substantial civil rights experience, and I have a wonderful informal working relationship with her. We are both able to approach the civil rights responsibilities, for which the Department is responsible, with a good deal of experience. We have a good working relationship on a day-to-day basis.

The CHAIRMAN. I wonder if we could run through this one more time.

You describe here basically a role that has more enforcement responsibility in the Assistant Secretary's office than existed over at HEW. Is that right?

Ms. BROWN. No. Only in the sense that—in HEW, when the Director of the Office of Civil Rights had determined that the agency was unable to achieve voluntary compliance with civil rights laws—in other words, we had made a finding that there was discrimination, we had entered into a period of negotiations with the institution, those negotiations had not resulted in a satisfactory resolution of the matter—then the Director would state that he was unable to achieve voluntary compliance and referred the matter to the General Counsel's office for initiation of an administrative hearing before an independent administrative law judge.

The litigation was then carried out by attorneys on the staff of the General Counsel's office. The General Counsel in HEW had a Civil Rights Division which worked very closely with the Office of Civil Rights. But actually it was under the supervision of the General Counsel.

The attorneys that now perform that activity, litigating cases in the administrative hearing process, are now in the Office for Civil Rights.

The CHAIRMAN. That is a substantial administrative difference, it seems.

Ms. BROWN. Yes. Instead of the litigators being under the direction of the General Counsel, they are now under the direction of the Assistant Secretary for Civil Rights.

The CHAIRMAN. What is the area of responsibility of the General Counsel?

Ms. BROWN. Maybe it would be helpful if I carried through the rest of the process in a civil rights matter.

After an administrative law judge makes a ruling and should he or she agree with the Director of the Office of Civil Rights that there is a violation of the law, and should we still be unable to negotiate a settlement, then institutions have an opportunity to appeal. Ultimately the case goes to the Secretary who must decide whether to terminate the Federal funds to that institution. The Office of Civil Rights is responsible for the prosecutorial function, and the Secretary reviews it and makes a decision whether or not to terminate the funds. The Secretary would turn to the General Counsel for assistance in making that decision. So the General Counsel serves the Secretary in all of her responsibilities.

The CHAIRMAN. The statute did not develop this procedure precisely as I read it here. This has been an administrative determination by the Department.

Ms. BROWN. No, Senator, I do not believe so. We reviewed very carefully the legislative history surrounding the provisions of section 203, and as I understand it, it was the intent of Congress that all attorneys who were paid for out of the Civil Rights budget and those attorneys who were in the Civil Rights Division of the General Counsel's office, or a part of the Civil Rights appropriation for HEW should be in the Office for Civil Rights in the Education Department. Examination of the debate that surrounded section 203 amendments to the act, led us to that conclusion.

The CHAIRMAN. Does this procedure extend to other areas, section 504, for example.

Ms. BROWN. It covers all of the statutes that we enforce, section 504, title 6 and title 9.

The CHAIRMAN. We have an amendment that has been offered by a member of this committee, Senator Hatch, offered to S. 1839, the Higher Education Amendment legislation, which amends the General Education Act to prevent the Education Department from withholding Federal funds or regulating the practices of education institutions or all educational institutions not choosing to receive Federal aid directly. It is a major matter that has been raised within our committee.

We would appreciate your views. What would be the impact upon the enforcement of civil rights laws.

Ms. BROWN. Yes. I am very concerned about that. It appears that the intent of the amendment is to prohibit Federal enforcement of the antidiscrimination statutes with respect to those colleges and universities that participate in student aid programs but receive no other form of Federal financial assistance. The amendment would severely restrict the enforcement of those laws and the Department's ability to administer its programs of financial assistance.

We have always maintained that universities are receiving financial assistance even if the only money they are receiving is through the Basic Educational Opportunities Grants or the guaranteed student loans. We have always maintained they are covered for purposes of establishing jurisdiction and for enforcing the civil rights statutes. So we are very concerned about that amendment. I think it would limit our activities very severely.

The CHAIRMAN. Is that the official position of the Department? Have we received anything in writing on that?

Ms. BROWN. No, I do not believe you have. That is certainly my recommendation to the Secretary. We will be communicating with her on that.

That amendment would affect all the statutes we enforce.

The CHAIRMAN. I believe there is a request to the Secretary for a Department position and the reasons, in support of the position.

Ms. BROWN. I will be glad to check on that and move it along.

The CHAIRMAN. This has left the committee stage and it will now be a question raised when the matter comes to the floor. So the Department's position is essential.

Ms. BROWN. I will work to get that out.

The CHAIRMAN. I think that other questions I have I would like to submit in writing. There were some questions that Senator Javits has. I wonder if we could submit these for you, Dr. Martin, for written responses?

All the rest of the questions will be submitted for the record. [The following was received for the record:]

UNITED STATES DEPARTMENT OF EDUCATION
ASSISTANT SECRETARY FOR CIVIL RIGHTS
WASHINGTON, D.C. 20202

19 JUN 1980

The Honorable Harrison A. Williams, Jr.
Chairman
Committee on Labor and Human Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

I want to thank you for the courtesy which the Committee extended to me at the recent hearing on my nomination as Assistant Secretary for Civil Rights, Department of Education.

At your request, I am furnishing responses to several questions for the hearing record. The responses appear below and follow the order of the questions as submitted to me after my testimony before the Committee.

Questions Submitted to Cynthia G. Brown, Nominee for
Assistant Secretary for Civil Rights, Department of
Education

Question: Ms. Brown, you have had the opportunity to provide leadership to and work within the HEW Office for Civil Rights in three administrations. It would be very helpful to the Committee if you would describe, in the context of this experience, how you plan to implement the responsibilities of Assistant Secretary. A. What are your highest priorities? B. What actions would you anticipate initiating to improve Federal, State and local relations?

Answer: I believe the goal of the Office for Civil Rights should be a balanced compliance program that is responsive to the needs of all groups protected by the nondiscrimination laws. This will require careful allocation and management of resources to assure they are used efficiently and effectively. It will also require continued improvements in the management of the office's complaint processing and self-initiated compliance reviews.

At the same time, we can improve the quality of the agency's work. This includes the quality of complaint investigations and compliance reviews and the proper formulation and application of compliance standards. Also, we need to continue working with the Department's program agencies to make civil rights concerns a part of all decision-making and operations.

The Office for Civil Rights needs to secure greater participation of Federal agencies and State-local governments in developing the office's compliance policies, standards, and enforcement program. This participation is also required in order to increase coordination of our

Page 2 - The Honorable Harrison A. Williams, Jr.

enforcement efforts. I also believe our technical assistance program can be upgraded by working more closely with public officials. In so doing, we can demonstrate to States and localities how compliance can be achieved in a cost-effective manner.

Question: The relationship between the Department's Office for Civil Rights and the Department's Office for Policy Planning is of interest to the Committee. A. How will OCR relate to the Office of Policy Planning? B. In what areas do you anticipate receiving assistance from the Planning Unit? C. In what areas do you anticipate OCR will be expected to respond to requests from the Office of Planning?

Answer: The Office of Planning and Budget is a staff office within the Office of the Secretary. It is responsible for Department-wide coordination of policy and planning activities. This includes: designing and conducting program and policy analysis studies; presenting the Department's budget requests to the Office of Management and Budget and to Congress; preparing policy and fiscal guidelines; advising the Secretary on policy, program plans and budgetary matters.

The Office for Civil Rights is one of nine program offices in the Department that receives its planning and budget guidance and oversight from the Office of Planning and Budget. It is anticipated that the two offices will undertake joint analytic studies as well as work closely in preparing major planning, program operation, and budget documents.

Question: S. 2270, introduced by Senators Domenici and Bellmon, if enacted would result in consolidation of education grants. A. What is the likely impact of this bill upon the implementation of civil rights and compliance activities? B. Does the Department have a position on this bill?

Answer: The Department's views on S. 2270 are being prepared and will be forwarded to the Committee in the near future.

