

33 Late

**AMENDMENT TO H.R. 1350, AS REPORTED
OFFERED BY MR. SHADEGG OF ARIZONA**

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In section 204 of the bill, strike "Section 614" and insert "(a) IN GENERAL.—Section 614".

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In section 204 of the bill, add at the end the following:

1 (b) FINDINGS; SENSE OF CONGRESS.—

2 (1) FINDINGS.—Congress finds the following:

3 (A) Certain of the categories of disability
4 that allow students to qualify for benefits under
5 the Individuals with Disabilities Education Act
6 have not been scientifically established and, as
7 a result, some children who do not have actual
8 learning disabilities are classified as having dis-
9 abilities under that Act.

10 (B) Nearly one in eight students is now la-
11 beled as disabled.

12 (C) Over one-half of those students are
13 classified as having learning and behavioral
14 challenges.

15 (D) Current definitions of disabilities in
16 the Code of Federal Regulations, particularly
17 the definition of "emotional disturbance", are
18 vague and ambiguous.



1 (E) The absence of reliable methods for
2 distinguishing children with a special learning
3 disability from children who have lower than ex-
4 pected achievement leads to over-identification
5 and misidentification of non-disabled students
6 as students with disabilities.

7 (F) The lack of consistently applied diag-
8 nostic criteria for specific learning disabilities
9 makes it possible to diagnose almost any low or
10 underachieving child as a student with a dis-
11 ability.

12 (G) The President's Commission on Excel-
13 lence in Special Education (PCESE) found in
14 its July 1, 2002, report, "A New Era: Revital-
15 izing Special Education for Children and their
16 Families", that many of the current methods of
17 identifying children with disabilities lack valid-
18 ity and, as a result, thousands of children are
19 misidentified every year, while many others are
20 not identified early enough or at all.

21 (H) The President's Commission also
22 found that emotional and behavioral difficulties
23 could be prevented through classroom-based ap-
24 proaches involving positive discipline and class-
25 room management.



1 (I) According to testimony from a March
2 13, 2003, hearing before the Subcommittee on
3 Education Reform of the Committee on Edu-
4 cation and the Workforce of the House of Rep-
5 resentatives, students are frequently referred to
6 special education because they are not suc-
7 ceeding in the general education setting, and
8 not because they are actually disabled.

9 (J) Students with controllable behavioral
10 problems are often classified as having learning
11 disabilities and therefore are not held respon-
12 sible for their own behavior.

13 (K) According to testimony by Secretary of
14 Education Rod Paige on October 4, 2001, be-
15 fore the Committee on Education and the
16 Workforce of the House of Representatives, our
17 educational system fails to teach many children
18 fundamental skills like reading, then inappro-
19 priately identifies some of them as having dis-
20 abilities, thus harming the educational future of
21 those children who are misidentified and reduc-
22 ing the resources available to serve children
23 with disabilities.

24 (2) SENSE OF CONGRESS.—It is the sense of
25 Congress that—



1 (A) students who have not been diagnosed
2 by a physician or other person certified by a
3 State health board as having a disability (as de-
4 fined under the Individuals with Disabilities
5 Education Act) should not be classified as chil-
6 dren with disabilities for purposes of receiving
7 services under that Act; and

8 (B) students with behavioral problems who
9 have not been diagnosed by a physician or other
10 person certified by a State health board as hav-
11 ing a disability should be subject to the regular
12 school disciplinary code.

