

1999 HOUSE HUMAN SERVICES

HB 1288

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1288

House Human Services Committee

Conference Committee

Hearing Date January 19, 1999

Tape Number	Side A	Side B	Meter #
1	X		0.0 - End
1		X	0.0 - End
2	X		0.0 - 4.0
4	X		22.1 - End
4		X	0.0 - 14.4

Committee Clerk Signature *Susann Lindsteigen*

Minutes:

Chairman Rep. CLARA SUE PRICE called the committee to order . Present were Reps. Clara Sue Price, Robin Weisz, William Devlin, Pat Galvin, Dale Henegar, Roxanne Jensen, Amy Kliniske, Chet Pollert, Todd Porter, Blair Thoreson, Bruce Eckre, Ralph Metcalf, Carol Niemeier, Wanda Rose, and Sally Sandvig.

MARK HILL, ND Association of the Deaf, testified with the use of an interpreter. He stated the purpose of this bill is to improve what is available for the deaf kids in ND. The deaf child's bill or rights is important because they have a right of equal access to education. School for the Deaf provide an excellent education. Many deaf kids are not receiving a good education and needs are not being met in public schools because of lack of qualified interpreters. We see some problem with deaf adults who were mainstreamed. The current federal Individuals with

Disabilities Education Act (IDEA) gives deaf kids some leverage which is not enough to get a quality education. This legislation will enhance educational opportunities for the deaf. Most important is assessment, acquisition at the earliest possible age, and adult role models. The idea for this legislation comes from a publication called "*Deaf and Hard of Hearing Student Educational Service Guidelines*" by the National Association of State Directors of Special Education. The hearing professional organizations should provide tools and educate to overcome barriers.

Rep. CLARA SUE PRICE asked do you feel standards and opportunities on screenings, classroom education, and special needs for deaf student has changed ? MARK HILL said yes but there is a big difference in the education. There is not sufficient to be with NDAD.

Rep. ROXANNE JENSEN asked if consideration was given to alignment with other disability groups to make a broader base with other disabled children? MARK HILL stated there are differences between disabilities and deaf. The deaf are a minority group.

Rep. CAROL NIEMEIER asked who makes the decision where a child is placed, either School for the Deaf or mainstreamed? MARK HILL stated depends on analysis.

ROCKLYN COFER, Superintendent, ND School for the Deaf, testified (Testimony attached).

Rep. CAROL NIEMEIER asked who determines placement of deaf child? ROCKLYN COFER stated IDEA implies that its a team process, parents and professionals.

Rep. RALPH METCALF asked what are the duties of an adult role model? ROCKLYN COFER said it would vary depending upon duties and availability. Rep. RALPH METCALF asked would this Bill of Rights require a small community to hire someone? ROCKLYN COFER didn't think so.

Rep. ROXANNE JENSEN asked is there an appeals process on placement and is one necessary?

ROCKLYN COFER said there is an appeals process through DPI, mediation services, due process through school districts, and yes it has been necessary. The NDSB is directly involved with the IEP process or less than 60 of the 158 are involved on a consultant process. Special education units are not taking enough opportunity to use expertise of the School for the Deaf.

Rep. WILLIAM DEVLIN stated last session the committee struggled with legislating something for one particular group of children with special needs. ROCKLYN COFER commented about deaf children not being able to hear the spoken word which is not the case with other children.

Rep. WILLIAM DEVLIN asked if there is any effort to work with other groups to involve everyone with special needs in the Bill of Rights? ROCKLYN COFER stated not that he is aware of.

Rep. AMY KLINISKE asked if the board has adopted the Bill of Rights. ROCKLYN COFER stated DPI has not stated if in support or against. Rep. AMY KLINISKE asked does this need to be in statute or an administrative rule? ROCKLYN COFER felt it should be in statute.

Rep. WANDA ROSE asked about the 158 children under the IEP and what is the barrier why School for the Deaf aren't involved. ROCKLYN COFER stated we should be there to inform people of our expertise.

Rep. RALPH METCALF asked what changes will happen if the bill is passed. ROCKLYN COFER stated it will give the School for the Deaf an opportunity to inform people of their expertise. The school is seen as a threat because of perception child will be hidden away. Also, the school is thought of as an institution.

Rep. AMY KLINISKE asked is there still a shortage of qualified signers? ROCKLYN COFER said yes, it is nationwide.

Rep. ROXANNE JENSEN asked if the school felt threatened as to its continuing existence.

ROCKLYN COFER stated funding is adequate. There is a wide range of hearing impairments and relative need. Some students in mainstream are being under served. Declining enrollment may happen like in other schools.

Rep. CLARA SUE PRICE asked can you get a list of deaf children? ROCKLYN COFER stated we have contacts and a good idea of who the parents are. Rep. CLARA SUE PRICE expressed concern that the school is not common knowledge around the state. ROCKLYN COFER stated that people feel a threat from the school. Thus, we are not put on the table as an option. Rep.

CLARA SUE PRICE asked if screenings are being performed at the hospital. ROCKLYN COFER stated that is not mandatory.

ROBERT RUTTEN, ND DPI, testified (Testimony attached)

Rep. TODD PORTER asked about the fiscal impact with the inclusion of the mandates.

ROBERT RUTTEN stated those are current obligations included in their budget.

Rep. ROXANNE JENSEN asked about the enforcement issue. ROBERT RUTTEN stated DPI has enforcement rules under federal grievance process but don't know how this bill would change that.

Rep. ROBIN WEISZ asked what is the purpose of this legislation if DPI is already required to do it. ROBERT RUTTEN stated he viewed the Bill of Rights as more narrowly focused than IDEA.

The intent of the Bill of Rights is to help create a deeper level of understanding among policy makers, educators, and parents about the unique group of deaf and hard of hearing students.

COURTNEY KOEBELE, ND Speech, Language, and Hearing Assn., testified (Testimony attached.)

Rep. ROXANNE JENSEN asked about enforcement. COURTNEY KOEBELE stated that is a good point and other states have been successful but we are concerned that an untrained nurse would misdiagnose.

NEUTRAL TESTIMONY

Larry Klundt, Executive Director, ND Council of Educational Leaders, testified they didn't want to establish barriers on this type of education. We should have qualified people to provide these services but when we increase qualifications it may cost more money. If you require this, then we ask that resources be provided through appropriation or give authority to raise revenue at the local level.

BARB SWEGARDEN, Coordinator, Fargo Public Schools, e-mail (Testimony attached).

MICHELE ROLEWITZ, President, ND Association of the Deaf, submitted written testimony (Testimony attached).

Hearing reopened for further testimony

Rep. DALE HENEGAR stated Rep. Brekke wanted to testify but wasn't notified.

Rep. CURTIS BREKKE, District 15, testified there was no danger of the school going broke.

Rep. CLARA SUE PRICE asked who will pay for adult role models?

Human Services Committee Intern, Scott Huizenga was asked to do reasearch.

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1288

House Human Services Committee

Conference Committee

Hearing Date January 25, 1999

Tape Number	Side A	Side B	Meter #
2		X	17.9 - 27.4
Committee Clerk Signature <i>Susann Lindsteigen</i>			

Minutes:

Committee Discussion.

Rep. RALPH METCALF asked what does the Bill of Rights in this bill do for people?

Rep. ROBIN WEISZ expressed concern that if this bill passes, a parent could potentially sue the state, if the eleven things in it aren't met.

Rep. CLARA SUE PRICE spoke to Souris Valley Special Education to give school more opportunity to get information to parents of IEP.

Rep. CHET POLLERT moved DO NOT PASS.

Rep. RALPH METCALF second the motion

Further committee discussion.

ROLL CALL VOTE #6: 15 yeas, 0 nays, 0 absent

CARRIER: Rep. ROXANNE JENSEN

FISCAL NOTE

(Return original and 14 copies)

Bill/Resolution No.: HB 1288

Amendment to: _____

Requested by Legislative Council

Date of Request: 1-21-99

- Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts.

Narrative:

*The issues outlined in this bill are, for the most part, considerations currently addressed by teachers from the North Dakota School for the Deaf (NDSB) or other public school special education service providers through individualized education programs (IEPs) required by the Individuals with Disabilities Education Act (IDEA). The current ND Parent-Infant Program based at the NDSB tries to address the first three rights listed in the bill. Public schools and the NDSB attempt to meet the issues specified in rights 3-11. There are currently varying degrees to which nearly all of these rights are addressed in the education of deaf or hard of hearing children in our state. **(Cont. on attached.)**

- State fiscal effect in dollar amounts:

	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
	General Fund	Special Fund	General Fund	Special Funds	General Fund	Special Funds
Revenues:	*0	*0	*0	*0	*0	*0
Expenditures:	*0	*0	*0	*0	*0	*0

- What, if any, is the effect of this measure on the appropriation for your agency or department:

- For rest of 1997-99 biennium: N/A
- For the 1999-2001 biennium: N/A
- For the 2001-03 biennium: N/A

- County, City, and School District fiscal effect in dollar amounts:

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
*0	*0	*0	*0	*0	*0	*0	*0	*0
*0	*0	*0	*0	*0	*0	*0	*0	*0
*0	*0	*0	*0	*0	*0	*0	*0	*0
*0	*0	*0	*0	*0	*0	*0	*0	*0
*0	*0	*0	*0	*0	*0	*0	*0	*0
*0	*0	*0	*0	*0	*0	*0	*0	*0

If additional space is needed, attach a supplemental sheet.