It is difficult to determine the full potential impact of S. 2270 on civil rights enforcement and compliance activities at this time. We note that section 414 of S. 2270, which sets forth the civil rights requirements of the legislation, does not refer to the Age Discrimination Act of 1975. Otherwise, the legislation does not appear to affect existing constitutional and statutory requirements respecting nondiscrimination. The enforcement of these requirements, however, would be complicated by the practical difficulty of specifically determining the ultimate use of Federal funds.

Question: The General Education Provisions Act, Section 431, provides for a concurrent disapproval by Congress of regulations issued by the Department of Education. Recently the Congress passed four concurrent resolutions disapproving education regulations in elementary and

Page 3 - The Honorable Harrison A. Williams, Jr.

secondary education. The Attorney General advised the Secretary of Education that the vetos were unconstitutional and that the Secretary should implement the contested regulations.

A. What is your view of this situation? B. If a regulation contested as contrary to law by Congress regarding civil rights were to be promulgated, how would you act to manage the tension created?

Answer: The June 5, 1980 opinion of the Attorney General regarding the constitutionality of section 431 of the General Education Provisions Act is now the official policy of the Administration and the Department of Education. Accordingly, the Office for Civil Rights will be governed by this opinion.

My goal will be to prevent the enactment of a concurrent resolution of disapproval by establishing effective liaison with the Congress when preparing regulations to implement statutory requirements. In this way, we can consult closely in efforts to assure that provisions contained in regulations accurately reflect the intent of Congress.

Question: The Office for Civil Rights of the Departments of Education and Health and Human Services were established through a division of the former CCR, HEW.

A. What impact has this staff reorganization had upon the ability of Education's OCR to efficiently address workload requirements? B. Did you receive an adequate share of staff? C. Have you lost any knowledgeable education civil rights leadership staff during this transition?

Answer: We are carefully assessing employee productivity against performance goals. These goals, established for headquarters and regional offices, cover total complaint closures, new complaint investigations, adherence to compliance review schedules, and compliance with the Adams court order timeframe requirements.

In determining productivity the office will continue to rely on a work measurement system. Under the system, our investigators provide data on the amount of time they spend in complaint and compliance review activities, negotiations, and enforcement. In turn, data from the system are used to analyze production trends, to measure performance and project regional office productivity. Analysis of findings will result in recommendations for improving current work procedures and staffing requirements.

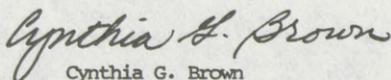
Page 4 - The Honorable Harrison A. Williams, Jr.

The Department of Education received 67 percent of the positions authorized last year to the Department of Health, Education, and Welfare for civil rights enforcement in the combined areas of health and human services and education. The transfer of positions included nearly all employees who had been primarily engaged in the education civil rights compliance program. Employees who were in management and support positions were assigned, essentially, in accordance to choice and seniority. However, efforts were made to assure that both departments (Department of Health and Human Services and Department of Education) would have a balance regarding employees with skills in these areas.

I hope the responses I have provided to these questions are satisfactory. I will be happy to provide any additional clarification that you may wish.

Again, I express my appreciation for the consideration the Committee has given me.

Sincerely,



Cynthia G. Brown
Acting Assistant Secretary
for Civil Rights

OFFICE OF THE SECRETARY OF EDUCATION
 ASSISTANT SECRETARY FOR SPECIAL EDUCATION AND REHABILITATIVE SERVICES
 400 MARYLAND AVENUE, S.W. WASHINGTON, D.C. 20202

June 13, 1980

Honorable Harrison Williams
 Chairman, Committee on
 Labor and Human Resources
 United States Senate
 Washington, D.C.

Dear Mr. Chairman:

Thank you for making the occasion of my confirmation hearing an experience of great significance in my life. I would like you to know that your leadership and support will continue to inspire me as I undertake the duties and responsibilities of office.

During the hearing you asked me to respond in writing to questions which had not been asked during the hearing. Those questions and my responses follow.

- 3B. If pre-school services are provided to handicapped children, what type of model should be created, an education or education-medical type approach?

Response:

Model preschool services to handicapped children should be comprehensive programs designed to meet the needs of handicapped children for full range of services including the child development or educational needs as well as medical needs. As we have administered this program, applicants either provide directly or arrange to have assistance to parents in securing the medical services their children need.

- 3C. Do you know how many programs and at what level of funding the Federal Government supports pre-school services to handicapped children? Can you supply this information for the record?

Response:

127 Demonstration projects are in operation for 1979-80. These projects demonstrate and disseminate innovative approaches for educating handicapped children and encourage inter-agency cooperation to provide services in a cost-effective manner.

37 Outreach projects are currently operational in order to stimulate increased high quality services and encourage and support replication.

24 State Education Agencies are participating in the State Implementation Grant program which is directed to assist states in the development of statewide plans and to improve interagency cooperation.

Page 2

Honorable Harrison Williams

5 Research Institutes are funded to conduct long term research relating to the educational problems of young handicapped children.

2 Technical Assistance centers are funded to assist demonstration projects and State Implementation Grant projects in needs assessment, program management, self-evaluation, and model development.

In addition, the Preschool Incentive Grants, under Section 619, contain a \$25,000,000 authority to stimulate State and local agencies to develop and expand services to 3, 4, and 5-year-old handicapped children. Grants are made to States based upon the number of children served and several states are using these funds to support service programs.

- 4A. What steps have we taken at the federal level to facilitate coordination and collaboration of service delivery to handicapped children?
- 4B. What additional steps are necessary to ensure effective collaboration at the Federal and State level?
- 4C. What do you see as the role of other agencies in the delivery of these related services?

Response:

We have taken a number of steps to facilitate coordination and collaboration of service delivery to handicapped children at the Federal level. These steps have been primarily through the mechanism of joint collaborative arrangements with health delivery agencies including programs delivering services in the area of early periodic screening detection and treatment, programs of the Maternal and Child Health Administration, etc. There is, however, a problem. Agencies at the state and local level (which has included the Vocational Rehabilitation Agency in the past) feel as though the requirements of P.L. 94-142 mean that the school should pay for all these services and that they, therefore, might be relieved of their obligation. We have been able to secure policy statements in most areas from the national administrators that programs should not withdraw their services on the assumption that that would be a legally necessary position. The problem still persists. We have been supporting model projects in a number of sites both local and state across the country to demonstrate the effective collaboration of these agencies so that we can make these "best practices" widely known. It may be that the Congress will have to take particular action to specify that Federal health providing agencies - Mental Health Agencies and so forth - should give a priority to assisting the schools in providing the complex services required by handicapped children.

Page 3
Honorable Harrison Williams

5. The new Office of Special Education and Rehabilitative Services has a long history of innovative research and development. The National Institute for Handicapped Research has the statutory responsibility for coordination of research and dissemination activities. How do you plan to coordinate the research and development activities of the Office of Special Education and the National Institute of Handicapped Research?

Response:

The National Institute of Handicapped Research has a statutory role in gathering together representatives from various agencies conducting research affecting the handicapped and working in a coordinative fashion with these agencies to share information and to perhaps jointly fund projects, integrate dissemination activities, etc. I would expect that the activities which have already begun between the special education research program and the NIHR will continue and develop. For example, preliminary discussions have brought agreement that the National Institute of Handicapped Research will focus on health and rehabilitation related issues for young children as opposed to the special educational issues. Many of the issues focused on by the special education research program, for example, the curriculum for teaching science to mentally retarded children, would be of little interest to the National Institute of Handicapped Research whereas other projects, such as the support for the development of technology to help blind persons read, is a natural for joint support. I might say in this regard that we have solicited support for that kind of project in the past and have had collaborative relationships with the RSA, the Bureau of Education for the Handicapped, and the National Science Foundation, etc.

7. What role do the institutions of higher education play in the various States in both helping to prepare the State plan and offering assistance in terms of training and educating members of the State Boards of Education?

