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PUBLIC LAW 94-142 AND ITS IMPLICATIONS

Mervin D. Garretson

The thrust of Public Law 94-142, the Education for All Handicapped Children Act of 1975, emerges from three basic requirements:

1) By September 1978 all handicapped children shall receive a free, appropriate public education, including to the maximum extent appropriate, placement in a regular public school.

2) An individualized education program (IEP) shall be developed for each handicapped child, utilizing a variety of validated assessment procedures and instruments, by a team composed of a representative of the local education agency, the child's teacher or teachers, the parents or their surrogates, and when possible the child as well.

3) Full due process appeal procedures will be available to parents who disagree with the local education agency's identification, evaluation, or placement of their child, or who wish to challenge the appropriateness of the public education provided by the district.

This landmark legislation is rooted in the civil rights movement of the 1960's and the principles of social justice forcefully articulated by black leaders of those turbulent days. In turn came the Chicano movement, the battle of Wounded Knee, Title IX and ERA, right-to-education lawsuits by parents of handicapped children, and Section 504 of the Rehabilitation Act of 1973 ensuring equal opportunity for some 35,000,000 handicapped Americans.

Immediate forerunner to the sweeping pro-

visions of 94-142 was Public Law 93-380 assisting states to initiate and expand educational programs for the handicapped with heavy emphasis on the "mainstream" concept. As a result, when President Ford signed 94-142, a number of states already had parallel legislation and were in the process of shifting toward increased emphasis on regular public school placement for handicapped children. All the same, the new law with its stringent regulations about the IEP, due process, and other matters has had national impact and has created repercussions in every educational sphere of the country as well as abroad.

What are the implications of this law? At this stage reactions have been mixed—some positive, some negative. Feedback has come from regular and special education circles—teachers and resource people—from parents, the taxpaying public, handicapped adult groups, and from the children themselves, both handicapped and otherwise. The law is comprehensive, blanketing, complex, and ambiguous, particularly with regard to most appropriate placement vis-a-vis least restrictive environment. From my own perspective, a major problem is the misinterpretation of mainstreaming as an end in itself rather than as one of the means toward an appropriate education.

Recognizing a need to gather first-hand information on implementation of the law, the National Education Association (NEA) last summer established an inquiry panel of ten people to conduct a study of the issues, concerns, problems, and realities of what was taking place across the country. With staff

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support from the NEA Human Rights Division, three and four day visitations were arranged in Des Moines, Iowa; Savannah, Georgia, and Santa Maria, California. During the February meeting of the panel to review the summary report in Washington, D.C., an informal visit was also made to Pre-College Programs at Gallaudet. It may be helpful to identify the representative composition of the panelists:

PANELIST	REPRESENTING
Classroom teacher, Louisville, Kentucky	NEA Committee on Teacher Rights
Special education teacher, Clinton, Maryland	NEA Committee on Instruction and Profes- sional Development
High school principal, New Rochelle, N.Y.	National Association of School Principals
Educator of the deaf, Washington, D.C.	National Association of the Deaf
Executive director, Reston, Virginia	Council for Exceptional Children
Parent of an orthopedi- cally handicapped child, Barrington, Ill.	Advocates for the Handicapped (parent group)
Elementary school principal, Jackson, Mississippi	NEA Committee on Human Relations
Kindergarten teacher, Ottawa, Kansas	NEA Committee on Instruction and Pro- fessional Development
Special education school principal, Wilmington, Del.	National Association of Elementary School Principals
Parent of development- ally disabled child, Visalia, Calif.	Council de Padres (Chicano parent organization)
Three staff members from the NEA Human Rights Division	

The charge to the panel was threefold: 1) to study the actual experience of school districts in carrying out the provisions of state or local laws related to 94-142; 2) to analyze what appears to be working and what clearly may not be workable, and 3) to provide, for a national audience, information and practical examples of the benefits and limitations of mainstreaming. Hopefully the final report, which is now being published, will share some insights and recommendations on the vast complexities of this omnibus approach to the education of handicapped children, the difficulties encountered, and of the pitfalls to be avoided for

both handicapped and non-handicapped children.

Site visits were made during October, November, and December, 1977. Interviews were held with teachers, administrators, rehabilitation and support personnel, school board members, representatives of community groups, parents, handicapped and non-handicapped students, legislators, local and state education officials, and college and university professors of special education. In addition to receiving testimony, panel members took rides on pre-dawn school bus routes and observed in a wide range of educational settings. At least 43 school sites were visited and over 300 people testified at the hearings.

The findings: While the study was conducted within the context of all handicapping conditions, including the educably and trainably retarded, learning disabled, emotionally disturbed, orthopedically handicapped, autistic, visually-impaired, and others, it was natural that a great deal of my own interest and concern focused on situations involving deaf and hard-of-hearing children. However, many of the problem areas and needs were generally applicable to everyone, the teaching and the taught. The following shared impressions, while generally consistent with those of other panelists, do not necessarily reflect the overall observations of the panel itself. In other words, whatever bias may be present, must be my own.

Identification, testing and assessment. It was my feeling that improper or discriminatory testing was going on, which had implications for diagnosis, labeling, and placement. Part of this certainly may be ascribed to naivete and a tendency to generalize over the range of differing disabilities. There was also a lack of understanding of, and making allowance for, cultural background and language, particularly among the Blacks, Chicanos, and deaf children. So for many children the tests became self-fulfilling prophecies rather than predictors of achievement. Another problem was the lack of training, knowledge, and experience on the part of the evaluators.