Signed *Brenda K. Oas*

Typed Name Brenda K. Oas

Department Public Instruction

Phone Number 328-2277

Date Prepared: 1/25/99

(Cont. from previous page, HB 1288, Fiscal Note.) It is unclear at this time who would be responsible for determining the degree to which these rights must be met and how alleged violations of these rights would be enforced. If the currently employed staff from the NDSB and public schools can satisfactorily meet the rights outlined in this bill, there should be little or no additional fiscal impact. However, if a strict standard is established for each right, additional expense could be anticipated both for bringing existing services (e.g., qualified interpreters) up to the stricter standards as well as enforcement of them. This expense would be borne largely by public schools and/or special education units. Additional personnel may be required, especially regarding item nine of the bill, "full support services provided by qualified professionals in the child's educational setting." If the state education agency is required to enforce the provisions of this proposed law, and if the state Protection and Advocacy Project is expected to advocate for clients regarding these rights if violations are alleged, a percentage of personnel costs could be projected for each agency. Similar legislation has been enacted in recent years in Louisiana, South Dakota and Colorado. Employees in those state's departments of education have not observed a fiscal impact resulting from their respective laws. All three persons contacted in those states noted that the IDEA as reauthorized by Congress in 1997 reflects the thinking expressed in the 1992 COR bill of rights for deaf children.

Date: 1-25-99
Roll Call Vote #: 6

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1288

House Human Services Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass

Motion Made By Chet Pollert Seconded By Ralph Metcalf

Representatives	Yes	No	Representatives	Yes	No
Clara Sue Price - Chairwoman	X		Bruce A. Eckre	X	
Robin Weisz - Vice Chairman	X		Ralph Metcalf	X	
William R. Devlin	X		Carol A. Niemeier	X	
Pat Galvin	X		Wanda Rose	X	
Dale L. Henegar	X		Sally M. Sandvig	X	
Roxanne Jensen	X				
Amy N. Kliniske	X				
Chet Pollert	X				
Todd Porter	X				
Blair Thoreson	X				

Total (Yes) 15 No 0

Absent 0

Floor Assignment Jensen

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
January 25, 1999 4:44 p.m.

Module No: HR-15-1156
Carrier: Jensen
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1288: Human Services Committee (Rep. Price, Chairman) recommends **DO NOT PASS** (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1288 was placed on the Eleventh order on the calendar.

1999 TESTIMONY

HB 1288

**HOUSE
HUMAN SERVICES COMMITTEE**

CLARA SUE PRICE, CHAIRMAN

1999-01 SESSION

**HB 1288
TESTIMONY**

JANUARY 19, 1999

by

ROCKLYN G. COFER

1/19/99

Chairman Price and Members of the House Human Services Committee,

My name is Rocklyn "Rocky" Cofer, I am here today to testify for House Bill No. 1288, the Deaf Childrens Bill of Rights, I am the parent of a deaf child and also happen to be Supt. at the North Dakota School for the Deaf. I am also a member of the North Dakota Association for the Deaf and am representing this organization as a parent.

Children with hearing impairments in North Dakota totals 158, according to the Dec. 1, 1997 count as per the North Dakota Department of Public Instruction. According to this 1997 count, the number of children who are deaf is 45, the number of children reported as hard of hearing is 108, and the number of deaf/blind is 5.

The numbers of children in these categories are very small compared to the general elementary/middle/high school populations in the state and as such are considered low incidence disabilities.

The range of hearing in these students varies widely, and as such their needs can vary as well.

One of the problems I faced as a parent of a deaf child, and I am sure this a problem faced by most if not all parents of children with hearing impairment, was getting enough information about what kinds of programs/options are available locally and in the state for my child to make informed decisions about my child.

I believe that over the last twenty some years that I have been dealing with children who are deaf, there are more and better programs for these children and more and better ways of educating them. I also believe that sometimes parents are not given or do not have an opportunity to get enough information about the wide range of services available to their children.

Some of this may be due to the fact, as I have said, that hearing impairment is a low incidence disability. Most people, even many professionals, do not know a lot about these disabilities and the implications they have for "normal" development of communication and learning skills.

Early identification of these children and the development, at as early an age as possible, of an appropriate intervention/education plan makes all the difference to these children.

I am urging passage of House Bill No. 1288, the Deaf Student Bill of Rights, as a means to assure that children with hearing impairments are afforded the best programming for their needs and that their parents are given the full range of options/information for them to make the most informed decisions about their child's future.

Thank you.

Attached are pages of information that are intended to suppliment the statements above.

April 1998

Low Incidence Disabilities BRIEFING PAPER

Disability Categories typically described as "low incidence" and rates for the ND student population:

Disability Category	Count - Dec. 1, 1997	Count as % of Total Student Population	Count as % of Disabled Students
Autism	81	.065%	.628%
* Deaf/Blind	5	.004%	.039%
* Deaf	45	.036%	.349%
* Hearing Impairment	108	.087%	.837%
Orthopedic Impairment	181	.145%	1.403%
Other Health Impaired	375	.301%	2.907%
Severe Disabilities	---	---	---
Traumatic Brain Injury	27	.022%	.209%
Trainable Mental Retardation	281	.225%	2.178%
Vision Impairment	66	.053%	.512%
TOTAL	1169	.938%	9.060%

Total Students w/Disabilities = 12,902
Total Student Population = 124,669

ISSUES

1. The above populations clearly represent low incidence disabilities (from ND child count). Does this information accurately reflect these populations in ND? Is there a discrepancy between this data and the data you have on these populations?
2. For rural areas particularly, the low incidence disabilities are especially difficult to serve in LRE settings. What data do we currently have regarding this or other issues that would help us in understanding the needs?
3. Low incidence disabilities in rural areas would be a particularly appropriate place for staff development or strategies to address access to appropriate consultation, etc. (e.g., as in ND Vision Services or the Deaf-Blind Project). What ideas do you have regarding how to address needs?

Deafness-

- means a hearing impairment
 - which is so severe that the child is impaired in processing linguistic information through hearing,
 - with or without amplification,
 - that adversely affects educational performance.

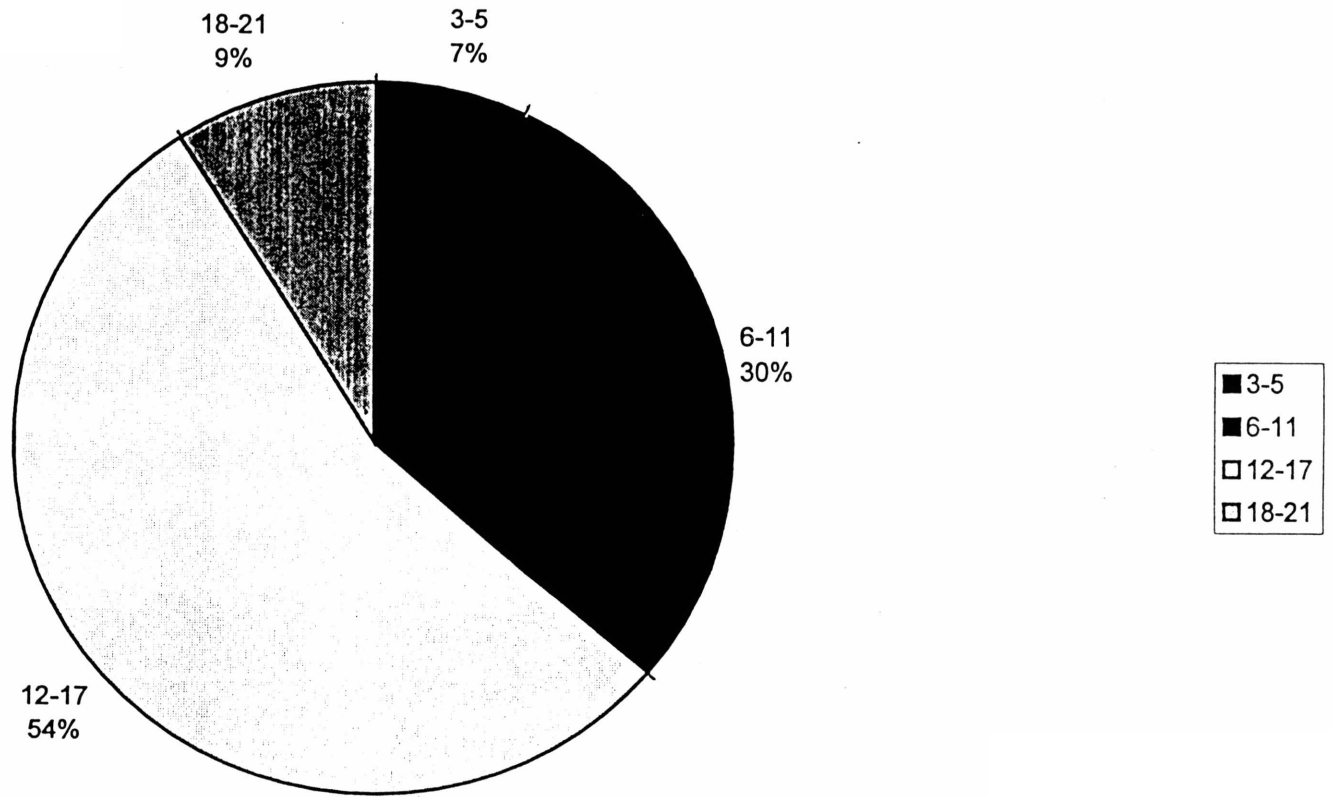
Guide I:

