

Michael Matros

## Special Education in North Carolina

# The Chance To Become Less Dependent

by Susan Carol Robinson

**C**amille has pretty definite opinions about summer. It's the dull time that keeps her away from that exciting place—school. The spunky, rising second-grader, a charmer with sparkling brown eyes and a big friendly smile, got her first taste of public education last year and is eager for another sample.

For Kelvin, the summer was no hindrance to classroom activities. He went to summer school. The small blond boy with thick glasses had ready answers as he and his teacher moved down the gaily painted halls to the therapy room, but he ducked his head shyly and barely managed to whisper a reply when the principal stopped to say hello. Overcoming that shyness is

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Camille Durfee arrives home from elementary school in Raleigh.

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one of the school's goals in helping Kelvin.

Joshua likes school, but he always enjoys summer vacation. "If you never get a break from school," the eight-year-old explains, "then you're going to die." A bright, articulate youth with sunbleached brown hair, Josh says summer gives him a chance to spend more time with his brothers, visit his grandparents, and, of course, make that special trip to camp.

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## *How much money can a local school system afford to spend on handicapped children? And where should that money come from — the child's parents or local, state, or federal governments?*

These three children have one big thing in common. They are able to attend public schools because of North Carolina's commitment to educating children with special needs. Camille has cerebral palsy and can't speak. She was one of five children attending a special class at Bugg Elementary School in Raleigh. Kelvin goes to Edgewood Community Developmental School, a public school in Goldsboro for the mentally handicapped. Josh, who has progressive infantile spinal muscular atrophy, attended a regular class with the help of an aide at Briarcliff Elementary School in Cary. All three youths are confined to wheelchairs.

Just 10 years ago, Camille, Kelvin, and Joshua would probably have attended a specialized school for handicapped children. But since 1973, state and federal laws have caused a

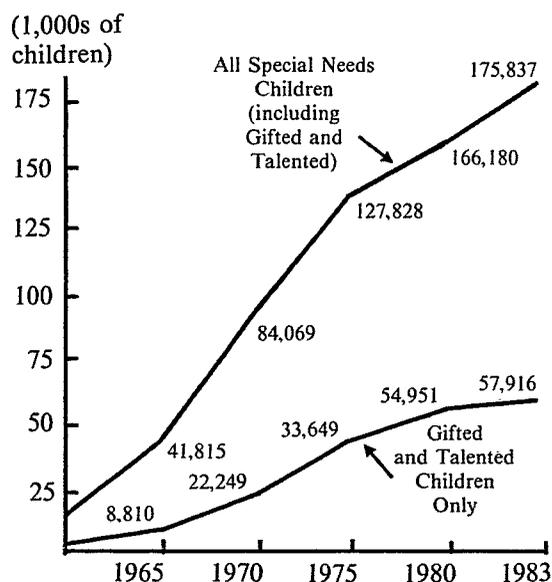
dramatic increase in the number of handicapped children being "mainstreamed" into a public school with normal children. From 1973 to 1983, the number of handicapped children receiving special education services through the N.C. Department of Public Instruction (DPI) doubled, from about 59,000 to 118,000 (see Figure 1 below). In 1973, most of these children attended public school but were enrolled in self-contained classrooms with other handicapped children. "Today, 9 out of every 10 spend part of their school day in a mainstream setting," says Ted Drain, director of DPI's Division of Exceptional Children. "They may participate in art math, P.E., music, or reading with non-handicapped students."

The Department of Public Instruction began serving handicapped children in 1949. In the 1960s, the department started a program for "gifted and talented" children. In 1968, newly elected Superintendent of Public Instruction Craig Phillips merged these two programs—for handicapped and for gifted and talented—into a single Division of Exceptional Children. Then in the 1970s came the pivotal state and federal legal mandates.

In 1974, the General Assembly passed the Equal Educational Opportunities Act, known as the Auman Bill.<sup>1</sup> The act specified that "no child shall be excluded from service or education for any reason whatsoever." The legislature backed up that policy statement with funding. In 1975, Congress passed the Education for All Handicapped Children Act, known as PL 94-142, which required states to provide a free public education to all handicapped children with an "individualized education program" in the "least restrictive environment." In 1977, the General Assembly responded to the mandate of PL 94-142 and passed what has become known as the Creech Bill.<sup>2</sup> This act guaranteed an appropriate, individualized education to all handicapped children. The Creech Bill went a step further than PL 94-142, specifying gifted/talented and pregnant students among the 14 categories of children covered by the law.<sup>3</sup>

The State Board of Education passes rules and regulations under which local school

**Figure 1. Number of Children Receiving Special Educational Services, 1960-1983\***



\*Note: From 1960 through 1977, "duplicated" counts of children were maintained, where children could be included in more than one special need category. Since 1977, unduplicated counts have been maintained.

