

THE SPECIAL EDUCATION MUCKRAKER

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(Well, somebody's got to do it.)

Special Report
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SPECIAL ALERT:

GAO NOT INVESTIGATING OR AUDITING SPECIAL ED. ANYMORE - SENATORS AND REPRESENTATIVES AREN'T ASKING IT TO!

The US General Accounting Office has done some *wonderful* investigations and audits of special education in the United States over the past few years. They've looked at everything from the illegal perks a Medicaid billing consulting firm paid to district executives to obtain their districts' Medicaid billing contracts (in a State which then had to give up hundreds of million dollars in Medicaid bucks to repay the feds for payments it never should have received in the first place) - through analyses of special education and related services which were supposed to be provided to kids with disabilities - but weren't - when the kids were given long term suspensions from their schools.

You haven't seen many GAO reports on special education issues in a while - because there aren't any. **THE SPECIAL EDUCATION MUCKRAKERS** contacted GAO to find out why - and were dismayed to learn that GAO isn't doing special education investigations or audits because Senators and Representatives haven't asked it to! Although the proportion of kids classified as disabled under the IDEA has steadily grown, and is now approximately 14% nationwide, and special education expenditures are skyrocketing because of Medicaid reimbursements for related services and transportation schools supposedly provided to Medicaid-eligible kids with IEP's, the fact is, **nobody's watching the store!** *Nobody knows where the money is really going. Or if it's being spent wisely and appropriately.*

The US Department of Education stopped doing meaningful audits of IDEA-related issues some time ago. ► After its first round of audits showed that 4 State Education Departments (SEA's) were reporting wildly inaccurate special education numbers - on graduates and dropouts, on suspensions and expulsions - your federal educrats did their bureaucratic thing, *and stopped doing the audits.* ► Other audits showed that substantial numbers of IEP kids' test scores were never reported. Perhaps they didn't exist at all. ► The OIG found that SEA's "forgot" to report Title 1/NCLB data for alternative and special ed. schools in very significant numbers.

Did the USDOE do more audits to see if the "garbage data" problem was pervasive? *Nope.* Did the USDOE do follow-up audits to see if the SEA's which had been found to report wildly inaccurate or defective special ed. numbers had cleaned up their acts? *Not!*

► Medicaid's Office of the Inspector General has held up its big audit reports on Texas and New York for over two years now. The first "little" audits in these series showed widespread improper - perhaps fraudulent - Medicaid billing. What the rest of the audits unearthed is anyone's guess. (Hint - If the subsequent audits came up with clean findings, they would have been released to the public the day they were completed.) If you see a Medicaid audit for school Medicaid services, you can almost bet on the fact that it will find billing for services "provided" to kids who were not in school. Weekends. School closure days. Long term absentees. *Ergo, the Medicaid OIG has ended its routine audit program for schools' Medicaid reimbursement claims.*

► The US Dept. of Agriculture almost always finds that districts are billing for numbers of Free Lunches allegedly fed to kids above the number of kids attending school on audited days. And that districts have deemed kids qualified for Free Lunch when there is no documentation showing they're eligible. Of course, the Aggies never take the next step to see if these kids actually attend school at all - *nor does any other federal agency.*

► *The Houston dropout scandal. The NYC high school push out scandal.* You've seen headline after headline about schools, districts and SEA's "forgetting" to report high school dropouts and fictitiously claiming that kids who dropped out, or who had been aggressively and illegally pushed out of school, had transferred to GED programs or to other schools. *Has any federal agency actually investigated the national accuracy of reported high school dropout and student transfer numbers - by examining schools' and districts' "documentation" and then the contacting kids who allegedly transferred to other schools or GED programs, or who supposedly moved - to see what really happened? To see if their schools, districts and SEA's are systematically inflating enrollment and attendance data, and under-reporting or mis-reporting dropout data, so they can keep receiving federal Title 1 and IDEA money for kids who are no longer in school? No way!*

THE SPECIAL EDUCATION MUCKRAKERS BELIEVE THAT PUBLIC EDUCATION, AND SPECIAL EDUCATION, SHOULD BE EFFECTIVE AND EFFICIENT, AND IMPLEMENTED IN ACCORDANCE WITH THE RELEVANT LAWS. Starting now.

We urge our readers to contact their Senators and Representatives and ask them to request the GAO to investigate some, or all, of the following issues:

Under No Child Left Behind:

1. How many kids with disabilities in each state have actually been tested in conformity with their SEA's NCLB approved accountability program - and how many have not? And how many SEA's have really reported all these kids' scores to the public, as well as the real percentages and numbers of such kids in each group who were "not tested"?
2. How many public all-special education schools and alternative schools have actually been given NCLB accountability waivers by their SEA's and are still functioning with no objective NCLB accountability standards and targets at all? And how many kids attend these schools?
3. How many SEA's are - still - failing to report all data which NCLB allegedly mandates for test scores and school exiting data (graduates, dropouts) for all-special ed. schools, alternative schools, and for their states as a whole?
4. How many high school students - in each NCLB sub-group (i.e., blacks, Hispanics, the poor, kids with disabilities, non-native English speakers) actually attend school; how many are actually "ghost" students in "phantom" classes?
5. How many high school students - in each NCLB sub-group - who were reported as having transferred to a GED program or to another school, or who were marked as having moved elsewhere - were really high school dropouts or pushouts?