G. PROGRAMS FOR HEARING IMPAIRED STUDENTS

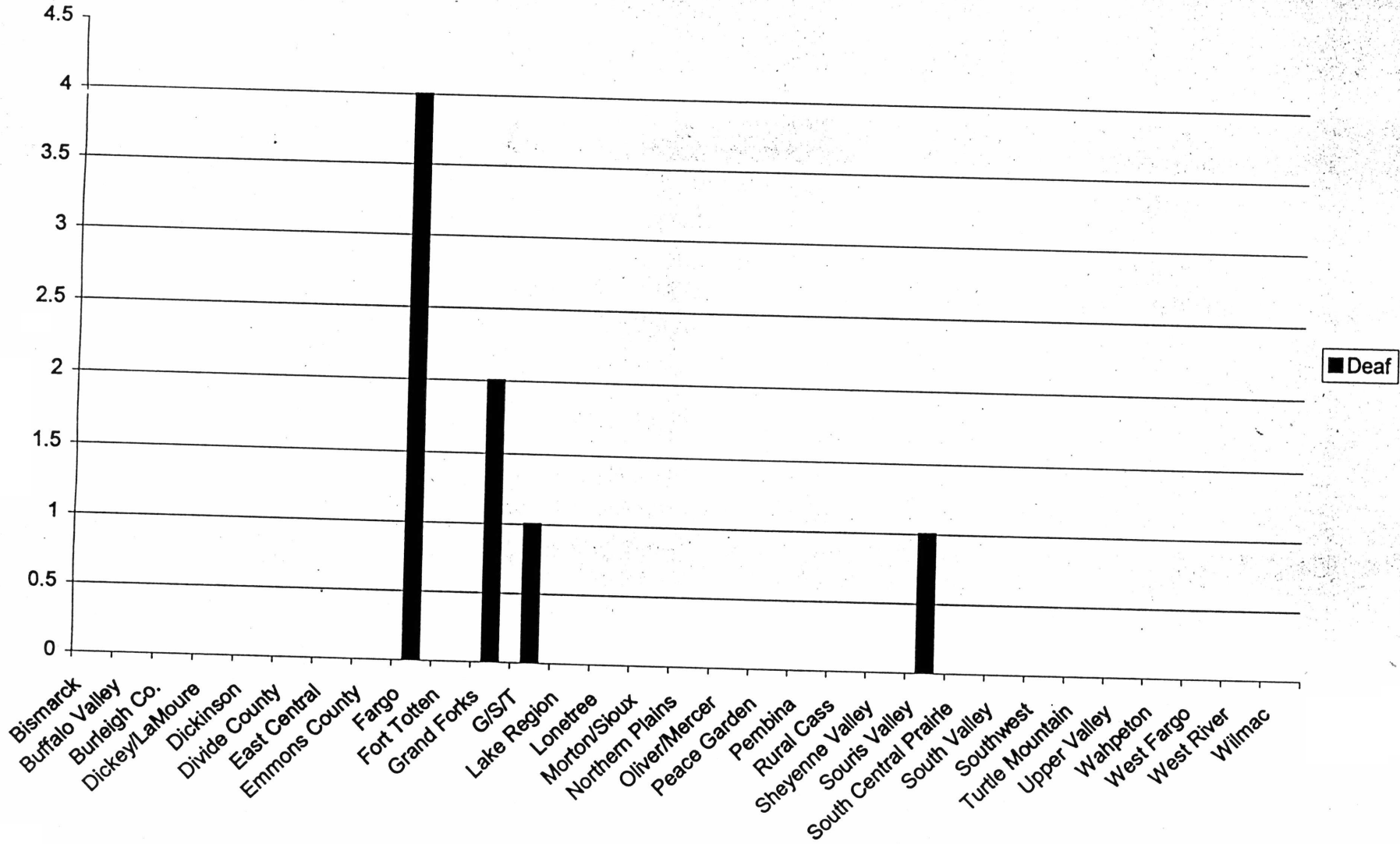
1.0 ELIGIBILITY OF STUDENTS: Any student enrolled in a separate or resource program for hearing impaired students or who is being provided with supplementary instruction or amplification equipment because of hearing impairment will have had an otological evaluation and a report filed of the student's need for special services based on audiological and/or medical reports.

1.1 Hearing impaired students include both deaf students and hard of hearing students. Deaf students are those for whom hearing cannot be used as a major sensory pathway for learning. Hard of hearing students can use amplified sound as a major channel of learning.

D (Statewide by Age Groups)



Deaf By Units

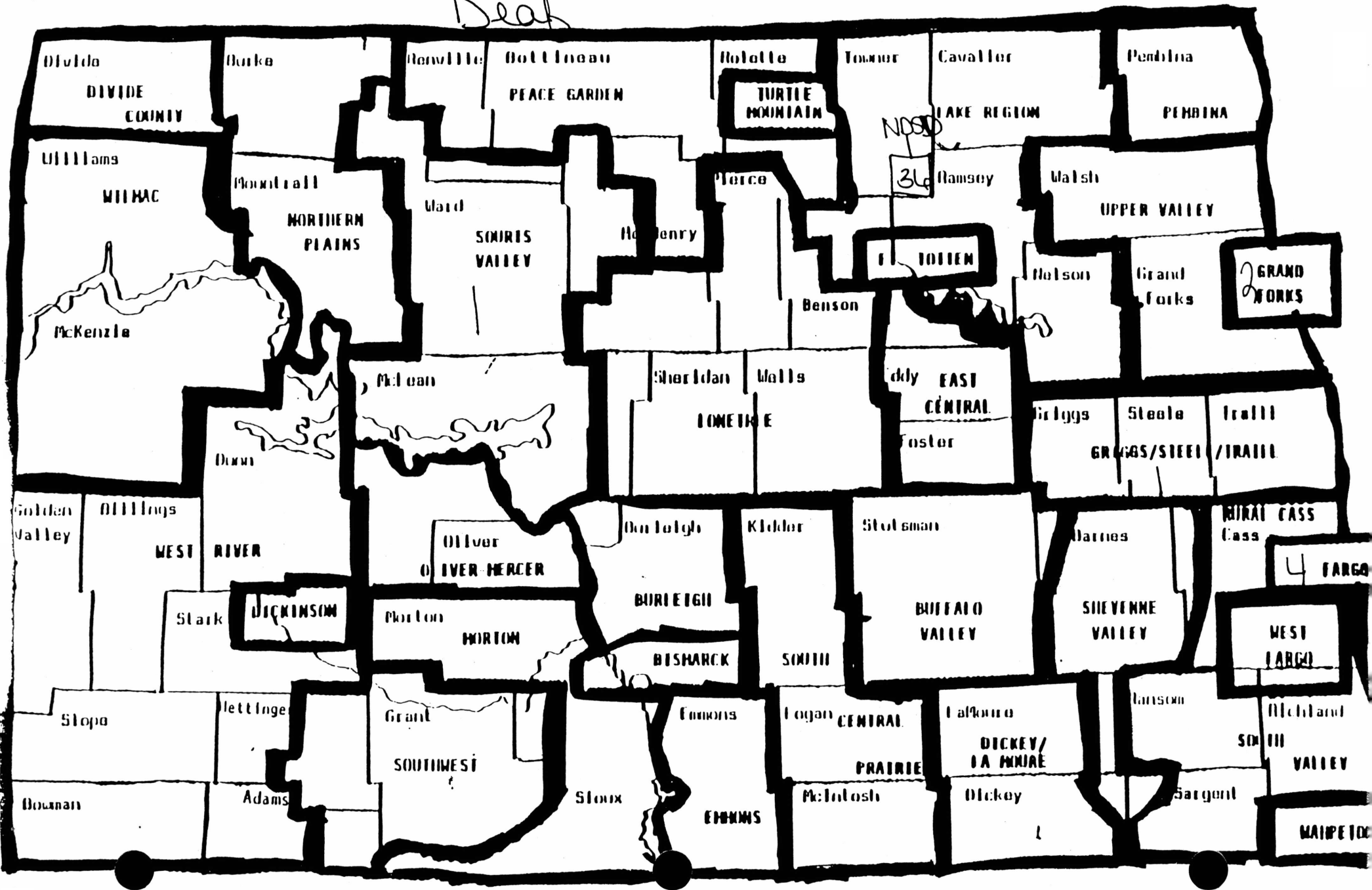


NORTH DAKOTA SPECIAL EDUCATION UNITS

Child Count - Dec. 1, 1997

Deaf

①



Hearing impairment-

- means an impairment
 - in hearing,
 - | whether permanent or fluctuating,
 - which adversely affects a child's educational performance
 - but that is not included under the definition of "deafness".

