

*The  
American Association of  
Educational Service Agencies*

**1996  
Legislative Agenda**

**January 19-20, 1996  
Washington, D.C.**

*Developed cooperatively by  
AAESA Members*

# AAESA Legislative Committee Meeting

*Washington, D.C.*  
*Saturday, January 20, 1996*

## ***Present:***

Glen Shaw, President, AAESA, Executive Council  
George Woons, Member, AAESA Executive Council  
William Barr, AAESA Member  
Bonnie Minick, AAESA Member  
Kari Arfstrom, AASA Legislative Specialist  
Melissa Adkins, AAESA Operations Manager  
Bruce Hunter, AAESA Executive Director

## ***Materials Provided:***

1. 1995 AAESA Legislative Agenda
2. Questions to Consider in Developing the 1995 AASA Legislative Agenda
3. Wayne County Regional Educational Service Agency Answers to #2 above
4. Proposed Federal Legislative Platform for Education from California
5. IDEA Reauthorization paper from Sherr and Shields in PA
6. Senate discipline draft language for IDEA
7. House and Senate Vocational Education Block Grant Proposal
8. Personal Responsibility and Work Opportunity Act of 1995: Conference Report (Vetoed)
9. GAO - School Facilities: States' Financial and Technical Support Varies
10. HHS Fact Sheet - "Children and Tobacco: The Facts"
11. *USA Today* article, "Education, for 1st Time Is Top Voter Concern."

## ***Meeting Goal:***

To develop recommended positions on legislative issues before the second session of the 104<sup>th</sup> Congress for consideration by the Executive Council of AAESA

## ***Issues under Consideration for 1996:***

### **I. Individuals with Disabilities Education Act**

Note: Neither the House nor the Senate authorizing committees has formally introduced bills. Staff drafts have been offered for consideration. Representative Dale Kildee (D-MI) has introduced the Administration's bill.

**A. Due Process/Procedural Safeguards**

**1. Mandatory Mediation**

- a. AAESA supports:
  - (1) mandating mediation in which neither the school district nor the parent is permitted to have attorneys present as the first step in the dispute resolution process. (The House and Senate drafts both suggest "voluntary mediation.")
- b. AAESA supports provisions in the Senate draft that:
  - (1) provide for a hearing officer to make placement decisions for the 45-day alternative placement period in situations where a student is believed to be dangerous to himself or others.

**2. Attorneys' Fees**

- a. AAESA supports provisions in the House and Senate drafts that:
  - (1) limit fees to usual and customary local fees; and
  - (2) limit reimbursement to specific points on which the plaintiffs prevail.
- b. AAESA opposes provisions in current law and the drafts that permit:
  - (1) attorneys' fees that are paid by public agencies or by publicly supported clinics;
  - (2) attorneys' fees for publicly employed attorneys; and
  - (3) attorneys' fees for the mediation process.
- c. AAESA recommends adding new provisions to the House and Senate drafts that:
  - (1) limit attorneys' fees to civil actions only; and
  - (2) place a cap on fees collected by attorneys.

**3. Hearing Officers**

- a. AAESA supports provisions in the House and Senate drafts that:
  - (1) use hearing officers as mediation officials; and
  - (2) express all time lines in terms of school days.
- b. AAESA recommends adding provisions that:
  - (1) provide a reasonable period of time for hearing officers to complete their duties as related to placement disputes stemming from mediation.

## **B. Testing, IEPs, and Reporting**

### **1. Evaluations**

- a. AAESA supports:
  - (1) House provisions that require evaluations and reevaluations only when the IEP team or parents think that new testing is necessary; and
  - (2) Senate provisions that require review of the IEP at the child's transition points only, such as elementary school to secondary school.
- b. AAESA opposes:
  - (1) Retaining of current law that requires reevaluations every three years because a child's disabling conditions may not change over time.

### **2. Reporting**

- a. AAESA supports the provisions in the Senate draft that:
  - (1) change current data collection requirements to a single recording procedure that counts only students with IEPs; and
  - (2) obtain data on the types of conditions and student characteristics through regular sampling of the national data base.

### **3. State and Local Plan**

- a. AAESA supports provisions in the House and Senate drafts that:
  - (1) eliminate the requirement for LEAs to file a new plan every three years;
  - (2) require recipients to make modifications and amendments to the existing plan as needed.
- b. AAESA recommends adding provisions to the House and Senate drafts that:
  - (1) require LEAs to file a completely new plan only if the LEA is determined to be in substantial non-compliance with IDEA.

## **C. Allocation of Funds**

### **1. In-state Allocation Formula**

- a. AAESA supports:
  - (1) the current federal formula based on the number of children with identified disabilities.

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- b. AAESA opposes provisions in the House draft that:
  - (1) allocate funds to states and school districts based on census counts or poverty rates for the population age 5 - 21.
- c. AAESA recommends adding provisions that:
  - (1) permit the State to retain no more than 5% of the 25% for administrative costs and require that the remaining funds will be used for services that will directly impact children and families with disabilities; and
  - (2) require SEAs to account for expenditures of federal funds annually to insure that the federal government is not supplanting the state oversight responsibility.

**2. Minimum Grant**

- a. AAESA supports the Senate draft that:
  - (1) retains the \$7,500 minimum grant for LEAs; and
  - (2) requires LEAs with grants below the minimum to participate in consortia with education service agencies or other LEAs.
- b. AAESA recommends adding provisions that:
  - (1) raise the minimum local grant under IDEA to \$50,000; and
  - (2) require LEAs with grants below \$50,000 to join a consortia with education service agencies or other LEAs to form grants of at least \$50,000.

