

Improving Educational Opportunities in America: The Education for All Handicapped Children Act

By Rachel Sweeney

In America, education and success are positively correlated. For example, individuals who are highly educated are generally less likely to be unemployed than are those with less education.¹ Yet, in a country that so highly extols the virtues of education, handicapped children were generally denied its benefits for decades.

This paper intends to review the changing educational climate for handicapped children across the United States during the mid to late 20th century, discuss the major factors affecting the movement for educational reform, and explore the implications for the future of special education, while also considering some of the ways that one state [Kansas] used to navigate these changes.

Historically, children with disabilities were viewed as incapable of learning in the same manner as their peers. These children were often referred to as feeble-minded, mentally deficient, or even as idiots.² As the Civil Rights Movement erupted in the United States during the mid-twentieth century, advocates for the rights of disabled persons also began to emerge. Their efforts prompted states to develop policies for the education of handicapped children.

Variation Across States

Prior to 1975, education for special needs children was left up to individual states to fund and organize. There were significant disparities among the states in the levels of funding that were made available for programs, as well as how special education was carried out. Some states were quite progressive in their efforts, while others offered few educational opportunities, despite mounting research about the benefits of providing

handicapped children with quality education. One in eight handicapped children received no education whatsoever.³ These discrepancies often were very large. Some states, such as New Jersey, were very progressive in their treatment and education of handicapped children,⁴ while others were reluctant to provide any services.

The approach to education of special needs children and the funding available in Kansas lay somewhere in middle. The pattern was set in 1949 when the Kansas Legislature created the Division of Special Education as part of the state's Department of Education. However, at that time the law still did not require that handicapped children be provided education.⁵ Fifteen years later, the Legislature adopted Kansas Statute 72-933 to require school districts to provide educational services for most handicapped children by 1974.⁶

At the national level, it must be noted some school districts used the issues associated with special education as means to perpetuate racial segregation. For instance, in 1971, African American children composed only 9 percent of California's school children, but 27 percent of children who were labeled "mildly retarded" within the state. Schools often perpetuated racial segregation by labeling children of color as handicapped more frequently than they did white children.³

This focus on racial inequality contributed to the variation in special education services across the country. The failure of many states to provide handicapped children with appropriate educational opportunities and services demonstrated the need for new public policy by the federal government.

Influence of Research

Research in this field had a direct impact on the development of public policy during the 1960s and 1970s across the country. In Kansas, for example, the State Board of Education issued a “right to education” policy statement on July 6, 1972, the tenets of which were based on a three-year study that had gathered the opinions of Kansas citizens, professionals, students, parents, and local school board members. A majority of those questioned showed great concern that all children in Kansas have equal access to education. The state embraced those concerns and adopted a policy ensuring the rights of handicapped children to free public education appropriate to their needs.⁷

Moreover, the University of Kansas was at the center of research that spurred the disability rights movement across the nation. Notably, the work of Richard Schiefelbusch and his colleagues helped demonstrate the often profound benefits of providing education to handicapped children. According to Schiefelbusch, for example, development of language skills in handicapped children is vital. He demonstrated that handicapped children *could* understand and exchange ideas through language, despite physical and cognitive barriers. He and his contemporaries asserted that “...special education must develop a better methodology for educating exceptional children and that this methodology will depend more upon the skillful arrangement of his environment to produce learning than upon preoccupation with his disability.”⁸

Pivotal Court Cases

There were three key legal opinions that affected the disability rights movement. The landmark case *Brown v. Board of Education of Topeka, Kansas* deemed “separate but equal facilities” [for black and white students] inherently unequal, and called for an end to racial segregation in public schools to promote equal access to education for

children regardless of race. Using *Brown v. Board* as a model, disability rights proponents began advocating for equal educational opportunities for handicapped children.

In 1972, the Pennsylvania Association for Retarded Children (PARC) filed a class action suit against the state of Pennsylvania for allegedly excluding mentally retarded children from the public schools. The plaintiffs' invoked the Fourteenth Amendment as the basis for their suit, asserting the right to equal protection under the law for the children. They did not challenge the separation of handicapped children into special education classes, but rather "... whether the state, having undertaken to provide public education to some children (perhaps all children) may deny it to plaintiffs entirely."⁹ They argued that excluding these children from the public schools was a violation of the Fourteenth Amendment, which created "...serious doubts (and hence a colorable claim) as to the existence of a rational basis for such exclusions."⁹ The court ruled in favor of the plaintiffs. Public schools in Pennsylvania were ordered not to exclude mentally retarded children.

A similar case, *Mills v. Board of Education of the District of Columbia*, also occurred in 1972. This civil suit was brought on behalf of seven children seeking a declaration of rights, and to prohibit the Board of Education from excluding them from the public schools and/or denying them publicly supported education. The plaintiffs sought to compel the defendants to provide these children with "immediate and adequate education"⁹ and public school facilities or alternative placement. The plaintiffs claimed that these students could benefit from being educated in a regular public school classroom, but that they were being denied access and given no "provision for alternative

educational placement or periodic review”⁹ because they had been labeled as behavioral problems, mentally retarded, emotionally disturbed, or hyperactive. The court ruled:

“...[t]hat no child eligible for a publicly supported education in the District of Columbia public schools shall be excluded from a regular public school assignment by a Rule, policy, or practice of the Board of Education of the District of Columbia or its agents unless such child is provided (a) adequate alternative educational services suited to the child's needs, which may include special education or tuition grants, and (b) a constitutionally adequate prior hearing and periodic review of the child's status, progress, and the adequacy of any educational alternative.”⁹

The case also set a precedent that education and educational services must be based on children’s needs, as opposed to the school’s financial abilities to provide education and services. The Mills case expanded on the principles established in the PARC case to apply them to all handicapped children.