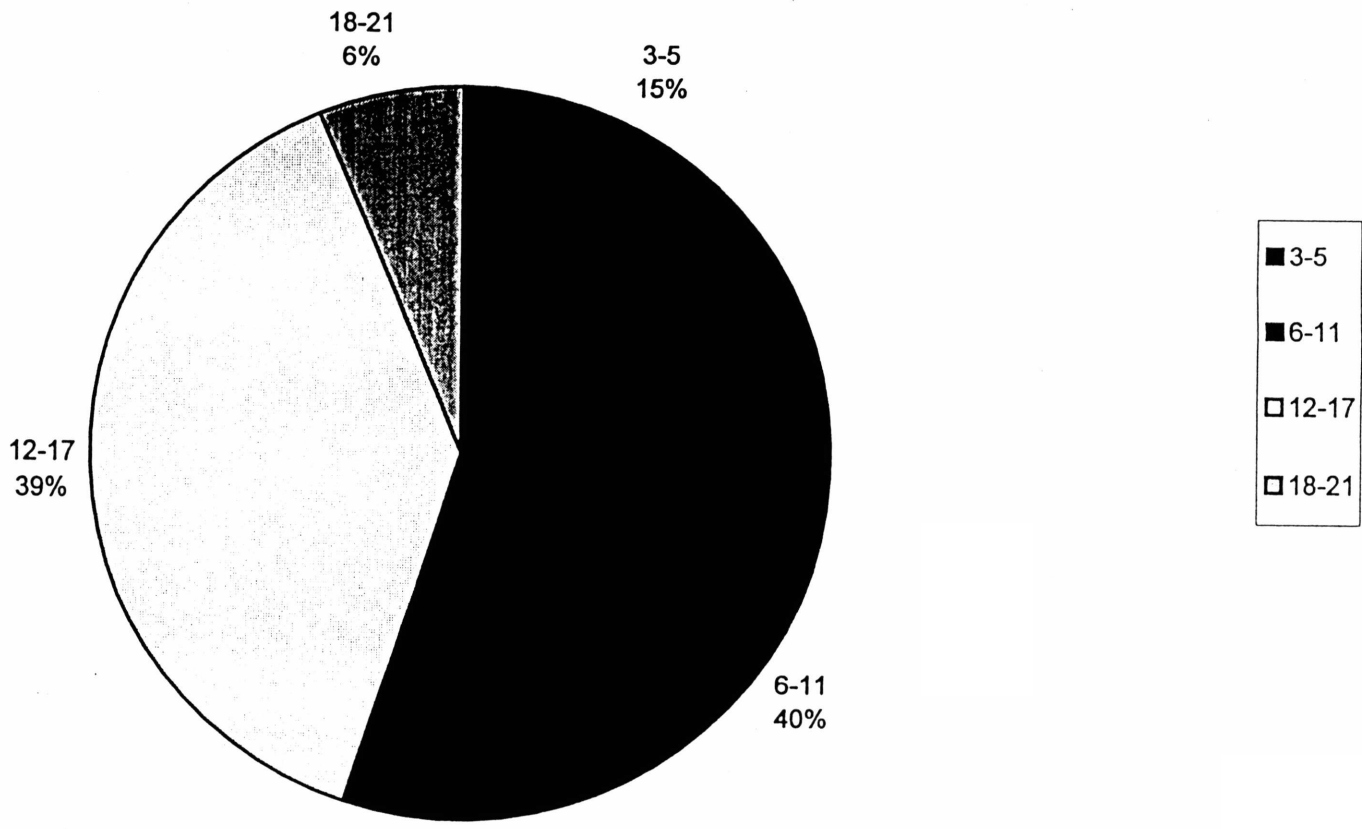
Guide I:

G. PROGRAMS FOR HEARING IMPAIRED STUDENTS

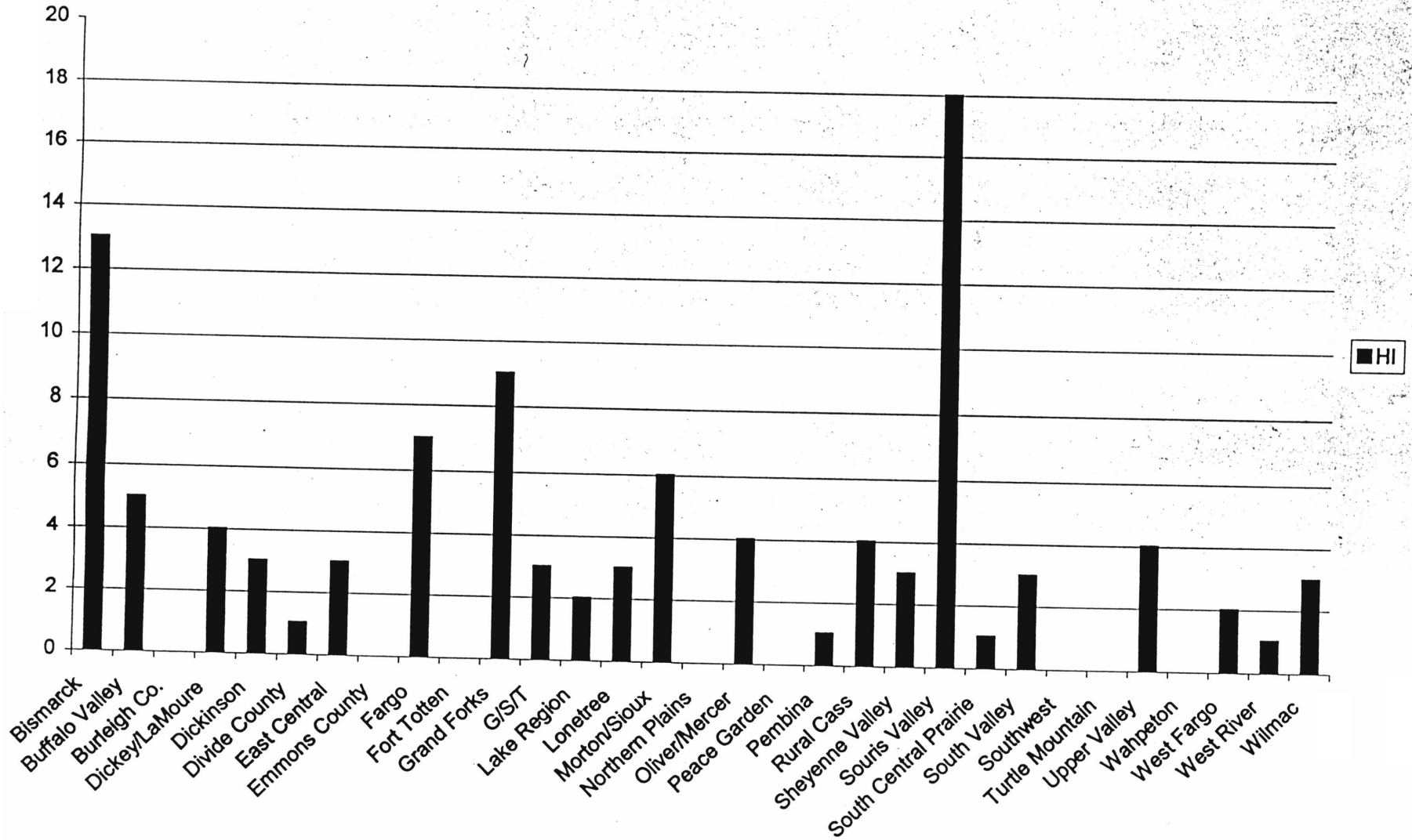
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HI (Statewide by Age Groups)