Response:

Institutions of Higher Education play a collaborative role with the States in developing the state plans for personnel development required by P.L. 94-142. The degree of effectiveness of the cooperation varies from state to state. We began encouraging joint planning between colleges and universities and state agencies some years prior to the passage of P.L. 94-142. What led us to that was the discovery that various state colleges were training personnel in accord with the strength of their faculties and that frequently the states' educational agencies had personnel needs that none of their college programs were designed to meet. Historically, there has been some separation between these groups and our efforts to have them work together are gaining

momentum; but there is still room for improvement in a number of states. Training and educating members of states boards of education to the specific requirements of the Education of the Handicapped Act could be supported under the provisions of P.L. 94-142. Each state maintains discretion over administrative funds and also a 25% portion of the state allotment. These funds can be used for inservice training of state officials and I feel that the training of members of the state board of education in this important area would be appropriate.

8. What steps has your Office taken to ensure the recruitment of minorities, women and handicapped individuals, and involving them in policy development and formation?

Response:

In establishing the new Office of Assistant Secretary for Special Education and Rehabilitative Services, I can assure you that we will follow a vigorous affirmative action policy with regard to the recruitment of minorities, women, and handicapped individuals.

When I became Director of the Bureau, there were few persons in the professional staff who were members of minorities, or who had handicaps. There were also disproportionately few women in those roles. An analysis performed last year showed that in the professional series, involving major responsibilities in grant administration programs both discretionary and formula, including training, research, and services, the Bureau of Education for the Handicapped had a significantly positive record. More than 22% of the professional staff, roughly 100% greater than the proportional representation of minority persons in the nation, is composed of minority persons and these persons have been drawn from a very small pool of special education professionals. Only about 2% of the membership of the largest professional organization of special educators is composed of minority persons. About 49% of the professional work force was composed of women and approximately 13% of the Bureau's overall staff was composed of handicapped individuals, most of whom were in the professional series. The disabled person estimate is really an underestimate since it included only people with readily identifiable disabilities, deafness or hearing loss, blindness or severe visual problems or orthopedic handicaps. Other members of the Bureau's staff have health related disabilities. It is not my intention to view these actions in terms of numbers. We have recruited aggressively to find the persons now employed and will continue to do so for the full range of operational and policy positions.

Page 5

Honorable Harrison Williams

9. Given the complex array of Federal programs that potentially service handicapped individuals, what do you see as the service and programmatic gaps that need to be addressed over the next 10 years?

Response:

There are a number of service and programmatic gaps that need to be addressed over the next ten years. I will just mention a few of those that seem the most significant to me now. One is there is a need to develop the Independent Living programs so that there can be a strong base of support for adult disabled persons. At the present time, there really is not an agency which attempts to deal comprehensively with the problems of disabled adults. I think the Independent Living movement can make a major contribution in this area, and I am hopeful that we can develop additional support over the next few years to encourage programs which reduce the dependency of disabled individuals and which are both humane and cost effective.

There is a major problem concerning the employment of disabled adults. They are disproportionately unemployed and under employed and a comprehensive effort involving education and rehabilitation as well as job design and placement programs which may involve the Department of Labor is required. Coordination with other agencies needs to be a major focus of our efforts.

We need to begin to make available for all handicapped children programs starting as early as possible in life. Early childhood programs have been consistently demonstrated by our model program and research authorities to be cost effective and to result in the reduction of disabling conditions and in so doing to allow children to participate in less expensive educational and rehabilitation programs in later life. In addition, there is a need for additional personnel-- and additional research on what the effective outcomes of education and rehabilitation should be.

10. There is an increasing concern over the disproportionate placement of minority children in special education classes. How does your Office plan to address this issue? What are your plans for better collaborative relationship with the Office of Civil Rights to remedy this situation?

Response:

The Office of Special Education will make monitoring of this problem a major feature of its site visits and will base selection of sites on available OCR data as to states and communities where the largest discrepancies exist. As I mentioned in the hearing, the Secretary has established a special task force including the Assistant Secretary

Page 6

Honorable Harrison Williams

for Civil Rights and myself, among others, under the direction of the General Counsel. This task force will be recommending a variety of joint compliance activities involving policy clarifications, development of compliance and monitoring standards, technical assistance, etc. which will be useful in combating this difficult and critically important problem.

- 10A. Are you aware of any data which suggests disproportionate service delivery (less) of rehabilitative services to minority members?

Response:

There is an article in the current Journal of Rehabilitation in which two researchers present such an analysis. Two other researcher comment on the article and analyze the data differently. The Commissioner of Rehabilitation, in another comment, announced an intention to investigate the issue, and I will monitor that inquiry. In the data presented, minority persons made up a percentage of rehabilitants which exceeded the percentage of minority persons in the population at large, but there appeared to be differences in the type of services and the rate of rehabilitation successes which required further study.

11. Employment and productivity are currently critical issues for our Nation and no less important for our handicapped citizens. How is your Office planning to approach the employment and training issues effecting the handicapped?

Response:

As I mentioned in my answer to question 9, employment issues are a major concern as we look forward to the next ten years. In responding to this we will make the question of employment a major priority for consideration of Rehabilitation Services Administration. We will employ the National Institute of Handicapped Research resources in focusing on these issues and continue our collaborative efforts with the Department of Labor, and we will seek more effective involvement of disabled persons in these pursuits.

12. As you know, the proportion of elderly in our general population is increasing rapidly due to demographic trends and to improved health care which prolongs life. With advancing age, the incidence of disability increases and a high proportion of the handicapped population is over 65. What plans or steps is your Office planning to accurately access the needs of and the role of your Office in the delivery services to disabled elderly?

Page 7

Honorable Harrison Williams

Response:

Attention needs to be directed to the needs of the disabled elderly and the role of the Rehabilitation Services Administration in meeting these needs. The Rehabilitation Services Administration and the Administration on Aging (AOA) are currently in the process of revising an earlier agreement to conform with the 1978 Amendments. Administration on Aging staff reviewed project grant applications for FY 1980 for the Special Projects program for the Severely Disabled under Sec. 311(a)(1) of the Rehabilitation Act.

13. Recent testimony before the House Select Subcommittee on Special Education highlighted the impact of inflation on rehabilitative services and indicated that the costs of rehabilitation have increased faster than the inflationary increases. Despite the rise in costs and the inflationary impact on appropriated dollars, the administration has not recommended a real increase in appropriations. Specifically, is there less of a need for increased appropriations for the basic state grant funds? What will be the long and short term effect of reduced real dollars for training be on the delivery of rehabilitative services?

Response:

There are always imbalances that arise when increases in appropriated dollars are outstripped by inflationary tendencies. These imbalances can be mitigated by careful management and by specific targeting on current priorities. The funds available for Basic State Grants have increased from \$560 million in 1972 to \$817.5 million in 1980. The 1981 request is for a 4% increase over the 1980 figure to \$854.3 million. The funds appropriated for training have not fared that well. It is clear to me from my experiences in managing the education of the handicapped program that in order to deliver effective services at the state and local level it is important to back up funds for direct services with appropriate resources for training and research. I will be studying the issues of supply and demand for qualified professionals in various parts of the country and making recommendations to the Secretary for improvements in training resources.

Page 8

Honorable Harrison Williams

14. The new Office of Special Education and Rehabilitative Services covers a "birth through death" range of responsibility. Do you plan to administer these agencies independently of each other? Do you anticipate areas where these agencies can share resources and jointly focus their resources to deliver more effective services.