Source: Department of Public Instruction.

systems must operate.<sup>4</sup> The rules concerning special education require that the local systems identify students with special needs and develop individualized education programs (IEPs) for them. The IEP determines the most appropriate setting for the student—mainstreaming, part-time special classes, resource center, self-contained special class, special day school, or home/hospital. Occasionally, a student will have to be sent to a private school or out of state because there is not a public school program suitable for his or her needs. The rules passed by the State Board define the special needs categories and detail the procedures that local school systems must follow. “We view the rules as the Bible of our program,” says Drain.

Drain’s office oversees the federal and state funds that go to the 142 local education agencies throughout the state. If a school system does not provide the services mandated by the rules, the Division of Exceptional Children has the ability to withhold funds from that system. In the 1981-82 school year, local school systems reported spending \$159 million on children with special needs (includes gifted and talented children). Almost three-fourths of those funds—about \$115 million—came from state appropriations (see Table 1 at right).

In 1983, the Division of Exceptional Children supervised programs serving about 175,000 children—118,000 with some type of handicap, 57,000 gifted and talented children, and 400 pregnant students (see Figure 2 on page 73 for the number of children served in each category). In addition, the Department of Human Resources (DHR) provided special educational services to some 1,800 children in institutions, and the Department of Correction (DOC) supervised the education of some 600 children with special needs.<sup>5</sup>

Public schools and other state and local agencies have lived with the Creech Bill for only five years. In this brief time, requirements for an individualized education program in the least restrictive setting have produced both opportunities and problems. Many of the factors that affect the quality of special education must be addressed at the local level by parents, teachers, and administrators. Other issues demand attention at the state level. A review of these state-level policy issues follows.

### Funding and Mainstreaming

The two most important state-level policy issues concerning education for handicapped children are funding levels and mainstreaming. Sen. Gerry Hancock (D-Durham), who serves on the legislature’s Commission on Children with Special Needs, explains the link between

**Table 1. Public School Expenditures Reported by Local Education Agencies for Exceptional Children, 1981-82**

	Amount (Millions)	Percent
State Aid <sup>1</sup>	\$108.5	68.2
Other state funds <sup>2</sup>	7.1	4.4
Federal		
Title VI-B <sup>3</sup>	27.6	17.4
Other <sup>2</sup>	1.9	1.2
Local	11.9	7.5
Other	2.0	1.3
<b>Total</b>	<b>\$159.0</b>	<b>100.0</b>

<sup>1</sup>The largest share of State Aid for exceptional children comes from the State Public School Fund. These special funds increased to \$114.8 million in 1982-83 and are projected at this same level for each year of the 1983-85 biennium. The \$114.8 million is understated by some \$15 million more in state funds. It excludes salary increases for 4,921 teachers and 864 aides and other expenses for exceptional children such as transportation, developmental day care and residential centers, and *Willie M.* funds (see article on page 56).

<sup>2</sup>Local systems use various state and federal funds for teachers’ salaries and other expenses which they report as being spent for special education.

<sup>3</sup>Education of the Handicapped Children Act, PL 94-142, Title VI-B.

Table prepared by Hilda A. Highfill, Fiscal Research Division of the N.C. General Assembly, from data supplied by the State Department of Education.

funding and mainstreaming like this: “One has to determine what amount of money is needed to provide a free, appropriate education in the least restrictive situation for all categories in the Creech Bill.”

Deciding what is the least restrictive setting for students frequently boils down to an emotionally tinged question of mainstreaming versus separate-but-equal education. “Mainstreaming is one of those things that when you say you’re not totally for it, it’s like being against motherhood and apple pie,” says Gail Colbert, a special education teacher at Broughton High School in Raleigh.

Educators, parents, and administrators vary in their views of mainstreaming. Most agree, however, that each child must be evaluated on an individual basis. For many retarded students, for example, being in a regular classroom part of the time and attending a resource center for additional help may be the best answer, says Carey S. Fendley, senior executive director of the N.C. Association for Retarded Citizens. “Mentally retarded people

surprise you every day with what they can do," Fendley says. "But they can't swim without getting in the water."