Under IDEA:

1. How accurately is required special education documentation created and maintained? What proportion of IEP meeting documents reflect what actually went on - and who physically attended the meetings?
2. What percentage of IEP-mandated related services are provided? What percentage of mandated evaluations and re-evaluations are conducted?
3. What proportion of high school-age kids with disabilities really attend school; what proportion are reported as attending when they have already dropped out or been pushed out of school?
4. What does OSEP really do when it discovers that a SEA has reported wildly inaccurate and/or intentionally erroneous data?
5. How many schools, districts and SEA's are having kids with disabilities routinely prosecuted for crimes by juvenile justice systems and conducting pretextual behavioral manifestation determinations or no manifestation determinations at all? Has the number of kids with disabilities referred for prosecuted for "crimes" in school, by their schools, increased, decreased, or remained the same each year since 1997?
6. What is the objective effectiveness of related services provided by schools as compared with the effectiveness of the same related services provided outside schools by public and private providers? Is the public school model of providing "educational" related services, rather than "medical" ones, cost-effective? And in general, is the public school model providing related services in a group setting cost effective when compared with the private sector model providing them on a 1:1 basis?
7. How well do district and school IEP Teams and special education staff cooperate with disabled students' outside treating and diagnosing professionals in classifying students and creating IEP's?
8. How faithfully are IEP's which require mainstream teachers to provide students with modifications and accommodations actually implemented? What systems are in place to routinely insure such implementation? What are the systemic obstructions to implementation of mainstream modifications and accommodations, such as instructional staff collective bargaining agreements, lack of clerical and support staff, and institutional denial of responsibility for implementation in the mainstream?
9. How well do SEA's monitor districts' IDEA compliance? How often do SEA's go beyond districts' paperwork, by communicating with parents, to verify compliance data and reports?
10. Do SEA's do full, fair and thorough investigations of parents' IDEA complaints? Do they verify what districts tell them, or do they simply take districts' statements as verbatim truth?

And here's the big one:

11. What are the objective outcomes for kids with disabilities whose parents have won impartial hearings for tuition reimbursement or outside parentally-secured special education, tutoring or related services when compared with the objective outcomes for kids with the same disability classification in their districts, but whose parents simply accepted what their districts offered - and provided? In other words, do kids whose parents brought - and won - hearings do better than kids whose parents left them to the subjective judgments and IEP fulfillment of their districts' special education administrators?

The National Commission on Disability, in a 2000 report on IDEA enforcement entitled "Back to School on Civil Rights," found that the USDOE's OSEP was not effective in getting SEA's to follow the law. Not coincidentally, in 2000, the 1997 IDEA amendment requiring SEA's to publish assessment scores for kids with IEP's "at the same time, and in the same form" as they published this information for all kids, or for kids not classified as disabled, went into effect. And . . . it's no surprise that finding State IEP kids' test scores is often harder than finding a needle in a haystack. In fact, sometimes there's just no needle.

GAO previously found that despite the IDEA's 1997 amendments, kids with disabilities disciplined with long term suspensions or expulsions or placed in alternate educational settings often provided little or none of the "mandated" special education and related services the kids' IEP's required. The way that OSEP has responded to this investigatory finding, you'd be tempted to think that the GAO report was classified information. A thundering silence! In fact, OSEP has done *nothing* in regard to these major findings. And media reports about SEA's evasions of NCLB are pervasive. Does anybody really believe that there are entire states with no "persistently dangerous schools"? States where all teachers are highly qualified?

We think that parents, taxpayers and policy makers are entitled to something more than schools' anecdotal stories about how kids are really doing. Why? **Because the 2 most recent large-scale federally funded studies show that: a) the longer kids receive special education and related services, the more their objective assessment scores decrease, and b) the correlation between the grades given to high school-age kids with disabilities and their objective assessment scores is "almost zero."** In other words, it appears that American public education harms - not helps - kids with disabilities.

Since the relevant government agencies are not-looking as hard as they can to find out why, GAO investigations are the only way we'll learn what's really going on out there.

Let's ask that they look.

Here's how to reach your Senators and Representatives to ask for GAO investigations:

United States Senate -

List of Senators and contact information -

http://www.senate.gov/general/contact_information/senators_cfm.cfm

Members of the Senate Committee on Health, Education, Labor and Pensions -

http://labor.senate.gov/committee_members.html

United States House of Representatives -

"Write Your Representative" - <http://www.house.gov/writerep/>

Members of the House Committee on Education and the Workforce:

<http://edworkforce.house.gov/members/members.htm>

If not you, who? If not now, when? And if not GAO, who in the world will ask and publish the results?