Response:

The legislative history accompanying the Department of Education Organization Act suggests that the Congress intended the Rehabilitation Services Administration to maintain a separate identity, and report language accompanying the Conference Report suggests that the programs of the Bureau of Education for the Handicapped, now called the Office of Special Education, should also be seen as free standing and separate. Similarly, the National Institute for Handicapped Research has an independent mission. With that guidance, my feeling is that coordination of these agencies should develop at first through policy and planning and program review mechanisms of the Assistant Secretary's office, joint initiatives such as those linking special education, vocational education, and vocational rehabilitation, or those involving collaborative research efforts. As I mentioned earlier, I intend to do a programmatic review of each of the major programs in the Office, and to identify in those reviews areas of potential cooperation and collaboration. It may be that in the future we will find areas where administrative mergers might be possible without violating the sense of the Department of Education Organization Act, or which could be proposed to the Congress. My feeling is that it will be possible to effect a more efficient linkage and collaboration of these agencies than in the past even while maintaining them, with the Office of the Assistant Secretary providing sufficient authority and responsibility to achieve those purposes.

15. One of the major new initiatives of the 1978 Amendments to the Rehabilitation Act is independent living. Do you see any way that information regarding independent living options can be disseminated to youth in school so as to better prepare them as to living options as well as vocational options?

Response:

The idea of disseminating information about independent living to youth in school is a very attractive one, and one that we have already begun to some extent with a special grant to the Center for Independent Living in Berkeley. I think we want to make every effort to begin programs in the schools which are designed to encourage independent living. This becomes a key concept not only in special education programs but in vocational education as well.

Page 9

Honorable Harrison Williams

16. In 1981, the Vocational Education Act must be reauthorized. What suggestions and plans do you have for improving and expanding the type of vocational education which is offered to handicapped students?

Response:

The key concept to be established is whether the Congress intends for the Vocational Education Act to guarantee that programs be made available to handicapped persons, or whether the responsibility for services extends only as far as allowed by earmarked or available resources. Since P.L. 94-142 guarantees a free, appropriate public education, Vocational Education for many youngsters must be provided by the overall education system through official or general resources. The question is how directly the Vocational Education programs will be charged with the responsibility which should include analysis of job availability, job design efforts, and in placement, etc., as well as provision of education and training.

17. As you know, one of the critical elements of Public law 94-142 is the least restrictive environment provision. What has been the experience thus far with the "mainstreaming" of handicapped children in regular education settings?

Response:

While the Least Restrictive Environment provision of P.L. 94-142 has been somewhat controversial in a number of quarters (for example, some parents have been afraid that their children might receive too little concentrated education if they were in "mainstreamed" settings rather than in special schools, and some teachers have, on the other hand, felt that the introduction of disabled children into their classrooms presented problems for classroom management and instruction), the fact is that the overwhelming majority of handicapped children are now being educated, for at least part of the day, with non-handicapped children. This has been going on for certain classes of children for sometime. Many states integrate most blind children into regular education programs after the first few years, and this is particularly true for high-school-aged children. Children with speech and hearing disorders and learning disabilities have traditionally been "mainstreamed." Changes that we see occurring now are the increased involvement of children who are identified as retarded in the regular education program, and also children who are orthopedically handicapped who in many instances in the past were segregated for physical, rather than learning reasons. Where we have instances of children who are disruptive or who burden teachers unnecessarily because of their

Page 10
Honorable Harrison Williams

unique learning needs, that really represents a local problem. Placement decisions are made by a local screening and placement committee under the supervision of the Superintendent and Board of Education in that district.

If those committees persist in inappropriately placing children in regular classrooms there really are mechanisms in place at that level to correct that action. One possible cause for that, other than simply misunderstanding the learning needs of the children, could be an attempt to hold down the costs of special education. In the monitoring visits of the Office for Civil Rights and the Bureau of Education for the Handicapped, or in the response to complaints, these placement decisions can be reviewed and if necessary corrective actions offered. As with much of P.L. 94-142, historic changes are being made in patterns for educating handicapped children. Our experience with educational change, as well as with change in other programs and agencies, suggests that major shifts of this kind are never made without flaw, but I feel teachers and local school officials will develop communications systems which allow for reconsideration of ineffective placements.

18. What efforts are currently being undertaken to implement Public Law 94-142 within the Department of Defense overseas dependent schools?

Response:

Office of Special Education staff are currently working with Overseas Dependent Schools staff to develop standards and procedures to be implemented in all Overseas Dependent Schools regional offices and schools. The standards are based on the statute, Public Law 94-142 regulations, and EDGAR. They will be completed by August 1980. Monitoring procedures are being developed whereby the central offices monitor each region, including visits to schools within the regions, and the regional offices monitor all programs in the region.

Inservice activities are being conducted for all special education administrators. In addition, all elementary and high school staff will have received awareness level training by the end of the 1980-81 school year. A consortium of five universities is conducting these activities. Member universities are: University of Houston, Michigan State University, University of Southern California, Boston University, and George Washington University. ODS currently has a program guide in place (DS Manual 2500.4). This manual

will be replaced by the standards and guidelines being developed. Each regional office has conducted child find activities this year. The position of Coordinator for Special Education for Overseas Dependent Schools was created and filled this year. There is a counterpart to this position in each of the six regional offices.

Page 11
Honorable Harrison Williams

ODS has developed a hearing officer training package and is negotiating with the Department of Defense staff at each site. ODS staff is coordinating with Office of Special Education staff for the development of a pre-school handicapped guide.

A National Advisory Panel is being established. During FYs 1979 and 1980, special education staff increases have occurred. A significant staff increase has been requested for FY 1982, i.e., 142 professional positions and 143 para-professionals. The FY 1981 budget requested 22 additional professional staff.

18A. How are the due process appeals in the overseas schools being handled?

Response:

Due process appeals have been handled through the Judge Advocates office. However, Public Law 94-142 procedures as contained in the Standards and Procedures Manual will be implemented this fall.

18B. If a parent wishes to file suit regarding the provision of an appropriate education, where do they file?

Response:

ODS and the Judge Advocates office are in the process of determining which court will hear suits filed regarding the provision of an appropriate education for a handicapped student. Federal courts will preside. Overseas Dependent Schools/Department of Defense will determine the Federal court to be used by each region.

18C. How are related services being provided, in particular, those necessary for the provision of an appropriate education and related services for the severely emotionally disturbed?

Response:

Related services are currently being provided by ODS staff and by contracting with foreign national schools. Services for the severely emotionally disturbed are being provided by medical support personnel in the military hospital command, by contracting with foreign national schools, or by contracting with military wives with appropriate training. Compassionate reassignments can be obtained if appropriate services are not available due to the location of the base or of the family. Dependent children qualify to receive services from on-base military medical personnel.

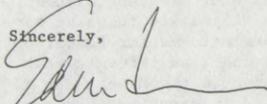
Page 12
Honorable Harrison Williams

20. What must be done to facilitate better technical assistance, education and training to local education personnel--principals, non-special education teachers, superintendents, etc. by the State authorities who monitor compliance with Public law 94-142?

Response:

It is frequently reported to us that there is a need for additional training for non-special education teachers, principals, superintendents, etc. The major resources available to the states for this kind of technical assistance and training comes from P.L. 94-142. Of the some \$800 million dollars available to the States this year, 25% or \$200 million dollars is available at the discretion of the State Education Agency for such inservice training purposes. In addition, the other 75% which is available to the local districts can of course, be used by local education personnel for those purposes. Many school districts have begun such programs and are systematically training all of the employees of their districts. The States in their comprehensive plans for personnel development should speak to these concerns; the Bureau in its monitoring of those State Plans consistently recommends to the state authorities that they provide such training. Should the situation persist, we would have to examine the possibility of ordering such training on the basis of requiring full compliance with P.L. 94-142.

Sincerely,



Edwin W. Martin
Acting Assistant Secretary
for Special Education and
Rehabilitative Services

OFFICE OF THE SECRETARY OF EDUCATION
ASSISTANT SECRETARY FOR SPECIAL EDUCATION AND REHABILITATIVE SERVICES
400 MARYLAND AVENUE, S.W. WASHINGTON, D.C. 20202

June 13, 1980

Honorable Jacob Javits
United States Senate
Washington, D.C.