For other children, the degree of mainstreaming into regular classrooms might vary with the amount of money a local system will invest in an individual child. Take Camille and Joshua, for example. Last year, Josh had to share an aide with another student. Josh's experience with mainstreaming, consequently, did not work out as well as it had in previous years, says Josh's mother. "His limitations are physical only [spinal muscular atrophy] as

opposed to mental," she says. "But he has to have an aide to do things. Josh could not attend public school without an aide."

Sue Durfee, Camille's mother, is very pleased with Camille's program, but says it's hard to anticipate a total mainstream situation for her daughter. The cerebral palsy affects Camille's motor control as well as her speech. To communicate, Camille wears a headlamp and uses a communications board with words and symbols on it. She shines the light on the word she wants to use. It is very time-consuming for her to get work done. If she were in a regular

## ***Identifying a Child for Special Education— Designing an Appropriate Program***

The responsibility for identifying children with special needs rests with the local education agencies (LEAs).<sup>1</sup> In some cases the child's needs are obvious and are brought to the LEA's attention by the parents. Other times, problems may show up as a result of standardized tests or screening programs used by the LEA. Teachers also make recommendations about whether a child needs special educational services.

When special services are recommended for a child, his or her case goes before a school-based committee. The committee notifies the child's parents within 30 days of the initial referral and requests written consent to evaluate the child.

If the parents consent, the committee begins the evaluation procedure. The evaluation may be from the standpoint of a variety of behavioral and/or handicapping needs, including: educational, psychological, adaptive behavior, psychomotor, audiological, otological, ophthalmological or optometric, vocational, speech and language development, medical, and/or vision and hearing.

Within 15 days of the evaluation, a summary of the results and a proposal on how to meet the student's educational needs are sent to parents, and a conference with them is scheduled. The parents may waive the conference. Before the process is complete, the committee must have written consent from the parents that they were able to

participate in developing the child's individualized education program (IEP). The committee must also make certain that the child is placed in an appropriate special program, that the teacher has the child's IEP, and that at least annually thereafter the child is evaluated to see how well the IEP is working.

The individualized education program must contain various statements regarding the child's present levels of education performance and future goals, including: short-term instructional goals; specific education and related services to be provided; the extent to which the child will participate in regular education programs; projected dates for initiation of services and anticipated duration of services; and "objective criteria, evaluation procedures, and schedules for determining, on at least an annual basis, whether the short-term instructional objectives are being achieved."<sup>2</sup>

The IEP is considered a confidential record. The entire school-based committee which participated in the screening of the child may or may not be involved in the development and writing of the IEP. The following types of persons, however, must be included on the IEP committee: a representative of the LEA other than the child's teachers who is qualified to meet the unique instructional needs of the child; the child's teacher; the parent or guardian of the child; the child, when appropriate; other professionals at the discretion of the LEA; and a person from the evaluation team (for first-time special education students).<sup>3</sup> The IEP must be reviewed at least annually. The child's parents or guardian must be invited to participate in the review.

### FOOTNOTES

<sup>1</sup>16 NCAC .1502 - .1511.

<sup>2</sup>16 NCAC .1512(c) (7).

<sup>3</sup>16 NCAC .1512(b).

class, she would need to have her own aide. "That's an expense, and I feel for the school. But there's a sense of entitlement now."

The "sense of entitlement" contained in PL 94-142 and the Creech Bill—that every handicapped child is *entitled* to an appropriate education in the least restrictive environment—holds a promise for people like Camille. That entitlement provision also places a heavy financial responsibility on a local school system. Must a school system, for example, find enough money to provide Camille with her own aide?

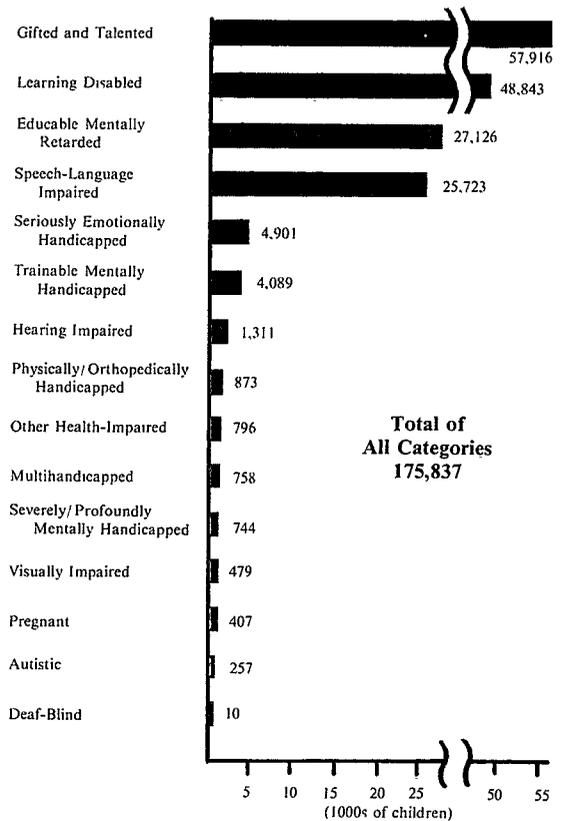
Here lies the bottom-line issue for much of the debate surrounding special education for handicapped children. How much money can a local school system afford to spend on handicapped children? And where should that money come from—the child's parents or local, state, or federal governments? Officials are quick to praise the state's commitment to special education, but recently they have been forced to acknowledge that North Carolina may well be behind other states in its special education programs.