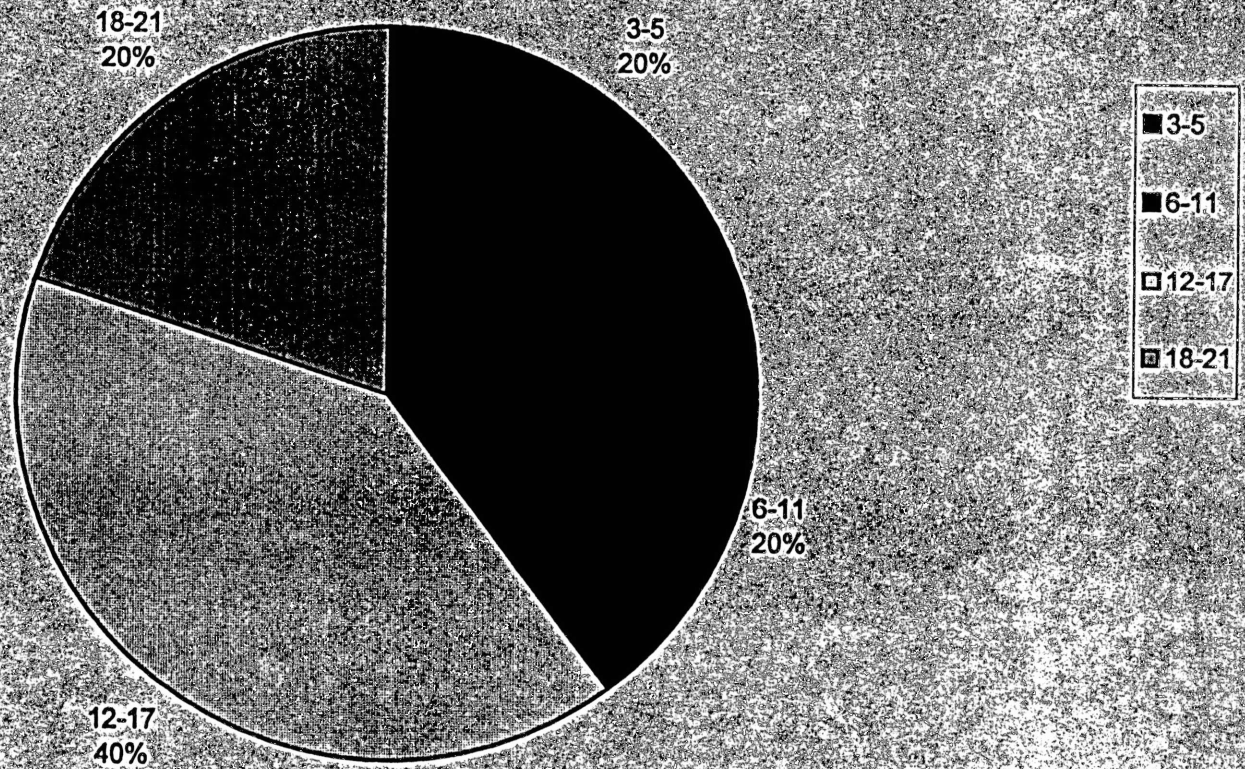
HI By Units



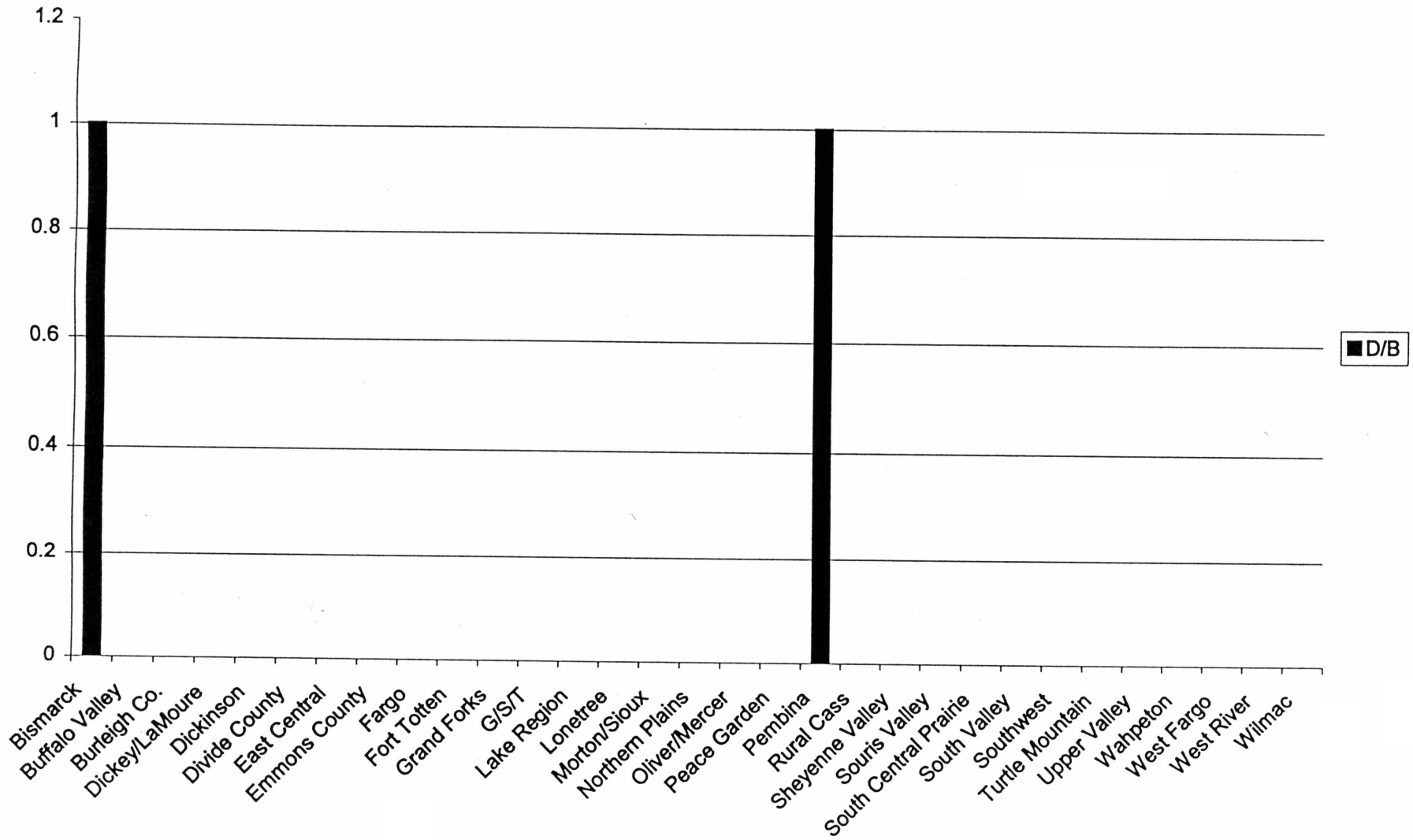
Deafblindness-

- means concomitant hearing and visual impairments,
 - the combination of which causes such
 - | severe communications,
 - | other developmental
 - | and educational problems
 - that cannot be accommodated in special education programs
 - | solely for children with deafness or children with blindness.

DB (Statewide by Age Groups)



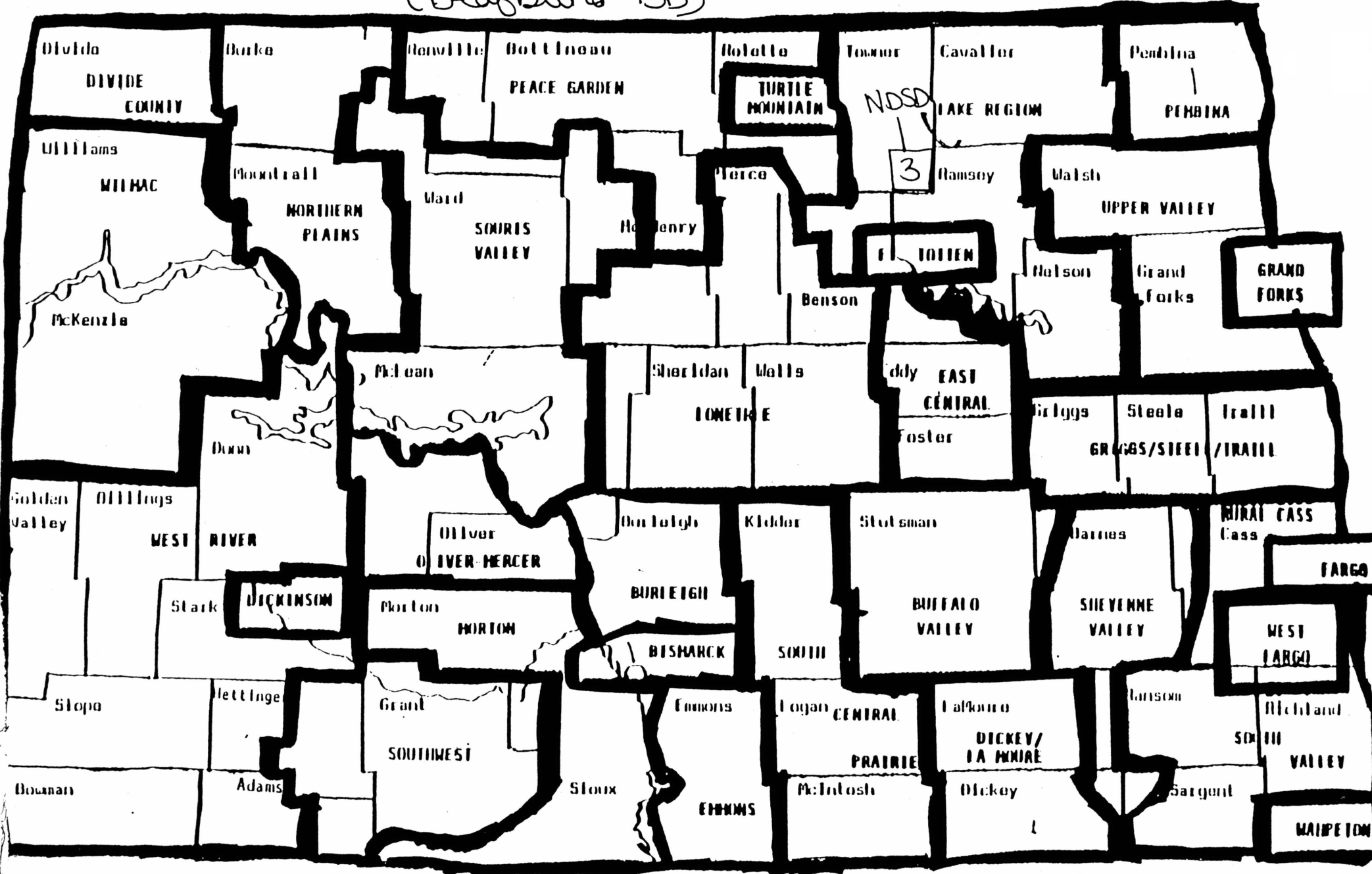
D/B By Units



NORTH DAKOTA SPECIAL EDUCATION UNITS

Child Count - Dec 1, 1997
(Deafblind - DB)

17



G. PROGRAMS FOR HEARING IMPAIRED STUDENTS

- 1.0 **ELIGIBILITY OF STUDENTS:** Any student enrolled in a separate or resource program for hearing impaired students or who is being provided with supplementary instruction or amplification equipment because of hearing impairment will have had an otological evaluation and a report filed of the student's need for special services based on audiological and/or medical reports.
- 1.1 Hearing impaired students include both deaf students and hard of hearing students. Deaf students are those for whom hearing cannot be used as a major sensory pathway for learning. Hard of hearing students can use amplified sound as a major channel of learning.
- 2.0 **SIZE OF ENROLLMENT/CASELOAD:** An approvable enrollment in a classroom for hearing impaired students or for a resource teacher serving hearing impaired students who are enrolled in regular classes is 3-10. Ages of students in a self-contained class should not exceed a three year age spread.
- 2.1 Individual students with hearing impairment may be enrolled in regular classes using supplemental instruction and amplification of sound if this meets the educational needs of the student.
- 2.2 The instruction program, equipment and special methods must be stated in the student's individualized education program.
- 3.0 **PLACEMENT OF STUDENTS:** Appropriate placement of a student will be determined during development of the individualized education program.
- Note: See Procedural Guarantees, Section II.
- 3.1 The team will design an individualized education program for each student with input from parents.
- 4.0 **FACILITIES:** A classroom for hearing impaired students will be at least the size of a regular classroom and meet at least minimum standards for light, heat, and ventilation.
- 4.1 Classroom should be carpeted and provided with draperies, acoustically treated walls and ceilings.
- 5.0 **QUALIFICATIONS OF TEACHERS:** The teacher of severely hearing impaired and deaf students will hold a North Dakota Educator's Professional Certificate and the Special Education Credential in teaching the Hearing Impaired.
- 5.1 A valid North Dakota Educator's Professional Certificate may be restricted to education of hearing impaired students, unless the applicant has certification in elementary or secondary education.
- 5.2 Teaching Speech to the Deaf - 4 semester hours (6 quarter hours)
- 5.3 Teaching Language to the Deaf - 4 semester hours (6 quarter hours)
- 5.4 Methods of Teaching Elementary Subjects to the Deaf - 4 semester hours (6 quarter hours)
- 5.5 Methods of Teaching Speech Reading to the Deaf and Hard of Hearing - 2 semester hours (3 quarter hours)
- 5.6 History, Guidance, and Education of the Deaf - 2 semester hours (3

the certificate. These teachers will receive special consideration in their North Dakota credential application. This applies only to teachers who were on the staff in 1972 when the "grandfather" procedure was followed.