Dear Senator Javits:

Thank you for the gracious words of support you offered during my confirmation hearing before the Committee on Labor and Human Resources on June 12. I deeply appreciate your appearance on my behalf during a time when as Senator Williams noted, you were occupied with matters of great concern to our Nation.

During the hearing you asked me to respond in writing to two questions. The questions and my responses follow.

1. As you know, I have long been concerned with the condition of education for our gifted and talented children. The programs at the Federal level for the gifted and talented have been under your jurisdiction as the Deputy Commissioner for Education of the Handicapped in the Office of Education, and I am informed that they will continue to be administered by your division in the Department of Education. Could you tell us where in the administrative structure of the Office of the Assistant Secretary the gifted and talented programs will be, and to whom the Director of the Office of Gifted and Talented will report, in terms of line authority?

Response: The Gifted and Talented program will continue to be operated in conjunction with other special education programs in the new Office of Special Education. This Office will be headed by a Deputy Assistant Secretary and the Office of Gifted and Talented will report to that person. As I mentioned in my statement, the educational system needs to find increased ways to diversify instruction so that young people who are so enormously gifted and talented are nourished and rewarded by the system rather than ignored and in some instances frustrated.

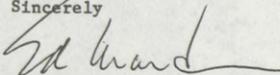
2. Could you tell us of the status of the Office of Information and Resources for the Handicapped, authorized to be established by the Rehabilitation Amendments of 1978? Senator Randolph and I have taken a particular interest in the establishment of this Office, as that statute requires that it be established in order to provide grants to operate training programs for interpreters for the deaf, which are so critically needed, as well as the basic coordination of programs serving the handicapped. The establishment of the Office has been greatly delayed, and I hope you can shed some light on its disposition and role within your division.

Page 2

Honorable Jacob Javits

Response: I have recommended, and the Secretary has agreed, that we should establish the Office of Information and Resources for the Handicapped. That office will report to me as Assistant Secretary, and I will be involved in the policy decisions concerning the interpreters program for the deaf. The actual day by day grants management and technical work of the program will be administered in the Office of Special Education, but under my supervision.

Sincerely



Edwin W. Martin
Acting Assistant Secretary
for Special Education and
Rehabilitative Services

cc: Honorable Harrison Williams

OFFICE OF THE SECRETARY OF EDUCATION
ASSISTANT SECRETARY FOR SPECIAL EDUCATION AND REHABILITATIVE SERVICES
400 MARYLAND AVENUE, S.W. WASHINGTON, D.C. 20202

June 13, 1980

Honorable Jennings Randolph
Chairman, Subcommittee on the Handicapped
United States Senate
Washington, D.C.

Dear Chairman Randolph:

Thank you for your expressions of interest and concern for disabled citizens and Federal programs during my confirmation hearing before the Committee on Labor and Human Resources on June 12. Your sensitivity to the question of who in our society is "handicapped" impressed me as it did Chairman Williams.

I noted in your introductory remarks that my friend and colleague, Dan Taylor, held first place in the Randolph Book of Records for speedy response to questions (Confirmation Hearing Variety). It is my hope that my answers will reach you promptly enough for me to replace Dan in this regard--even though I am not from West Virginia--although I would be happy to become an honorary citizen.

I very much appreciated your expression of support for my confirmation.

During the hearings you asked me to respond in writing to sixteen questions. The questions and my responses follow:

Seven of the sixteen questions related to vocational education. As you may know, we collaborated with Dr. Daniel B. Taylor in responding to the questions concerning vocational and special education relationships you asked of him during his confirmation hearing on June 5. Those answers are offered as an attachment in that they, together with the responses to these questions, offer a more complete picture of our joint response.

Vocational Education

1. Handicapped people of any age apparently may need a variety of services including special education and rehabilitation. Some handicapped youngsters during adolescence and early adult years may receive both educational services and rehabilitative services. Would you explain, is a program that provides vocational education training that leads to employment considered education or rehabilitation?

Page 2

Honorable Jennings Randolph

Response: Special Education and Vocational Rehabilitation share a common goal of preparing and assisting handicapped individuals to become well-adjusted, suitably-employed members of our society. Congress, in the 1978 Amendments to the Vocational Rehabilitation Act P.L. 95-602, has directed the administration to revise State vocational rehabilitation service plans "to ensure coordination with State special education agencies in the delivery of vocational rehabilitation services."

A priority of the Office of Special Education and Rehabilitative Services will be to establish a continuum of services for handicapped youth as they prepare to leave school and enter our communities as adults. It is the responsibility of both education and rehabilitation to ensure that handicapped individuals are provided the necessary vocational training to make the transition from school to work.

States should be able to demonstrate that Rehabilitation agencies have developed cooperative plans with State education agencies, including those agencies administering the Education of the Handicapped Act and the Vocational Education Act to ensure coordination of their respective programs. Many of the handicapped students enrolled in secondary schools are having their vocational training needs met by the education agency and would require minimum assistance from Vocational Rehabilitation in making the transition from school to work. However, there are numbers of severely handicapped individuals whose disabilities require extensive educational and rehabilitation services that can only be provided through planned cooperative service agreements between the agencies. In both instances mentioned above, effective coordination between the agencies should maximize the resources of both agencies while assisting individuals to become more economically independent as suitably employed disabled adults.

2. The Office of Rehabilitative Services has for many years operated with regional office personnel. The Bureau of Education for the Handicapped has had very little involvement with regional offices. Now that Special Education and Rehabilitation are combined under one Assistant Secretary do you expect this distinction in the regional office to continue?

Response: We will have to review this with an eye toward what collaboration might be possible without disrupting RSA obligations.

Page 3
Honorable Jennings Randolph

3. The Vocational Education Act requires each State to submit a State Plan for the use of funding made available under that Act. However, there is no requirement for a National Plan. We know that handicapped persons are doubly handicapped if they lack appropriate vocational education, but there is no national commitment to assure that handicapped individuals receive such training. We know that many thousands of handicapped persons are assigned to sheltered workshops without vocational training. We are concerned that handicapped young people are being excluded from Post-Secondary Vocational Training Programs, and therefore not being allowed to develop skills and knowledge necessary for employment. Do you believe it would be possible for your office, working with The Office of Vocational Education, to develop such a National Plan leading to better employment opportunities for handicapped adults? If so, when do you think such a plan might be available?

Response: We worked cooperatively with Dr. Taylor in answering your question to him on this matter. In addition to his remarks (attached), I would say the key step, seems to me, to be state planning rather than a national plan. I feel the needs of school aged handicapped children must be met under the requirement of P.L. 94-142 and that will require effective Vocational Education - Special Education collaboration as well as coordination with State Rehabilitation Agencies. National leadership to achieve this end will be required.

4. The Vocational Education Act requires that not less than 10% of the allotment under section 102 (A) be used for Vocational Education of Handicapped Persons. I am concerned that funds earmarked for services to handicapped students might not be reaching them. Will you find out for us if these funds are actually being used to assist handicapped students, as they are defined in the law, or are they perhaps diverted?

Response: The responsibility for assuring the appropriate use of Vocational Education funds lies with the Assistant Secretary for Vocational Education, but we will be happy to cooperate with him in that task, and will discuss what role might be helpful. Please see Dr. Taylor's attached answer to Question 1.

5. Along that line, will you also find out what methods the States are using to determine which students qualify as handicapped according to the definition used in the law?

Are school or rehabilitation records used as eligibility requirements or are there new evaluations on students requesting services?

Page 4

Honorable Jennings Randolph

Responses: In our monitoring of P.L. 94-142 we will examine Vocational Education placements and review placement criteria. Please see Dr. Taylor's answer, Question 2.