In May 1983, the Frank Porter Graham Child Development Center at the University of North Carolina at Chapel Hill released the executive summary of a special report called "Financing Special Education in North Carolina."<sup>6</sup> Commissioned by the Legislative Services Commission of the General Assembly, the study made some important findings, including: 1) North Carolina spends significantly less than the national average on special education; 2) local governments in North Carolina contribute very little in funding for special education; and 3) the amount spent per pupil on special education varies significantly among school districts within North Carolina (see full list of recommendations on page 77).

In 1981-82, according to the report, the national average for per pupil spending on special education was *nearly 50 percent higher* than special education spending in North Carolina—\$3,965 per pupil nationally compared to \$2,615 per pupil in North Carolina.<sup>7</sup> "Assuming these figures are accurate," says Sen. Hancock, "they constitute a challenge to North Carolina to provide more adequate funding."

The Child Development Center study also reported that "the state and federal governments are carrying the burden of virtually all of the excess costs for exceptional pupils."<sup>8</sup> Of all state and federal funds sent through DPI to local school systems, the study estimates that \$1,294 went for each regular education pupil and \$2,129 for each special education pupil—about 65 percent more for each special education pupil. Meanwhile, local governments are spending about 17 percent more for special needs students,

**Figure 2. Number of Children Receiving Special Educational Services, by Category, December 1, 1982**



Source: Department of Public Instruction, based on Equal Educational Opportunity Plan Headcount Data submitted by local educational agencies to DPI.

\$525 per exceptional student compared to \$450 per regular student, the study estimated.

Some local school officials see nothing wrong with the low level of financial contributions by local systems. "They adopted the Creech Bill. For the General Assembly to come back after the fact and imply that local government has responsibility to fund that law is an act of irresponsibility," says Dr. Frank Yeager, superintendent of the Durham County School System. "Responsibility for education is a state responsibility, not a local one."

Since the 1930s, funding for North Carolina schools has been under a consolidated statewide system, where state revenues provide a budget base for all local systems—funding levels which may be supplemented by individual systems with local revenues. Despite this flexibility, local governments have contributed little money to special education for handicapped children. Local school systems receive state and federal funds through categorical grants; no local



Josh is the former state poster child of the Muscular Dystrophy Association.

matching requirement exists.

Because of the state distribution formula, the amount spent on each special-needs student in 1981-82 varied significantly from district to district. The study examined 15 local education agencies (LEAs) in depth and made statewide projections from that sample. Among the 15 LEAs, "the highest spending district expends 50 percent more for exceptional pupils than the lowest spending district," the authors reported.<sup>9</sup> Moreover, the study pointed out that systems with the largest number of special-needs students spend the least on those pupils. The per pupil, annual spending among the 15 LEAs ranged from \$3,364 down to \$2,254.

### How to Distribute the Funds?

In many ways, the three funding issues discussed above—the per pupil total in the state, the small amount spent by local systems on special education, and the varying amounts spent on special education among LEAs—stem from one thing, the funding distribution method at the state level. How does the legislature, and in turn the State Board of Education, decide how much special education money (state and federal) should go to each of the 142 LEAs across the state? The answer to this question has a complex history. The short version goes like this

(see page 80 for the longer version):

- Before 1979, the state allocated special education money to individual districts primarily according to the *total number of students* (not just special-needs students) in the district.

- In 1979, the legislature directed the State Board of Education to develop and implement a new formula, based on *the number of exceptional children being served*. The formula had to be approved by the Advisory Budget Commission before it could take effect.