The Individualized Education Program. To be sure, inaccurate testing tended to have a sort of domino effect on a proper IEP blueprint,

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particularly if it was developed on a base of misinformation. But the most consistent protest about the IEP was the amount of time and paperwork involved. We received statements like "Papers don't help kids—people help kids," "We are too busy being secretaries and recorders to teach," "absolutely no time to teach," and the like.

A number of parents complained that they had not been involved in the IEP conference; a few had never seen or even heard of an IEP. Practically none of the handicapped students we talked with had participated in their own IEP development. On the other hand, school personnel recounted difficulties in getting parents to participate—generally both parents work—frequently teachers and other personnel had to return to school at night or arrange to meet on Saturdays to complete the IEP interviews.

A positive point of view was that the IEP at least ensures that planning is taking place and that objectives are identified and developed for each handicapped child. It was even indicated that this should be the rule for all children, not just the handicapped. Provided, of course, that the traditional school structure is changed, and staff time becomes available.

In-service training is woefully inadequate throughout the country and implies a great negative for mainstreaming, particularly for deaf children from schools or classes with teachers specialized at the M.A. level in this area.

Transportation was another obvious problem with some children bussed three or four hours a day to a program which ostensibly met their needs. Most buses were without monitors or aides, a real problem with emotionally disturbed, orthopedically handicapped, and others. Bus drivers had difficulty communicating with deaf and Mexican-American children.

Class size, placement. Frequently, instead of reducing class sizes with the addition of a handicapped student or students, the classes just grew larger. Some teachers had as many as 38 children and were unprepared for the special attention or curriculum required for the handicapped student. One teacher estimated she devoted something like 50 percent of her

total time to a mainstreamed child, with the other half distributed among the remaining 30 non-handicapped students, each presumably receiving quantitatively speaking, 1/30th of 50% of the teacher's time or 1/60th of a teaching day.

Cost factors. Costs of special schools (day and residential) and special programs within public schools varied from state to state and from program to program, and also according to the type of delivery system. In some instances, single student cost for mainstreaming, including transportation and support services, was equal to or greater than that for a student in a day or residential program. Among cost factors were:

1. teachers and staff
2. support services
3. transportation
4. building space, facilities
5. special equipment, supplies
6. architectural modifications, including telecommunication devices, interpreters, etc.
7. per pupil ratio
8. in-service training
9. IEP costs
10. use of weighted costs

Frequently we found handicapped students placed in self-contained classrooms recently converted from storage rooms or other space, what we term "broom closets," and in temporary buildings jerry-built onto the campus. I was not aware of any attempt to look at measurable outcomes or to determine the cost-effectiveness of each delivery system in terms of actual benefit to the handicapped child.

Other observations I would make, in passing, include:

- the tendency to refer increasing numbers of misbehaving or disorderly students as "emotionally disturbed" or "learning disabled;"
- the inexperience of many teachers who had only minimal certification to teach regular kids;
- the trend toward self-contained classrooms as the optimal approach toward mainstreaming;
- lack of teacher satisfaction, morale, and

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- commitment;
- marked inequity and unevenness in level and accessibility of services, including gaps in critical types of support, time lag in placement, and identification of needed services;
- insufficient resources, both human and technological for an appropriate program;
- lack of expert consultancy from educators knowledgeable about a specific disability; no in-depth perception and awareness of the reality of the handicap;
- inadequate planning, control, supervision, and follow-up; fragmented and uncoordinated system not always able to respond to student's actual needs;
- lack of uniform terminology, proliferation of labels which differ from area to area;
- practically no affirmative action efforts to recruit teachers or personnel who are themselves handicapped—one of the requirements of P.L. 94-142;
- in short, a great deal of surface integration, tokenism or lip-service to the apparent emphasis of the law on least restrictive alternative.

All of this is not to say that nothing positive was taking place. Practically everyone who appeared before the panel and whom we encountered on site visits would preface their remarks with statements of support and agreement with the intent of P.L. 94-142. Hope was expressed that eventually a standard, streamlined IEP *modus operandi* would be developed, and that eventually amendments might be made to the law itself which would facilitate the entire process of providing equal education rights for the handicapped.

Handicapped children are receiving a great deal more attention as are their parents. More children are being identified who previously went without needed special attention and care from the school system. Increased awareness and acceptance of handicapped children and adults is becoming the order of the day. Old hang-ups and stigmas are slowly disappearing. Parent involvement in the school system is on the increase. More children and teachers are learning and using sign language.

But then again here and there a lone individual challenged positive and glowing reports that mainstreaming was working. P.L. 94-142 has become like God and motherhood and people dare not criticize or appear negative.

It is a complex and multi-faceted picture that we are receiving and I believe it to be particularly deceptive where deaf children are concerned. Their overall communication needs are still not being fulfilled in the mainstream. Most public school curricula is inappropriate for the vast majority of our deaf children. Their social needs are either unperceived or glossed over. It is extremely difficult for people to internalize the full meaning of the communication void that surrounds each deaf child during his waking day unless he is constantly exposed to clear, visual communication and meaningful social exchange.

We must continue to educate parents, local and state education personnel, and others that for the deaf child it is extremely crucial that the most appropriate placement is far, far more important than simply dropping them in the mainstream of public school education.