6. There are three agencies within the Department of Education alone which administer federal funds to assist handicapped persons, any one of which can provide educational training--The Offices of Vocational Education, Rehabilitation, and Special Education.
- A. Do you have or do you expect to have any form of inter-agency agreement which explains how the funds for each program work to complement each other rather than duplicate services?
 - B. Do you have any individual in your agency who will serve as a liaison person for handicapped programs with other agencies?
 - C. Will you and the Assistant Secretary for Vocational and Adult Education be issuing joint guidelines to state agencies explaining how these programs will coordinate and interact at the state level? For example, will you clarify for the states which funds are to be used for Postsecondary Education for Handicapped Youth between the ages of 18 and 22? Should this be paid from Vocational Rehabilitation Funds, Vocational Education Funds, or Special Education Funds?

Response: As Dr. Taylor noted (attached response to Question 3) we have initiated joint agreements with Vocational Education and Rehabilitation agencies and have worked together in conducting joint national workshops. Dr. Bill Halloran of the OSE staff has been our lead person in Vocational Education Special Education dealings. We have also involved other staff members under his direction.

7. Special Education has traditionally stopped when handicapped people leave high school and yet some of the most difficult learning tasks are faced until after the child leaves school. Postsecondary Vocational Education Systems are in an ideal position to provide the training that handicapped adults need to enter employment, to advance in employment, to make career changes and to develop other skills necessary for adult living. However, the special teaching skills needed to accomplish these things rarely extend beyond the secondary school. If Postsecondary Vocational Education Programs are to meet the training needs of handicapped persons, it would seem necessary to provide some form of Special Education Training for the faculty who will be teaching handicapped adults. Will you please examine the various training

Page 5
Honorable Jennings Randolph

authorities contained in The Vocational Education Act to determine if you can support such training activities and, if so, let us know what you might do to begin helping Postsecondary Vocational Education personnel to have more skill and knowledge in the education of handicapped persons.

Response: Please see Dr. Taylor's attached response to Question 5. The BEH has also supported training grants in the Vocational Education/Special Education area. In FY 1979 approximately \$3.2 million went for programs to assist educators to develop competencies in meeting the vocational needs of handicapped students, including Postsecondary Education Personnel.

National Council on the Handicapped

1. Have you had any discussions with Dr. Howard A. Rusk regarding the relationship between the National Council on the Handicapped and your office? Can you tell the committee how you see this?

Response: I have met with Dr. Rusk briefly, and have a meeting scheduled with him for June 18th. I anticipate that the National Council will have its administrative ties in the Office of the Assistant Secretary as well as work closely with the Director of National Institute for Handicapped Research. Specific arrangements will be dependent upon my discussions with Dr. Rusk, since the Council has considerable latitude in its staffing and operating arrangements.

2. What plans do you have to see that the National Council on the Handicapped is adequately staffed with experienced personnel? Is it funded for FY 1980? FY 1981?

Response: Final decisions on staffing will be made after discussion with Dr. Rusk. It is our intention to help the council secure appropriately qualified personnel. We intend to have the council meet during this fiscal year, assuming Senate confirmation of its members, using funds that are already available to us. Final action by the Congress has not been taken on the FY 1981 request for the council.

3. Can you share with the committee your goals and objectives for the Rehabilitation Programs you will supervise? For example, the NIMR seems to us to be woefully understaffed. Will real attention be given to the adult disabled? Do you plan on a deputy from the Rehabilitation field?

Page 6

Honorable Jennings Randolph

Response: My objectives with regard to the Rehabilitation programs will be to do everything possible to strengthen their operation by effective management and through close working cooperation with the Rehabilitation field in development of priorities and initiatives. Within the budgetary and fiscal restraints that the President and the Congress impose, I would hope to expand program staff of NIHR.

My goal: I see the National Institute of Handicapped Research, as I mentioned in my statement, as a small nucleus program designed by the Congress to take its rightful place in the future among the National Institutes of Health and Mental Health as major international, research agencies. The focus of the Institute will include specific attention to the adult disabled, with specific research centering on problems of the aging. Although decisions have not been made by the Secretary and Under Secretary on the position of Deputy, all the candidates presently under consideration have professional expertise in the rehabilitation field. In my discussions with the Secretary and with the top leadership in the Education Department, I have already been able to call specific attention to the broad span of responsibility for adult disabled persons through the Rehabilitation program and to the Congressional expectations and hopes for the development of the National Institute.

NIHR - RSA

1. How do you see the NIHR supporting you in your role as the chief policy official for the programs for the handicapped?

Response: I think the National Institute for Handicapped Research can be of invaluable support to the chief policy officer for programs for the handicapped in a variety of ways: it can be a valuable source of data concerning the nature and effectiveness of programs for disabled people; it can be, through its research function, an arm for specific analyses of the needs of the disabled community and, it can provide help with the evaluation of effectiveness of programs in rehabilitating disabled persons. In addition to that, the Institute can be a flexible and effective tool in responding to emerging priorities of the Congress, the President, or of those made apparent by the needs of disabled persons. Recently, the President said that he would like to focus additional attention on spinal cord injury. It is my desire to provide the Institute with the capability of helping the President fulfill that initiative.

Page 7
Honorable Jennings Randolph

2. What role do you see for the Rehabilitation Research and Training Centers in implementing the new research mandates under Public Law 95-602?

Response: The Rehabilitation Research and Training Centers should be seen as a prime vehicle for implementing the new research mandates under P.L. 95-602. It is Dr. Gianinni's feeling and mine that the R&T Centers are the core of the National Institute's programs and that much of the implementation of new mandates can be met through using the resources of these centers. At the same time, there can be competition throughout the research community in rehabilitation for eliciting and undertaking new approaches and new ideas for meeting these mandates.

3. What is your view as to the gradual reduction in funding for training in the administration's budget and what do you see as training needs?

Response: I have been alarmed to see the reduction in funding for training as I have become familiar with the program. The reports that I have had from professionals in the field are that there is a considerable need for expanded training in the rehabilitation medicine field, in various specialties within the rehabilitation community, and, also, for inservice training to state rehabilitation service employees. I intend to review the reasons for the reductions very carefully and will give them a high priority for consideration during the budget development.

4. Do you think the medical and health programs which are part of rehabilitation will receive effective support separated from the Department of Health? What can be done to assure understanding and support for them in a new department?

Response: I think the medical and health programs can receive effective support in the Department of Education and will do so because this Assistant Secretariat is set up to assure that the full range of rehabilitation programs is part of the new focus on the disabled. The strength of the new Assistant Secretariat is that it provides, in one administrative unit, a broad span of concern for the disabled. In the past years special education programs have been government agency leaders in forging interagency agreements and relationships with the Maternal and Child Health Service units of HEW and with the Medicaid and Medicare program. And, I know that the Secretary is concerned that the Education Department support the full array of rehabilitation services.

Page 8

Honorable Jennings Randolph

Program Coordination

1. Testimony presented to the Subcommittee on the Handicapped has indicated that handicapped American Indian children and adults have frequently not received needed special education and rehabilitation services. As you know, Public Law 94-142, The Education for All Handicapped Children Act of 1975, provides a setaside to the Bureau of Indian Affairs for the delivery of special education services to handicapped Indian children; and Public Law 95-602, the Rehabilitation, Comprehensive Services and Developmental Disabilities Amendments of 1978, authorizes grants to tribal governments for the provision of vocational rehabilitation services to handicapped American Indians. As Assistant Secretary, how do you plan to improve special education and rehabilitation services to handicapped American Indian children and adults?

Response: OSE has visited selected area offices of BIA, and has found an absence of appropriate special education and related services available for handicapped American Indian children. Many children remain unserved or underserved. In the program administrative reviews of the BIA programs, OSE has directed BIA to effect certain corrective actions. These corrective actions are related to the findings of the administrative reviews. In the area of child identification and right to education policy, for example, BIA has been directed to increase child find efforts, and shorter waiting lists for placement. Timelines have been exceeded in documenting these corrective actions.

Approximately a year has elapsed since these administrative reviews were conducted and reports transmitted to the BIA. To date, BIA has not responded. OSE is now considering more stringent legal remedies since the administrative procedures to date have not yielded the necessary response and action by BIA.