- For three years, from fiscal year (FY) 1980-81 through FY 1982-83, local school systems received funds based on the new formula developed by the State Board, as required by the legislature and approved by the Advisory Budget Commission (ABC). That formula had two key provisions: 1) that funding would be based on *the number of exceptional children* being served; and 2) that during a three-year, phase-in period, *no local school system would receive less in positions converted to dollars than it did in 1979-80*. This was called a "hold-harmless" period. Beginning in FY 83-84, the funding would be based on the number of exceptional children in each district within maximums established by the State Board of Education (12.5 percent for handicapped and 3.9 percent for gifted).

- The hold-harmless period was scheduled



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To communicate, Camille shines her light on the appropriate word or symbol.

to expire on June 30, 1983. In the 1983 session, therefore, the legislature had the task of confirming the new funding formula approved in 1980—or shifting to a new plan.

During the hold-harmless period, the legislature had not increased the overall amount of special education funding. Consequently, from FY 81 to FY 83, *about 98 percent of state special education funds went to local systems at the pre-1980 levels.* In other words, since the new formula had been approved in 1980, only about two percent of the special education funds had gone to local districts according to the new headcount provision. Therefore, local systems had virtually no experience with the headcount formula in actual amounts of dollars received from the state.

Many local school districts were concerned by the planned shift to a formula based on the number of special-needs students. To implement this new formula, funds would have to be shifted from district to district. Without an increase in overall funding, some school systems would lose state special education money, even though they would have the same mandates of the Creech Bill.

In 1981, still two years before the hold-harmless period was to end, the State Board of Education responded to concerns voiced by local systems and asked the Council on Educational

Services for Exceptional Children to review the matter. "The council was asked to take on the funding formula question because there was so much confusion about it," says former state Sen. Carolyn Mathis (D-Mecklenburg), who chaired the council at the time (see the list of councils on page 26 for more on the structure and purpose of this group).

The council discovered that variations in accounting procedures and teacher salaries from district to district made devising an appropriate formula difficult. "It's really impossible to trace money for exceptional children," Mathis explains. "If you can't trace it, how do you know what's being spent?"

Mathis had representatives from the legislature's Fiscal Research Division, the State Budget Office, the Controller's Office under the State Board, and DPI to consult with the council in developing a formula. In 1982, the council recommended to the State Board a formula that combined the average number of *all* students in an LEA with the headcount of *exceptional* children. The combination formula, says Mathis, would result in less shifting of money between the school districts than would a new formula based on headcounts of exceptional children. It would also reduce incentives to pad headcount figures, says Mathis.

The State Board approved the council's



recommended formula and requested the ABC to approve it. The ABC took no action on the request and sent it to the legislature. Legislative leaders questioned whether the new formula proposed by the State Board would be fair to all school districts and thus to all special-needs children. "We had some concern about how the education of these children would be funded," says Sen. Russell G. Walker (D-Randolph), chairman of the Legislative Study Commission on Children with Special Needs. "But if you've only got so much money, somewhere you've got to balance it out."

Anticipating a major policy debate on the funding formula during the 1983 session, in 1982 the legislature, together with the National Conference of State Legislatures, contracted with the Frank Porter Graham Center to conduct the study summarized above. In May 1983, the Child Development Center recommended, as it had in 1979 when it reviewed the matter for the State Board of Education, that the funds be allotted on a straight headcount basis: "The formula adopted by the State Board of Education in 1979-80 ... is a sound one and could be used effectively if the 'hold-harmless' provision were eliminated." The State Board of Education, meanwhile, stood firmly behind its proposed combination formula as the one that would best meet the needs of the schools with the least negative fiscal impact.

The summer began with the issue unresolved. Drain and other school officials worried that any changes in the funding plan at such a late date would hamper school programs. To switch formulas as the new fiscal year is starting would cause students to be underserved and personnel to be laid off, Drain said in June. The schools, whose fiscal year begins July 1, had already made up their budgets based on what they expected to receive.

Legislators seemed to have little patience with this argument. "The schools have a Scarlett O'Hara syndrome of, 'I'll worry about that tomorrow.' Well, tomorrow is here," said Rep.

Margaret B. Hayden (D-Alleghany) during the closing days of the session. The LEAs have had three years to prepare for a funding change, she noted.

"It's been known for some time that the funding gap [among districts] existed," Hancock added. "Anyone who says it is too late to start closing the gap should be required to explain why it wasn't closed a long time ago."

As the session made a record-breaking stretch toward its July 22 adjournment, the 1983 fiscal year for the schools took effect with no one knowing which formula would be used. Shortly before the session ended, the legislature approved a compromise between the State Board and the Child Development Center recommendation. The 1983 Appropriations Bill maintained the current formula with the "hold-harmless" provision for FY 1983-84.<sup>10</sup> Beginning July 1, 1984, a straight headcount formula will be used, with a one-year phase-in period. For the 1984-85 transition year, no district will have its allocation reduced or increased by more than one-half the difference between what it would receive under the new formula and what it received in 1983-84.