6.2.6 Teachers in nonacademic areas (vocational, physical education, art) in grades preschool through 12th.

6.2.6.1 Must have a valid North Dakota Professional Educator's Certificate. May be restricted to education of hearing impaired students.

6.2.6.2 Must have a major or minor in the area in which they are teaching.

6.2.6.3 Must have completed six semester hours (9 quarter hours) as follows:

(1) four semester hours - (6 quarter hours) of Teaching Language to the Deaf

(2) two semester hours - (3 quarter hours) of Sign Language

6.2.6.4 Candidates who begin teaching before the six semester hours (9 quarter hours) have been earned, will be issued a temporary credential valid for one year, renewable after the additional six semester hours (9 quarter hours) have been earned.

6.2.6.5 If a candidate has completed these six hours (9 quarter hours), a temporary credential, valid for three years, will be issued. The temporary credential can be renewed at the end of each three year period upon the recommendation of the administration at the North Dakota School for the Deaf.

6.2.6.6 If the candidate wishes to work toward a regular credential no longer identified as temporary, transcripts may be submitted to the Department of Public Instruction at the end of each three year renewal period, until all requirements have been met for the credential. The completion of the credential requirements is optional for teachers in the nonacademic areas.

7.0 **MATERIALS AND EQUIPMENT:** Appropriate amplification equipment and classroom materials and supplies appropriate to the needs of the students must be available.

7.1 At least three times the amount allocated for beginning a regular class will be needed to begin a special program for hearing impaired students.

7.2 Equipment for hearing impaired students:

Group auditory training equipment, overhead projectors, cameras (both still and movie), filmstrip projectors, and other visual aids should be selected by the qualified teacher of hearing impaired students.

Personal hearing aids may be adequate for less severely hearing

Communication and Deaf Children: A Common Sense Approach



Judith A. Bravin

A native of Wisconsin, Judith Bravin attended the Wisconsin School for the Deaf and then graduated from the California School for the Deaf. She graduated with a B.S. degree in library science from Gallaudet College (University) in 1966. Subsequently, while in the middle of raising three deaf children, she received her Master's in Deaf Education from New York University. She is currently a librarian at the New York School for the Deaf where she runs a full-fledged library program which includes storytelling and reading activities for a K-12 program. She is also a very active participant in the deaf community in various areas. And in her spare time, she enjoys reading, traveling and cross-country skiing.

Philip W. Bravin

A native of New York, Phil Bravin attended the Lexington School for the Deaf and then graduated from the New York School for the Deaf. He graduated from Gallaudet College (University) in 1966, receiving a B.S. degree in business administration. After a short initial stint with an insurance company, he embarked on a long career with IBM Corporation, where he is currently a Marketing Programs administrator for the division that sells the Personal Systems/2 product line. In addition to his responsibilities at IBM, he is currently chairman of the Board of Trustees at Gallaudet University. He is a former board member and secretary-treasurer of the National Association of the Deaf in addition to many other deaf community activities. In his spare time, he enjoys tinkering with his computer, reading, traveling and downhill skiing.

I. Introduction

As deaf individuals, as deaf children of deaf parents and finally as parents of three deaf children, the word "communication" obviously has a very permeating effect in our lives. It is permeating in a very positive sense. We have had what we believe to be a very fulfilling communication environment, because we always know, knew and would know what was going on. For many different reasons, people have tried over the years to differentiate communication among deaf people, communication among hearing people and communication between deaf and hearing people. It seems peculiar that some people try to differentiate it in a way to make it very technical and to the point of compromising some language principles and rights.

II. Communication: What is It?

Webster's (dictionary) defines communication as "a process by which information is exchanged between individuals through a common system of symbols, signs or behavior". Expanding this premise a bit further, successful communication takes place if the receiving party fully understands and comprehends the information being sent by the sending party. The major problem we see today in the deaf community is one of labels being attached to communication modes and technologies.

Labels (such as Signing Exact English (SEE), Manually Coded English (MCE), Pidgin Signed English (PSE)) offer people an excuse or an "out" to achieve various agendas. People need to be reminded to go back to *Webster* and to look at various successful scenarios or models in which communication takes place within the deaf community. The key words in the *Webster* definition are "common system". In other words, it tries to point out, like us, that there has to be some common ground between both parties communicating, whether it be gestures, sign language, voice, visual cues among other communicative modes. A tourist traveling in a foreign country is a classic example of communication. In most cases, a tourist would resort to gestures and in some cases, use a very elementary language base to communicate with the natives in asking for directions or ordering food from a menu. In such scenarios, both parties reach a common ground and then when the "message" is understood, communication takes place. The problem in many instances involving deaf and hearing people before the recognition of sign language is that for such a long time, hearing people forced the use of their language on deaf people without respect to sign language. Note that we have chosen to be generic in this point--this premise applies equally to foreign countries and the United States; i.e., British Sign Language in the United King-

dom vis-a-vis English; American Sign Language in the United States vis-a-vis English; Japanese Sign Language in Japan vis-a-vis Japanese. If we take the "forced language approach" out of the picture and try to resort to a "common" system, it is our belief that the use of a common system will promote communication which in turn enhances the further development of language. When language is developed, it is then the bridge to acquiring knowledge. For this reason, we will stick to the generic term "sign language" when we speak of communicating with and among deaf people. American Sign Language as we see it, refers to the generic term "sign language" being used in America.

III. A Communication Model for the Home

This attempts to define or create a communication environment in the home or an equivalent setting for deaf children. As we indicated earlier, we have three deaf children. As of this writing, all three of our children are students at Gallaudet University. (Jeffrey, our eldest son, is 23 years old, Deborah is 21 and Seth is 19). During a recent vacation, we decided to dig into some boxes and came across some home movies of our children. This gave us an opportunity to see how we communicated with our children. We even saw a short movie of Jeff around the age of five reciting "The Three Bears." This exercise, in a sense, gave us some impetus for deciding to write this paper. It can be said that all three of our children have excellent sign language skills. In addition, they write English (which is a totally different and separate language) fluently.

First and foremost, we created an environment where there were no barriers felt by our children. Our children always "hear" (see) communication taking place. With hearing children, communication takes place all the time, just like with deaf children. The only difference is simple—hearing children hear communication. Deaf children see communication. For this simple reason, the environment must be above all, visual. In addition to being visual, we also created an environment where there was full "feedback" to all visual cues. Our kids always knew what was going on. If they did not understand, they either asked what we meant, or asked "why". We never said "never mind, that was not important." If there was a situation where we had to keep something from our children, we simply saved it for another time, rather than rejecting them of the opportunity to know what was going on. Our car light was always on at night, so our kids could see what we were talking about. When they were little, we lived in a typical New York City neighborhood where the street was the playing area. Our kids fully participated in many of those

street activities. Communication took place on the street.

The kids came to a point where they developed a "common system" in which they were able to communicate. The hearing children learned some sign language and our kids were able to pick up some lipreading and use whatever speech skills they acquired from school. The environment on the street was a "mish mash" of all those modes. Above all, they were able to play and had fun. Communication was never a barrier on the street. We never took pains to tell other parents to tell their children to treat our children differently because they were deaf. This was simply because we did not want our kids to grow in an artificial environment.

Our best time was at the dining room table, especially at supper. We rarely ate separately; if any one of us was a bit late, we would wait until everyone was home and ate together. This, we believe, was the "heart" of our family development. We talked, we laughed, we cried along with all the various emotions that could conceivably take place. Nothing was taboo at the table. We talked about everything under the sun; their school activities, the news and issues of the day; the political issues in the deaf community, among other things. Even so, our kids fully understood what we were talking about. If we had guests, we always let our kids sit and watch us. With hearing kids, they did not have to be physically present, but would theoretically be able to overhear conversations. With deaf kids, they need to be present and follow conversations. The bottom line (overhearing and following conversations) is the same, only the environment was a bit different.

Storytelling was another means in which communication was developed in our home. We never underestimated the importance of books. There were books everywhere in the house, in every nook and cranny...in the bathroom, in the garage, in the utility room and even in our cars. We even let them read the National Enquirer, not so much for its content, but to develop and pique their reading interest. We had a lot of song books and one of our kids favorites was "I Know an Old Lady Who Swallowed a Fly". We told them a lot of stories. Even so, a lot of play acting took place, acting out things like "Little Red Riding Hood" and "The Three Bears". Peculiar as it was, one of their favorite playing pastimes was developing a mock office. Whenever forms were thrown out at the office, we brought them home so our kids would fill out forms to their imagination and create their own environment.

Basically, an observer might think this was all unstructured and purposeless. But in retrospect, each and every activity had a place in the home and no one was to say "no", because everything represented an opportunity to communicate and with that develop various applications to mathematics, reading, writing, social studies, science and other disciplines.

The bottom line in this environment was simple. Our kids knew what was going on in every setting. It should be noted that this model did not address the total spectrum of parenting at length (this is a paper on communication, not parenting). We did not address issues of discipline, nurturing, among other things. But discipline, when it took place, was done under the same guidelines. Our kids knew exactly why they were disciplined and what the consequences were. Nurturing and love were there all the time. We hugged, expressed our appreciation and love when the moment was right. We never permitted our children to go to bed angry or when there was a situation that was unresolved. But all of the above factors go back to a common denominator, that of "communication".