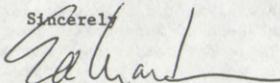
2. During the Oversight Hearings on Public Law 94-142, witnesses noted problems in interagency cooperation and specifically mentioned a problem that had arisen with reference to vocational rehabilitation agencies withdrawing support of programs for the handicapped. Attached is an excerpt from the hearing record of March 3, 1980, which explains this situation. As Assistant Secretary, what will you do to resolve this problem and to facilitate greater interagency cooperation generally?

Page 9

Honorable Jennings Randolph

Response: The problem of reduced services to handicapped school children by other agencies, including Vocational Rehabilitation agencies, is a serious one. A number of agencies have felt that P.L. 94-142 required schools to pay for such services, thereby relieving them of responsibility. As I mentioned during the hearing and in answer to another question, we have developed a series of interagency agreements to resolve the policy issues at the national level, but local problems persist. We plan additional regional and state efforts to alleviate this problem. The rehabilitation agency problem has a unique dimension, as well. A Comptroller General's report suggested that certain cooperative arrangements for services which had been used by rehabilitation agencies in relation to school problems were inappropriate this led to a reduction of such Rehab-School agreements and so, reduced services. The Commissioner of Rehabilitation has now recommended revised procedures which should help in this situation and I will review these actions and take whatever steps are appropriate to foster cooperative programming.

Sincerely



Edwin W. Martin
Acting Assistant Secretary
for Special Education and
Rehabilitative Services

cc: Honorable Harrison Williams

OFFICE OF THE SECRETARY OF EDUCATION
ASSISTANT SECRETARY FOR VOCATIONAL AND ADULT EDUCATION
400 MARYLAND AVENUE, S.W. WASHINGTON, D.C. 20202

JUN 6 1980

The Honorable Jennings Randolph
Committee on Labor and Human Resources
United States Senate
Washington, D. C. 20510

Dear Senator Randolph:

Thank you for the gracious introduction you made during my confirmation hearing before the Committee on Labor and Human Resources on June 5. Your thoughtful questions and careful attention to my responses were also appreciated.

During the hearing you asked me to respond in writing to five questions. The questions and my responses follow.

1. The Vocational Education Act requires that 10% of the allotment under Section 102(a) be used for Vocational Education of Handicapped persons. I am concerned that funds earmarked for services to handicapped students might not be reaching them. Will you find out for us if these funds are actually being used to assist handicapped students, as they are defined in the law, or are they perhaps diverted?

Response: According to the most recent program reports the 10% set aside is being used by the States to assist handicapped students in vocational education programs. The Office of Vocational and Adult Education monitors the use of funds allocated under the Act through audit reports, the Management Evaluation Review for Compliance and Quality, and through the States Annual Accountability Reports. If inappropriate use of funds is found you can be assured appropriate action will be taken.

2. Along that line, will you also find out what methods the States are using to determine which students qualify as handicapped according to the definition used in the law?

Are school or rehabilitation records used as eligibility requirements or are there new evaluations on students requesting services?

Response: At the secondary school level States are using the criteria established in the Education of All Handicapped Children Act (P.L. 94-142) and in accordance with State Standards specified in that law for the identification of handicapped students as required in the Vocational Education Act. At the postsecondary and adult education levels States generally use rehabilitation service referrals and self-identification by handicapped persons to determine eligibility for services to handicapped individuals.

Page 2

The Honorable Jennings Randolph

School and/or rehabilitation records as well as vocational assessments are used as guidance tools to assist handicapped students in career decision making but not as eligibility requirements.

3. There are three agencies within the Department of Education alone which administer Federal funds to assist handicapped persons, any one of which can provide educational training--The Office of Vocational Education, Rehabilitation, and Special Education.

- A. Do you have or do you expect to have any form of interagency agreement which explains how the funds for each program work to complement each other rather than duplicate services?

Response: Under the former Office of Education an Interagency agreement between the Bureau of Occupational and Adult Education, the Bureau of Education for the Handicapped, and the Rehabilitation Services Administration was developed with copies of that agreement sent to all State directors of the respective programs. Attached to that agreement was information regarding the use of funds allocated by each agency. Furthermore, a working task force, composed of representatives from each agency, has worked to improve communication and reduce duplication of services. The activities undertaken by the task force are anticipated to continue under the Education Department between the Office of Vocational and Adult Education and the Office of Special Education and Rehabilitation Services.

- B. Do you have any individual in your agency who will serve as a liaison person for handicapped programs with other agencies?

Response: Two full-time program specialists are currently employed by the Office of Vocational and Adult Education to serve vocational education programs for the handicapped. These individuals perform, among other duties, liaison functions with other agencies. In addition, a member of my immediate office staff assists in certain liaison activities related to programs for handicapped individuals.

- C. Will you and the Assistant Secretary for Special Education and Rehabilitation be issuing joint guidelines to State agencies explaining how these programs will coordinate and interact at the State level? For example, will you clarify for the States which funds are to be used for postsecondary education for handicapped youth between the ages of 18 and 22? Should this be paid from vocational rehabilitation funds, vocational education funds, or special education funds?

Response: I expect the close working relationship with the Assistant Secretary for Special Education and Rehabilitation Services to continue. Together we will continue to assist States

Page 3

The Honorable Jennings Randolph

in coordinating services for handicapped individuals. In 1978 under the Office of Education, the three agencies issued an information memorandum explaining how funds could be coordinated. In 1979 the three agencies cooperatively conducted a national conference on interagency coordination for State Directors of Vocational Education, Special Education, and Rehabilitation Services. Since that time both the Bureau of Occupational and Adult Education and the Bureau of Education for the Handicapped have funded exemplary projects to further assist States in interagency coordination.

Under our existing agreements and activities we should be able to clarify for States which sources of Federal funds can be used to meet the needs of students between the ages of 18 and 22 who are handicapped and are enrolled in vocational education programs. Clearly, vocational education funds under the 10% setaside may be used to assist postsecondary students who are handicapped, even beyond age 22, so long as they are enrolled in a regular or special program of vocational education.

Responsibility for determining which sources of funds should be used is not within the purview of this office, but might be addressed by the Secretary.

Services to handicapped individuals will remain a priority within the Office of Vocational and Adult Education.

4. The Vocational Education Act requires each State to submit a State plan for the use of funding made available under that Act. However, there is no requirement for a national plan. We know that handicapped persons are doubly handicapped if they lack appropriate vocational education, but there is no national commitment to assure that handicapped individuals receive such training. We know that many thousands of handicapped persons are assigned to sheltered workshops without vocational training. It would be most helpful if you, along with the Assistant Secretary for Special Education and Rehabilitation, developed a national plan for vocational services to handicapped persons.

Response: As you are aware, States are currently required to submit planning documents for Vocational Education, Special Education, Rehabilitation Services, and Comprehensive Employment and Training Act programs. These documents specify how Federal funds will be used by the States and to provide assurances of nondiscrimination in federally supported programs.

There currently exists no similar legislative authority for this Office or any other Federal office to develop a national plan for

Page 4
The Honorable Jennings Randolph

vocational education for handicapped persons. The Education Department is required, however, to focus on provisions contained in State Plans and to ensure consistency in regulations with other Federal programs.

Efforts will be made to work closely with the Assistant Secretary for Special Education and Rehabilitation Services and other Education Department Assistant Secretaries, as well as the Assistant Secretary for the Employment and Training Administration, Department of Labor, to assist States in providing comprehensive services to handicapped persons. The Education Department is sincerely committed to assisting all individuals in achieving their greatest potential.