The legislature also directed the State Board of Education to strengthen the accountability of the special education program by: 1) examining the process of identifying eligible children; 2) having superintendents certify the pupil headcounts; and 3) setting up a special auditing section within the Controller's Office, under the State Board of Education.

Finally, the Appropriations Bill called for the State Board to develop a new, simplified accounting system, which will provide the legislature with meaningful financial and cost data on the special education programs.

### Special Education in the Eighties

Even if the funding formula works out as planned in the next several years, the 175,000 Joshuas, Camilles, and Kelvins around the state may not receive a satisfactory individualized educational program in the least restrictive environment. Several policy issues remain to be addressed at the state level, and federal changes are also possible. Meanwhile, the legislature in 1983 took some actions to curtail the requirements of the Creech Bill, specifically regarding gifted/talented and pregnant students. Four important issues need at least to be mentioned here.

#### Gifted and Talented and Pregnant Children.

The 1983 legislature made a critical change in these two categories of the Creech Bill. Children eligible for special services through these two categories may now receive a *group* educational program instead of an *individualized* educational

program.<sup>11</sup> The intent of this legislation was to allow group plans where appropriate, says Sen. Hancock. "But if an individual child's needs are not met by a group plan," says Hancock, "then that child *shall* still receive individualized treatment" (emphasis by Hancock). The legislation also changed the term "gifted and talented" to "academically gifted" to distinguish the child eligible for special education from the child who may be "artistically" gifted.

Some close observers of special education programs view the shift to group plans as a weakening of the law. Regarding pregnant students, for example, few school systems ever provided an individualized program for that special educational need. For several years, some DPI officials, including Drain, even contested whether pregnant students qualified for an IEP unless they had some other handicapping condition (see "Pregnant Teenagers, Their Education is Suffering," *N.C. Insight*, September 1981).

Supporters of the change contend that in most cases local school systems are in effect providing group plans rather than individual

plans, especially for academically gifted children. It is the only practical way to accommodate the large number of gifted students now being served, they say, especially in magnet schools and similar group-oriented, specialized programs. In 1983, one of every three students included in the total "special education" population compiled by DPI was in the gifted and talented category—57,916 out of a total 175,837.

**Vocational Education.** Vocational education programs vary widely among school systems in North Carolina. Some schools offer a range of highly useful training, from preparation for a building trade to data processing. Others offer no more than secretarial training and auto mechanics. For handicapped students, the variation is even greater. "Many states are ahead of us in vocational programs for the handicapped," says Rep. Hayden, who is on the DPI field staff working with exceptional children. "This is the area of our most pressing need."

Carey Fendley, the N.C. Association for Retarded Citizens director, puts the issue in perspective. "We need to get away from the belief

## ***Recommendations from the Frank Porter Graham Child Development Center for Financing Special Education in North Carolina***

1. The formula adopted by the State Board of Education in 1979-80 for allocation of funds to LEAs should be fully implemented. The formula is a sound one and could be used effectively if the "hold harmless" provision were eliminated.

2. The current caps on percentages of pupils eligible for allocations by exceptionality should be maintained. Provisions should be made for exceptions to these caps for local education agencies which submit adequate documentation. No exceptions should be permitted for the categories of gifted and talented, learning disabled, and speech impaired.

3. On-site program auditing of pupil headcounts should be strengthened. Audit functions and technical assistance functions should be separated. Procedures used in identifying exceptional pupils should be reviewed to ensure uniformity among districts.

4. A new accounting system is required to enable legislators and local and state educators to make decisions regarding financing education, particularly education for exceptional children, and to evaluate the effects of those decisions.

5. A manual which outlines the accounting system and includes procedures for implementing the system, legal requirements, and applicable State Board regulations should be provided to each LEA. The manual should be updated at least quarterly.

6. Systematic training and technical assistance must be provided for both the LEA finance officers and their staff. Turnover in LEA finance offices requires that the training be provided on a continuing basis.

7. On-site financial auditing must be implemented to ensure proper utilization of state funds as well as adherence to state law and State Board policy.

8. The role of the local education agencies in supporting the excess costs for exceptional children must be defined. Currently the state and federal governments are carrying the burden of virtually all of the excess costs for exceptional pupils.

9. Additional funds are needed to more fully meet the educational needs of exceptional children in North Carolina and to bring the state more nearly in line with national estimates of these costs.