IV. For Hearing Parents of Deaf Children

While we do not want to sound preachy, there are definite things that hearing parents of deaf children need to recognize. The deaf child's environment is 99% visual. The hearing component should not be treated as a primary vehicle for communication. The visual component is the key. We have had the opportunity to be with some hearing parents and their deaf children in their homes. The biggest mistake any parent can do is to be at a dinner table (and in other situations) and communicate in a way that the deaf child does not know what was going on. This has been the biggest and if not "hid-

den" gripe of deaf children of hearing parents. We decided not to dance around this issue, but to explicitly point this out. It is extremely important for the parents to communicate in whatever mode that the deaf child can fully follow and comprehend what was going on--after all, the deaf child's primary means of reception and expression is visual. The same discipline needs to be applied to siblings. We know of a family in the New York area who practiced just this. Everyone signed all the time with voice. This way the hearing members of the family knew what was going on; at the same time, the deaf member of the family was on even keel with the hearing members of the family. If the family (hearing parents and siblings of deaf children) can achieve this type of environment, the model we described above is perfectly applicable. Anything done otherwise is a simple violation of the language and communication rights of the deaf member of the family.

V. Summary and Conclusion

It gave us great pleasure to develop this short paper. This paper is not a research paper, but a common sense approach to raising deaf children in a barrier-free environment in the home. This paper purposely avoided any polemics and taking issues or sides. Parents are confused enough when they have deaf children. They need to go right into the heart of the matter and deal with the child's deafness, bearing in mind that the child's primary mode of input and output is visual.

The common system when communicating with and among deaf people is sign language. This mere fact should not be avoided or put on a lower priority. One only needs to walk into a room full of deaf people and see how communication takes place. The answer is right there -- sign language.

DOES REPEATING THE MISTAKES OF THE PAST PROTECT THE INNOCENT?

Mainstreaming and Inclusion Revisited

American education stands at a veritable crossroads concerning the education of the Deaf¹ child. What transpires as a result of the administrative decision-making processes in the next few years could very well spell the doom or the success of a generation of Deaf children. It appears that history is in the process of repeating itself regarding the education of the deaf child, and we who are involved in the education of the deaf child continue to make the same historical mistakes. We only change the names of the methods being employed.

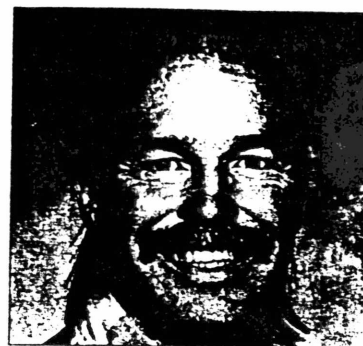
Has not history taught us that Black, Hispanic, Oriental, and Deaf children do, in fact, grow up to be Black, Hispanic, Oriental, and Deaf adults who have and continue to find their niche in American society? Has not history taught us that given an appropriate education and equal opportunities that children of various cultural heritages can and do find their places as valued contributing members of American culture? Has not history taught us that continuing to make the same mistakes (even though the names of the mistakes have been updated to fit the current socio-political jargon) makes absolutely no sense? Will we who are involved in the education of the deaf child continue to be mired down in the

¹Deaf—The distinction between deaf and Deaf is made in this article with the capital "D" denoting a linguistic and cultural group of people, just as a "B" is used when referring to the Black community. The small "d" is used when referring to audiological deafness.

Dragnet syndrome, changing the names to the protect the innocent? It is an indictment against our educational system when the innocent continue to suffer.

Regarding the innocent, the Commission on Education of the Deaf (COED) of 1988 in its report to the President and the Congress stated that education for the Deaf child as it is now being implemented in the United States is not satisfactory. (Was this not the same conclusion as reported by the Babbidge Commission in the 1960s?) The COED felt that the major recurring problems are centered around the misinterpretation of the Least Restrictive Environment clause of Public Law 94-142 and the lack of appropriate educational offerings for Deaf children, especially in regards to mainstreaming (COED, p. viii). The misinterpretation and misapplication of the Least Restrictive Environment has been so rampantly in vogue that the National Association of the Deaf 94-142 Task Force submitted detailed written testimony to the United States House of Representatives Subcommittee on Education requesting consideration of specific changes regarding the LRE:

1. Immediate implementation of the Commission on Education of the Deaf's recommendations regarding the Least Restrictive Environment (see Appendix);
2. Clarification of the Least Restrictive Environment stan-



JESS FREEMAN KING

Jess Freeman King has taught and served as an administrator in a number of schools for the deaf and several universities, including the University of Mississippi, Lamar University, and his present locale, Utah State University.

He has authored numerous articles and two books, and has served as an international consultant on education of the deaf. Currently a professor in the education of the deaf teacher training program at Utah State University in Logan, Dr. King is a member of the Convention of American Instructors of the Deaf, the National Association of the Deaf, the American Society for Deaf Children, and the American College Educators of the Deaf and Hard of Hearing.

dard to insure that placement decisions for Deaf children are made on an individual basis and consistent with their unique language, psychological, social, and cognitive needs:

3. A requirement that every Individualized Educational Plan for a Deaf child includes the following:
 - a. Specific language of the child;
 - b. How the child will have direct, on-going, appropriate language access to his/her peers;
 - c. How the child will have direct communication access to the educational staff;
 - d. How the child's language development needs will be met;
 - e. How the child's need to be with age, language, and cognitive peers will be provided;
 - f. What is the population base from which the child can choose appropriate and accessible peers;
 - g. Access to Deaf adult role models;
 - h. How related services will be directly accessible to the child;
 - i. How the child will be provided direct access to extra-curricular activities (Siegel, p. 4) Johnson, Liddell, and Erting in "Unlocking the Curriculum: Principles for Achieving Access in Deaf Education" suggest that: The least restrictive environment for deaf children is one in which they may acquire a natural sign language and through that language achieve access to a spoken language and the content of the school curriculum (Johnson, p. 18).

Certainly the Least Restrictive Environment clause is a controversial but vitally important component of Public Law 94-142, and it should be understood that the primary concern with this aspect of the law is its inappropriate interpretation and application, not its basic philosophical premise. It is evident that mainstreaming has resulted in great gains for some Deaf children, but its inappropriate application for most Deaf children has fostered social isolation and academic retrogression (Siegel, p. 4). Are we protecting the innocent?

The misinterpretation of the least restrictive environment component of P.L. 94-142, as the educational placement that would be most like a "normal" environment that promotes and enhances socialization skills, has placed and continues to place the appropriate and suc-

cessful education of the Deaf child in jeopardy. It is apparent that without communication of a deep and meaningful nature among peers and between teacher and student that socialization cannot exist. This misinterpretation has created a situation in which more and more Deaf children are being placed in mainstream programs, self-contained classrooms within the public school, and inclusive educational placements. In more cases than not, these types of placements have been accomplished disregarding or misunderstanding the child's linguistic background, language development needs, communication needs, and the skills of the interpreter who accompanies the child to the classroom in order to "equalize" communication.

It is alarming that the majority of interpreters in mainstream programs are not certified and can in no way possible truly "equalize" communication in the classroom environment. It is equally appalling to note that many of the public school districts in the United States that offer educational services for Deaf children have historically had and continue to have only one or two students in the entire program. Certainly the emotional, social, linguistic, and cognitive consequences which impact the Deaf child as a result of such programs are frightening.

Tragically, most Deaf children in the mainstream, self-contained, and inclusive educational programs of American education are being educated near hearing children rather than with them (Thomas, p. 8). In situations such as these, the Deaf child often has the worst of both worlds, instead of the best. They have a limited language, a limited social environment, and resultantly a limited education. Is this not a flashback to what occurred after the edict of the Conference of Milan of 1880? Accepting the premise that many educational programs are inappropriate, ineffective, and most restrictive for the Deaf student, how might these programs be structured so as to be appropriate, effective, and least restrictive? The following suggestions should be considered by the school administrator and the special education administrator before any attempt is made to provide educational programming for the Deaf child:

1. The program should include a critical mass of Deaf children in order to provide socialization within a peer group;
2. Homogenous grouping possibilities should exist that will facilitate grouping by age, IQ, and linguistic competence;
3. Only teachers of the Deaf who are qualified/certified and have an understanding of Deaf culture should be employed;

4. Only teachers who can communicate directly and appropriately with Deaf students should be employed;
5. Deaf adult role models should be present on a regular basis in the educational process, either as administrators, teachers, or aides;
6. Curriculum that has been developed specifically for Deaf children should be used in the classroom;
7. Only intelligence, achievement, and other placement tests that have been normed on a Deaf population and administered by personnel who can communicate fluently with the Deaf child should be used as placement tools;
8. Interpreters involved in the program should be certified and knowledgeable concerning the Deaf community;
9. Both the hearing teachers and students in the school should be offered continuing opportunities to learn and use sign language (King, p. 37).

Perhaps the most cogent suggestion which might be tendered regarding the education of the Deaf child is that it be a quality education that will prepare the student to compete as an equal in the hearing world. This does not mean or suggest that the adequacy and success of Deaf children be measured by how closely they resemble their hearing peers, but that they be educated so as to become successful Deaf human beings, not imitations of hearing ones. The education received should enable them to believe that their deafness is not something to hide, a pathological problem fostering incompleteness. Rather, in a quality educational program, "the student most respected by his teachers and peers should not be the one who is most like the hearing, but the one who is well-educated, successful, and Deaf" (Thomas, p. 10).

It is imperative that history regarding the education of the deaf child does not repeat itself. It is imperative that we who are involved in education of the deaf protect the innocent.