5. Special Education has traditionally stopped when handicapped people leave high school and yet some of the most difficult learning tasks are not faced until after the child leaves school. Postsecondary vocational education systems are in an ideal position to provide the training that handicapped adults need to enter employment, to advance in employment, to make career changes and to develop other skills necessary for adult living. However, the special teaching skills needed to accomplish these things rarely extend beyond the secondary school. If postsecondary vocational education programs are to meet the training needs of handicapped persons, it would seem necessary to provide some form of special education training for the faculty who will be teaching handicapped adults. Will you please examine the various training authorities contained in the Vocational Education Act to determine if you can support such training activities and, if so, let us know what you might do to begin helping postsecondary vocational education personnel to have more skill and knowledge in the education of handicapped persons.

Response: I agree that postsecondary institutions offer outstanding opportunities for disabled youth and adults to acquire vocational training. Authorities which could be used to train postsecondary vocational education personnel exist in Part A, Subpart 3 (Program Improvement and Supportive Services) of the Vocational Education Act. Uses of the funds available under this subpart are determined by the State Boards of Vocational Education with personnel preparation priorities listed in their State Plans for Vocational Education. Further, under Part 3, Subpart 2 (Programs of National Significance) of the Act, national leadership development awards are available. In FY 1981 a portion of the funds requested are intended to be used for the preparation of individuals concerned with improving access to vocational education, for women, minorities, and handicapped persons. Vocational educators from postsecondary institutions would be eligible to apply for these awards.

A priority of the Office of Vocational and Adult Education will be to work with the Office of Special Education and Rehabilitation Services, and the Office of Postsecondary Education to develop procedures to

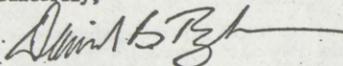
Page 5

The Honorable Jennings Randolph

assist handicapped individuals make the transition from school to work. For many of these individuals appropriately designed programs within the postsecondary vocational education systems will be essential to individuals making this transition. Adequately trained personnel are critical to achieving that goal.

If you need additional information, please let me know.

Sincerely,



Daniel B. Taylor
Assistant Secretary-Designate
Vocational and Adult Education

cc: Honorable Harrison A. Williams

OFFICE OF THE SECRETARY OF EDUCATION
ASSISTANT SECRETARY FOR SPECIAL EDUCATION AND REHABILITATIVE SERVICES
400 MARYLAND AVENUE, S.W. WASHINGTON, D.C. 20202

June 23, 1980

Honorable Jennings Randolph
Chairman, Subcommittee on the Handicapped
United States Senate
Washington, D.C.

Dear Mr. Chairman:

Thank you for your continued attention, interest and support. Your judgment about the information provided is most appreciated. The additional information you requested follows.

My expectation is that the Office of Information and Resources for the Handicapped (OIRH) will be established within a month. An exact date is not possible given that the complex administrative procedures (Departmental review and clearance of mission statement, labor and management considerations, involvement of and discussions with staff, etc) cannot be precisely calculated. However, I have already given orders to begin this process and in the interim, the current Office for Handicapped Individuals group will report to me. Similarly, I will approve grants for interpreters for the deaf, currently in process, and assure that no "matching" is required.

I regret that during the final typing of our response we neglected to include the answer relating to rehabilitation services to handicapped American Indians. Please accept the enclosed revision as substitute pages for our letter of June 13.

You asked "what 'stringent' legal remedies" are being considered by the Office of Special Education with regard to Bureau for Indian Affairs. We are reviewing with General Counsel exactly what the full range of legal options may be. I am, however, hopeful that renewed discussions with the Department of Interior will resolve these problems.

The response from Secretary Hufstedler to your letter of May 2nd required full staffing in the Department and will be sent to you shortly.

Please let me know if I can be of further assistance.

Sincerely,



Edwin W. Martin
Assistant Secretary for Special
Education and Rehabilitative Services

Enclosure

Page 8

Honorable Jennings Randolph

Program Coordination

1. Testimony presented to the Subcommittee on the Handicapped has indicated that handicapped American Indian children and adults have frequently not received needed special education and rehabilitation services. As you know, Public Law 94-142, The Education for All Handicapped Children Act of 1975, provides a set aside to the Bureau of Indian Affairs for the delivery of special education services to handicapped Indian children; and Public Law 95-602, the Rehabilitation, Comprehensive Services and Developmental Disabilities Amendments of 1978, authorizes grants to tribal governments for the provision of vocational rehabilitation services to handicapped American Indians. As Assistant Secretary, how do you plan to improve special education and rehabilitation services to handicapped American Indian children and adults?

Response: The Office for Special Education has visited selected area offices of the BIA, and has found an absence of appropriate special education and related services available for handicapped American Indian children. Many children remain unserved or underserved. In the program administrative reviews of the BIA programs, OSE has directed BIA to effect certain corrective actions. These corrective actions are related to the findings of the administrative review. In the area of child identification and right to education policy, for example, BIA has been directed to increase child find efforts, and shorter waiting lists for placement. Timelines have been exceeded in documenting these corrective actions.

Approximately a year has elapsed since these administrative reviews were conducted and reports transmitted to the BIA. To date, the BIA has not responded. OSE is now considering more stringent legal remedies since the administrative procedures to date have not yielded the necessary response and action by the BIA.

The Rehabilitation Services Administration has made significant efforts since the enactment of P.L. 95-602 to improve and expand the delivery of vocational rehabilitation services to handicapped American Indians residing on and off reservations. With the impetus from the Federal government, the three states of Arizona, New Mexico, and Utah worked cooperatively to develop a vocational rehabilitation services program for handicapped American Indians residing on the Navajo reservation. That program is currently funded by a Rehabilitation Innovation and Expansion Grant through the state of Arizona to the Navajo Tribal government. Considerable technical assistance has been provided to this project through the San Francisco Regional Office and Central Office of RSA to the Navajo Vocational Rehabilitation Project. Through an intergovernmental relations appointment, a senior

Page 9
Honorable Jennings Randolph

staff person is currently serving full time on the Navajo reservation to provide on-going technical assistance in the area of provision of VR services.

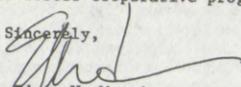
A recent national training conference was conducted in Albuquerque, New Mexico which brought together representatives of over 25 Indian tribes, 15 state VR agencies, and federal and regional staff of RSA to initiate awareness and improvement of VR services delivery to handicapped American Indians on reservations.

Should funds be made available for initiating grants to American Indian Tribes for VR services envisioned by Section 130 of the Rehabilitation, Comprehensive Services and Developmental Disabilities Amendments of 1978, the Office of Special Education and Rehabilitative Services will provide whatever technical assistance may be needed to implement the program expeditiously.

2. During the Oversight Hearings on Public Law 94-142, witnesses noted problems in interagency cooperation and specifically mentioned a problem that had arisen with reference to vocational rehabilitation agencies withdrawing support of programs for the handicapped. Attached is an excerpt from the hearing record of March 3, 1980, which explains this situation. As Assistant Secretary, what will you do to resolve this problem and to facilitate greater interagency cooperation generally?

Response: The problem of reduced services to handicapped school children by other agencies, including Vocational Rehabilitation agencies, is a serious one. A number of agencies have felt that P.L. 94-142 required schools to pay for such services, there by relieving them of responsibility. As I mentioned during the hearing and in answer to another question, we have developed a series of interagency agreements to resolve the policy issues at the national level, but local problems persist. We plan additional regional and state efforts to alleviate this problem. The rehabilitation agency problem has a unique dimension, as well. A Comptroller General's report suggested that certain cooperative arrangements for services which had been used by rehabilitation agencies in relation to school problems were inappropriate this led to a reduction of such Rehab-School agreements and so, reduced services. The Commissioner of Rehabilitation has now recommended revised procedures which should help in this situation and I will review these actions and take whatever steps are appropriate to foster cooperative programming.

Sincerely,



Edwin W. Martin
Acting Assistant Secretary
for Special Education and
Rehabilitative Services

cc: Honorable Harrison Williams

The CHAIRMAN. Thank you.
The hearing is now adjourned.
[Whereupon, at 11:30 a.m., the committee adjourned, subject to the call of the Chair.]

○