*Reprinted with permission from "Financing Special Education in North Carolina, Executive Summary" by Richard M. Clifford et. al., Frank Porter Graham Child Development Center, University of North Carolina at Chapel Hill, May 1983, p. i.*

that all kids are college-bound," he says. "Education is education, be it work with your hands or work with your head. The mentally retarded need to be introduced to the world of work."

A variety of federal funds are available to the state for vocational education of handicapped students, but some LEAs cannot put up enough matching money to receive all the available funds. A local district receives an average of only about \$10,000 for vocational education for handicapped students, says Nan Coleman, DPI consultant for vocational education to handicapped children. That's not enough to employ one instructor.

Coleman views the shortage of funds as only part of the problem. The rules and regulations adopted by the State Board of Education to implement the Creech Bill, says Coleman, do not mandate that an IEP include a plan for vocational education.<sup>12</sup> Consequently, vocational education opportunities may not be built into the IEP during the review and consulting process with a student's committee (see box on page 72 for how an IEP is developed).

In 1983, Rep. Hayden sponsored a bill<sup>13</sup> that would have had the state put up the matching funds so that all the LEAs would be able to benefit from all federal funds in this area. Her bill didn't come out of the House Appropriations Committee. "We're opening ourselves up to a serious court case if we graduate a child who had the ability to be self-supporting and we haven't given this child the skills," Hayden warns. "We are falling short in that area."

**Potential Federal Changes.** The Reagan administration has made several attempts to weaken the mandates of PL 94-142 through proposed amendments to the law, changes in the

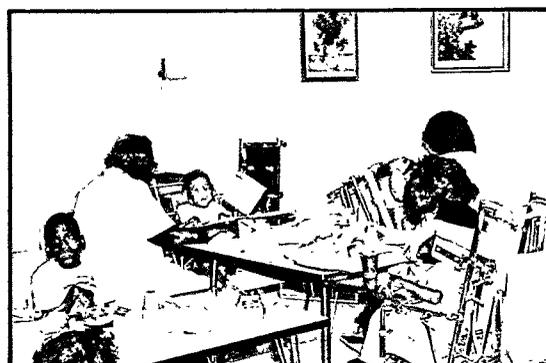
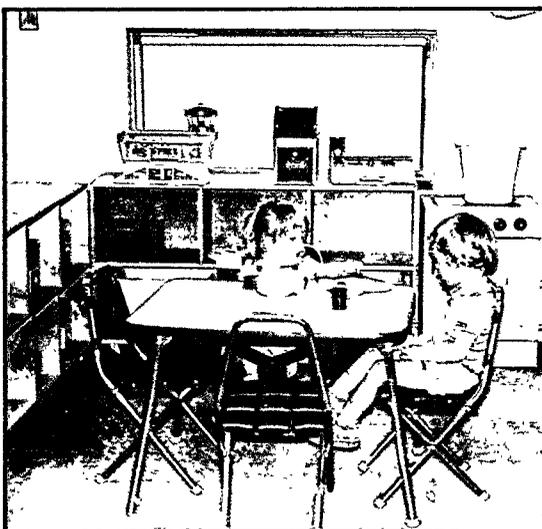
regulations, and reductions in funding. The proposed changes reflect the administration's philosophy that educational policy should be initiated at the state, not the federal level. The most dramatic proposal came in August 1982 from the Department of Education (DOE).

DOE proposed to alter the regulations implementing PL 94-142. Among other things, the DOE proposal, published in the *Federal Register* for comment,<sup>14</sup> would have: allowed a school system to consider cost in deciding whether a child should receive a support service; removed the requirement of "least restrictive environment" if a handicapped child's presence in a classroom was deemed detrimental to the needs of the "normal" children; eliminated the requirement that persons familiar with the evaluation and performance of a child be present at an IEP committee hearing; and removed the requirement of parental consent for evaluation and placement of a child.

Over 20,000 letters of protest went to Washington condemning the proposed changes, according to James Barden, coordinator of federal education programs in North Carolina. The U.S. Department of Education withdrew the proposals. Even so, the Department of Education is currently considering a new set of proposed changes in the regulations. As of this writing, no major change has been made in the regulations implementing PL 94-142.

In Congress, a similar outcome has taken place. In 1981, the Reagan administration

Scenes from Edgewood Community Developmental School in Goldsboro.



floated proposed changes in the law but no major legislative change was ever introduced into Congress. The administration also proposed in its budgets to reduce funding for special education. Thus far, however, Congress has kept the appropriations for special education programs at a constant level, with cost-of-living increases each year.