**3. Federal Funding Support**

- a. AAESA supports retaining provisions in current law that specify that:
  - (1) the federal government should pay 40% of IDEA costs. "The maximum amount of the grant to which a state is entitled under this section for any fiscal year is 40% of the average per pupil expenditure in public elementary and secondary schools in the United States."
- b. AAESA opposes provisions in the House and Senate drafts that:
  - (1) eliminate the 40% goal for the federal share of special education funding.

## D. Medicaid and Related Agencies

### 1. Medicaid

- a. AAESA supports retaining current law for Medicaid:
  - (1) permitting reimbursement to schools for services provided to children with disabilities.

### 2. Related Services

- a. AAESA supports that:
  - (1) each state must have an effective interagency agreement; and
  - (2) each agency in the state agreement should be an equal partner in the interagency agreement.

### 3. Cost Sharing Among Agencies

- a. AAESA supports:
  - (1) requiring full participation of all state and local agencies designated to help disabled children and their families with cost-sharing borne by relevant agencies;
  - (2) schools must be able to bill-back agencies for services provided by the schools that relevant agencies should be providing;
  - (3) the IEP should list the responsible public agency and the services for which they will be billed;
  - (4) medically related services indicated on the IEP should be the responsibility of the state public health agencies; and
  - (5) the cost of mental health services indicated in the IEP should be the responsibility of state mental health agencies.

## E. Discipline

- 1. AAESA supports provisions stipulating that:
  - (1) students with disabilities who engage in dangerous behavior or in a disruptive behavior unrelated to her/his disability should be subject to the same exact disciplinary procedures as nondisabled students; and
  - (2) when dangerous or seriously disruptive behavior is related to a student's disability that school districts should be allowed to establish an alternative educational setting for the student.

## F. Monitoring

- a. AAESA supports:
  - (1) monitoring procedures that focus on program effectiveness and infuse on-site technical assistance in the process;
  - (2) restructuring of federal and state monitoring and accountability systems to emphasize results and program improvement over procedural and paper compliance; and
  - (3) the use of independent study conducted in the home as an alternative educational setting.

## II. VOCATIONAL EDUCATION

Known in the House as the CAREERS Act and in the Senate as the Workforce Development Act. Note: These bills have passed in their respective chambers and are currently awaiting a conference.

### A. Allocation of Funds

#### 1. In-state Formula

- a. AAESA supports:
  - (1) the Senate-passed in-state funding formula;
  - (2) the Senate's fixed funding of 25% for vocational education in-state formula; and
  - (3) using the current Perkins formula to distribute funds within states.

#### 2. Special Populations

- a. AAESA supports:
  - (1) the House provisions clarifying the rules about serving special populations

#### 3. Definition of an ESA

- a. AAESA supports:
  - (1) the Senate definition of ESAs, which matches the definition in the Improving America's Schools Act, IASA, and removes control over ESA funding from the state departments of education.

**4. Governance**

- a. AAESA supports:
  - (1) the Senate provisions directing funds to the SEA and then the LEA.
- b. AAESA recommends that conferees:
  - (1) fund adult education and programs for at-risk students from the pool of flexible funds that the governors control in both the House and Senate bills rather than from the funds for in-school programs.

**5. Minimum grants**

- a. AAESA supports the Senate provision that:
  - (1) retains the \$7,500 minimum grant.
- b. AAESA recommends that the conferees:
  - (1) raise the minimum local grant under Voc Ed to \$50,000. LEAs with grants below \$50,000 should join a consortia with education service agencies or other LEAs to form grants of at least \$50,000.

**6. Adult Education**

- a. AAESA supports:
  - (1) provisions in the Senate bill that provide funds for adult education from the governors' flex accounts.

**III. Vouchers**

- A. AAESA opposes:
  - 1. federal and state vouchers that permit public funds to be spent in private and religious schools.
- B. AAESA supports:
  - 1. open enrollment wherein students can attend any public school of their choice in the state.

**IV. School lunch**

- A. AAESA supports:
  - 1. retaining current law that provides a payment to schools for every meal served and provides free and reduced-cost meals for the poorest children.



**V. Block Grants**

A. AAESA opposes:

1. block grants generally, but if block grants are unavoidable then they must have a funding formula; and
2. using block grants to slash budgets.

**VI. Budget**

A. AAESA supports:

1. the President's FY 1996 budget for education.

B. AAESA is concerned about:

1. the \$70 billion difference between the education provisions in the President's plan to balance the budget and the education provisions of the Republican plan to balance the budget.

C. AAESA opposes:

1. the elimination of Title VI (formerly Chapter 2) funds in the continuing resolution of January 26, 1996, that is in effect until March 15, 1996. We worry that the elimination will be made permanent in the final FY 1996 appropriation for education.

**VII. CHILDREN'S RIGHTS ACT**

AAESA supports a proposal by AAESA President Glen Shaw to create a national incentive to fully fund children's services at the state and local level. The Children's Rights Act would require schools to report instances where basic services, such as housing, clothing, and nutrition, were not being met, much as schools now report child abuse and neglect. Where services are not available, schools would deliver the service and bill the responsible provider. Providers would be required to collaboratively establish a single point for reporting.