Partial Recommendations of the Commission on Education of the Deaf, 1988

Language Acquisition

The Congress and the Department of Education should ensure that facilitating English language acquisition in students who are deaf (including vocal, visual, and written language) is a paramount concern guiding the implementation of exemplary practices; the establishment of program models;

the determination of research priorities; the design of curricula, materials, and assessment instruments; and the provision of professional and parent training. Language acquisition should be a top priority in federally funded research.

Least Restrictive Environment

The Department of Education should refocus the least restrictive environment concept by emphasizing appropriateness over least restrictive environment.

The Department of Education should issue a policy statement to permit consideration in placement decisions of curriculum content and methods of curricular delivery required by the nature or severity of the child's handicapping conditions.

The Department of Education should issue guidelines and standards by which school officials and parents can, in selecting the least restrictive environment, consider potential harmful effects on the child or on the quality of services which the child needs. The Department of Education should publish in the *Federal Register* a policy interpretation that removal from the regular classroom does not require compelling evidence. The Department of Education should monitor states to ensure that they maintain and nurture center schools as placement options as required by law.

The Department of Education should monitor states to ensure the availability and appropriateness of integrative programs for students in center schools.

Parents' Rights

The Department of Education should issue a policy statement requiring that school personnel inform parents of all options in the continuum of alternative placements during each individualized education program conference.

Evaluation and Assessment

The Department of Education should monitor states to ensure that the evaluation and assessment of children who are deaf be conducted by professionals knowledgeable about their unique needs and able to communicate effectively in the child's primary mode of communication.

Quality Education

The Congress should pass a "Quality in Deaf Education" bill that would provide incentives to the states to enhance the quality of services provided to students who are deaf.

American Sign Language

The Department of Education should take positive action to encourage practices under the Bilingual Education Act that seek to enhance the quality of education received by limited English-proficiency children whose native (primary) language is American Sign Language.

References

Commission on Education of the Deaf, *Toward Equality: Education of the Deaf*. Washington, DC: U.S. Government Printing Office, February 1988.

Johnson, R., S. Liddell, and C. Erting, *Unlocking the Curriculum: Principles for Achieving Access in Deaf Education*, Gallaudet Research Institute Working Paper 89-3, Washington, DC: Gallaudet University, January 1989.

King, J.F., "Inappropriate and Most Restrictive: The Dilemma of the Deaf Student in American Education", *Tejas*, Vol. 16, No.1, Spring-Summer 1990.

Thomas, R., "Taking Back Our Rights," a paper presented at the American Society for Deaf Children Annual Conference in Faribault, Minnesota, June 1989.

Siegel, L., "Educational Isolation of Deaf Children," *Newsletter of the Independently Merging Parent Associations of California Together for the Hearing Impaired (IMPACT-HI)*, 1st Quarter, 1989.

TESTIMONY ON HB 1288
HUMAN SERVICES COMMITTEE
January 19, 1999
by Robert Rutten, Special Education Regional Coordinator
328-2277
Department of Public Instruction

Madam Chairperson and members of the committee:

My name is Robert Rutten and I am a Special Education Regional Coordinator for the Department of Public Instruction. I am here to provide information about HB 1288, the bill of rights for children who are deaf or hard of hearing.

The issues contained in this bill were articulated in 1992 by a coalition of international, national, and regional organizations of, by, and for persons who are deaf and hard of hearing. The principles contained in the 1992 Bill of Rights received widespread support from advocates and groups representing people with hearing loss. What you have before you this morning is essentially the same wording that resulted from the Council of Organizational Representatives Bill of Rights in 1992. The principles “are based on an urgent and substantial need to:

- enhance the development of infants, toddlers, and children who are deaf or hard of hearing and to maximize their potential for language acquisition and academic achievement;
- enhance the independence and employability of individuals who are deaf or hard of hearing and to maximize their potential to be productive citizens; and,
- enhance the capacity of families and schools to meet the special needs of infants, toddlers, and children who are deaf and hard of hearing.” (Council of Organizational Representatives, 1992)

In 1995 the National Association of State Directors of Special Education published a *Deaf and Hard of Hearing Students Educational Service Guidelines*. This document contains the bill of rights for children who are deaf or hard of hearing. Since their publication in 1995, these guidelines have received broad support for their balanced and clear perspective on a topic that has long troubled special educators. Our department has disseminated this publication to schools and special education units across our state and provided training on its content in an attempt to appropriately address the education of students who are deaf and hard of hearing in North Dakota schools. We disseminated the guidelines including the bill of rights because they contain principles that are contained within the Individuals with Disabilities Education Act, the federal legislation for special education.

The concerns expressed in this proposed legislation are in alignment with what we now know are essential for children who are deaf and hard of hearing. Specifically, this bill promotes early identification and intervention with children who have hearing loss, full involvement of their families, and addresses the need for well-trained professionals and a public, including lawmakers, who understand more about the needs of children who are deaf and hard of hearing. Our questions regarding this bill have to do with enforcement. It's not clear at this time how these rights would be enforced if violations are alleged and who would be responsible for enforcing them. We would hope these questions could be satisfactorily addressed.

January 19, 1999

HOUSE HUMAN SERVICES COMMITTEE
HB 1288

CHAIRMAN PRICE AND COMMITTEE MEMBERS:

My name is Courtney Koebele. I'm appearing today on behalf of the North Dakota Speech, Language and Hearing Association. We are strongly in favor of this bill and are asking you to consider just one small **AMENDMENT**.

It is important that hard of hearing children be assured that they have the rights outlined in **HB 1288** no matter where they reside. At the same time, we are a bit concerned that this bill of rights be specific so that these very important early diagnostic assessments are not made by an untrained allied health professional under the assumption that this bill mandates early intervention by anyone.

Appropriate and early screening is essential, but it is equally essential that this early diagnosis be done by a trained professional. An erroneous or misdiagnosis at an early age could be devastating to a youngster. Therefore, we respectfully request that you give favorable consideration to these amendments and then give this bill a DO PASS.

THANK YOU FOR YOUR TIME AND CONSIDERATION. I'll be happy to answer any questions.

PROPOSED AMENDMENTS TO HOUSE BILL 1288

On page 1, line 7, after the word "experience.", insert "The diagnostic assessment of hearing capacity should be conducted by a licensed and nationally certified audiologist."

Renumber accordingly

From: Domer91@Domer91 on 01/18/99 10:05 PM
To: Clara Sue Price/NDLC/NoDak@NoDak
cc:
Subject: HB #1288 and #1289

I am writing to voice my opposition to House Bill #1288 which will be discussed in committee tomorrow (1-19-99). I am a special education coordinator for the Fargo Public Schools. In my position I work with teachers in all areas of special education. I work with families and I study legislation as it relates to our field. Bill #1288 is a Bill of Rights for children who are deaf and hard of hearing. This bill was introduced last legislative session and I voiced my concern at that time as well.

I do not understand why we would legislate a Bill of Rights for a particular group of children, disabled or not. If we are going to legislate a Bill of Rights for children let it be for all children. If we are going to legislate a Bill of Rights for disabled children, let it be for all disabled children - NOT one small group of children.

The Individuals with Disabilities Education Act passed at the federal level in 1990 and reauthorized with changes one year (+) ago has embedded within it the rights of disabled children and their families. We are obligated to observe these rights and do everything we can to make sure these rights are not violated. I cannot understand or agree with a separate bill for one group. I am especially opposed to some of the language in this bill: page one, line 12, #4, which states that children with deafness or who are hard of hearing have the right to "adult role models who are deaf or hard of hearing." Why should we legislate that? Do we make sure blind children have 'access' to blind adults? Do we legislate that children with learning disabilities have adult role models with learning disabilities? No, we do not. Nor should we.

I will not take up any more of your time on this bill but felt compelled to write you regarding my concerns.

I would also like to take a moment to share my concerns about HB #1289. This is a bill that introduces a state board of examiners (licensure board) for sign language interpreters. I am not opposed to this bill as a whole. I have concerns about some of the content within the bill. Specifically, I am concerned about the proposed make up of this Board.

We are expected to hire competent, qualified interpreters in our schools for students whom interpreters are necessary. We strive to do this and in Fargo, have been lucky to find this kind of staff. We do, however, pay our interpreters very well and offer an excellent benefit package. I believe we are but one of a handful of districts that has the luxury of paying these people what they deserve. At any rate, this bill would require all interpreters to be licensed regardless of employment setting e.g., school vs. private sector. This Board does not have any representation from public schools.

Our district has worked with other examining boards. We have found that unless Board members are aware of the unique differences schools bring to a job they are less understanding of these differences. I would recommend that the language be changed to include public school representation.

Good Morning, the Chairperson and the members of the House Human Services. I am Michele Rolewitz, the President of the North Dakota Association of the Deaf and I am representing the ND Deaf citizens.

I strongly support the House Bill No. 1288 Deaf Child's Bill of Rights. It is very urgent to have the rights of the Deaf child to make sure that he/she gets fully accessible communication. This bill will help to remove any and all communication barriers for the Deaf child at the schools where they attend. We do not want to see a deaf child go through any unnecessary frustrations there. The Deaf child should have an equal opportunity to receive quality education, using one or more modes of communication. This means full access to all tools to meet their communication needs.

Can you imagine if you have a deaf child in your family, what will happen to your child if he/she does not have the rights to get a fully accessible education. I want to remind you all to look at the Deaf children and find out what their needs are to make sure that it is more easier for them to obtain quality education without any unnecessary blockages. The DEAF CHILDREN depend on YOU to pass this House Bill 1288 Deaf Child's Bill of Rights.

The Deaf community strongly agree to support this bill, also.

I respectfully request that you recommend a DO PASS on this bill, House Bill 1288.

Thank you.

Chairperson. Price,-

I like to submit this testimony since I didnt have time to testify myself.

Thanks. Please make a copy for each members of the Human Services.
Michele Rolewitz