**Age Limits.** A conflict exists between the Creech Bill, which limits special education to age 17, and the general school law in North Carolina, which allows public education through age 21. In practice, most schools have been providing education for exceptional children through age 21 by administrative decision. Some school administrators question the value of extending special education that long, however. "There are some exceptional children that should not be in school until 21," Yeager, the Durham County superintendent, told the Creech Bill Subcommittee of the Legislative Study Commission on Children with Special Needs on August 25, 1982. "The state is paying an awfully high sum of money for babysitting . . . I suggest that the law be changed to include some phrase that reflects a reasonable chance for educational gains or benefits."

Sen. Hancock, who chaired this Creech Bill Subcommittee, co-sponsored along with Sen. Russell Walker the amendments to the Creech Bill that passed in 1983. Despite strenuous efforts, Walker and Hancock were not able to reconcile the age question. Recently, Hancock expressed concern that if the age question isn't resolved through legislation, it will be settled through litigation.

## Conclusion

While policy issues remain to be debated and resolved, special education appears to be working in North Carolina. The Camilles, the Joshuas, and the Kelvins for the most part have found a place in the school system. The schools are no longer turning away children, says Carey Fendley. Years ago, Fendley was told that there was no place in the public schools for his son, who had Down's syndrome.

Certainly gray areas remain—funding, vocational educational, and age limits. "We are doing well, but there's a need for additional dollars to improve education programs to provide a truly appropriate education," says Ted Drain. Under the current funding situation, for example, schools such as the Goldsboro Community Developmental School, where little Kelvin is working to overcome the shyness borne from his mental handicap, must find outside funding for the summer months. State funds only apply for 180 school days.

Despite the various shortcomings, the value of the program is immense. "If a child is kept in a very protected environment," says Fendley, "the chances of success are nil. Education does provide the opportunity to succeed. It leads to a better chance to pursue life, liberty, and happiness and to become less dependent."

If Fendley measures the benefits of special education as a parent and advocate, Sen. Hancock views these pluses as a policymaker, charged with making the laws. "These programs provide the kind of special education that is necessary to help exceptional children become as productive and independent as is possible for them to become," says Hancock. "You can't measure the value of that in human terms. But in economic terms the programs are very, very cost effective. These youngsters will be substantially less dependent on publicly funded programs when they become adults. Like all education, it is an investment which is guaranteed to pay enormous dividends." □

## FOOTNOTES

<sup>1</sup>Chapter 1293 of the 1973 Session Laws (2nd Session, 1974).

<sup>2</sup>Chapter 927 of the 1977 Session Laws, now codified as NC GC 115C-106 *et. seq.*

<sup>3</sup>The 14 categories of "children with special needs" in the Creech Bill, listed in the same order as in the law, are: mentally retarded, epileptic, learning disabled, cerebral palsied, seriously emotionally disturbed, orthopedically impaired, autistic, multiply handicapped, pregnant, hearing-impaired, speech-impaired, blind or visually impaired, genetically impaired, and gifted and talented.

<sup>4</sup>See 16 NCAC 2E .1501-.1541. The Division of Exceptional Children has published these regulations in *Rules Governing Programs and Services for Children with Special Needs* (September 1981).

<sup>5</sup>The Department of Human Resources provided special educational services to 1,800 children (on an average day) through the following institutions: five mental retardation centers (274), four psychiatric hospitals (170), three schools for the deaf (901), the Governor Morehead School for the Blind (200), five youth training schools (200), two special schools (Whitaker and Wright, 24 each), and the Lenox Baker Children's Cerebral Palsy Hospital (20). The Department of Correction supervised the educational needs of some 600 children in seven correctional centers.

<sup>6</sup>Richard M. Clifford *et. al.*, "Financing Special Education in North Carolina, Executive Summary," Frank Porter Graham Child Development Center, University of North Carolina at Chapel Hill, May 1983.

<sup>7</sup>*Ibid.*, p. 11.

<sup>8</sup>*Ibid.*, p. 8.

<sup>9</sup>*Ibid.*, p. 2.

<sup>10</sup>SB 23, ratified as Chapter 761 of the 1983 Session Laws, Section 81.

<sup>11</sup>SB 127, ratified as Chapter 247 of the 1983 Session Laws.

<sup>12</sup>The section of the rules on individualized education programs (16 NCAC .1512) could include a component on vocational education.

<sup>13</sup>HB 1031.

<sup>14</sup>47 F.R. 33836-33860 (August 4, 1982).