Why did it take nearly twenty years between the Warren court’s decision in the *Brown* case and the passage of legislation guaranteeing handicapped children the right to education? The answer may lie in the conditions of American society at the time. This was an era in America in which the courts appeared more progressive than large segments of the public. While scholars and many policy makers often walked hand-in-hand on the subject of educating handicapped children, many everyday Americans seemed removed from the issues. Some adhered to historically prevalent and inaccurate beliefs about disabled children, especially the idea that these children were incapable of any learning. Others fell back, as noted, to use “special education” to perpetuate racial segregation. As a consequence, nearly twenty years passed before the U.S. Congress began to press for the handicapped child’s right to access to public education.

Breakthrough Federal Legislation

But by the early 1970s, America's educational system was on the brink of change. Research outcomes, the evolution of policy in many states, and the emergence of disability rights advocates worked to change attitudes on Capitol Hill in large numbers. For example, Governor William T. Cahill of New Jersey summed up the country's changing mindset toward educating handicapped children in a 1973 statement he made before the Senate Subcommittee on the Handicapped:

"The objective of all our efforts is to provide for each child an opportunity to fulfill his or her own individual capacity to learn. If you examine the extent and scope of the provisions for education and services for handicapped children on a National basis it is evident that there is much diversity from state to state. You would find an abundance of limited or no service, a major number of makeshift and poor quality programs and services, and a major shortage of quality personnel. All too infrequently you find a program which satisfies the educational needs of the handicapped child, the emotional needs and aspirations of the parents and the rigorous desires of the professionals to provide the full measure of opportunity for the children they serve."¹⁰

The product of this period of activity was that on November 29, 1975, President Gerald R. Ford signed the Education for All Handicapped Children Act into law. The act had four main goals: "to insure that all handicapped children have available to them... a **free appropriate public education**, to insure that the **rights of handicapped children and their parents or guardian are protected**, to **relieve the fiscal burden placed upon the State and localities** when they provide for the education of all handicapped children, and to **assess the effectiveness of efforts** to educate handicapped children."⁴ The EAHCA was to take full effect in September 1978.

The act called for Federal funds to be allocated to eligible states in order to "initiate, expand, and improve educational services for handicapped children in conformance with a State plan."⁴ These funds were intended to supplement local funds, not replace them. In order to be eligible to receive funds, states were required to have in

place a policy guaranteeing all handicapped children the right to a free and appropriate public education, to have plans for carrying out this education, including a timetable, personnel, and facilities, and to have made sufficient progress toward meeting this timetable.

Every effort was to be made to educate handicapped children with children who are not handicapped. This “least restrictive environment” concept stemmed from research on the beneficial impacts of integrating handicapped children into “regular” classrooms—benefits for both the handicapped and non-handicapped child.

Schools were required to maintain an individualized written program for each child, which was to be reviewed and amended annually, as well as to provide means to identify handicapped children that were not racially or culturally discriminatory. Each state was also to establish an advisory committee. The state educational agency was assigned responsibility to identify all handicapped children and compose a list of agencies responsible for their education. The commissioner of education from each state was also required to submit annual progress reports to Congress on the implementation of the Act.⁴

A Lasting Impact

The EAHCA represented a turning point in American education. It improved the lives of children across the country and represented a turning point in American history. In many ways the law created a cultural response that said that handicapped children deserve equal educational opportunities. It also capitalized on the ethical perspective of “wrongness” that accompanies the very idea of excluding a child from an education.

The government now saw handicapped children as capable and valuable contributors to American society. Providing them with equal access to education and special programming was seen to be a key to their ability to lead successful, productive lives. For instance, in Kansas in 1978, approximately \$17,101,000 was allocated to 3,255 special education programs. In just a few years the types of programs expanded greatly to include students with learning disabilities, impaired hearing and/or vision, students with multiple disabilities, and even gifted students, such that by 1980 approximately \$32,445,000 was allocated to 3,956 special education programs.⁶

Several changes have been made to the EAHCA since 1975. Most recently, in 1990, the EAHCA was renamed the Individuals with Disabilities Education Act (IDEA). The IDEA was reauthorized in 1997 with two new requirements: that the language needs of the disabled child be considered, and that a state cannot have a funding formula that is a disincentive to integration of disabled children into regular classrooms.¹¹ Today, the original act has also been expanded to include younger children as well as to address issues when these children as they leave the public school system.

Enforcement Issues

Since its creation, the EAHCA has faced barriers to implementation and enforcement. In many states, schools simply did not have adequate or appropriate services, especially not for severely or multiply disabled children. For instance in 1978, Shawnee Mission was the only school district in Kansas to offer services for severely retarded children.¹²

Numerous schools continued to segregate handicapped and non-handicapped children, and further classified and separated children into categories based on their

disability. Among other reasons for this: states could receive more funding for a child in a special education class than they could for a handicapped child being educated in a regular classroom.¹¹

Variation still existed among the states regarding how special education was to be carried out. According to one account, “Some courts [in the 1980s], determined that placing children with disabilities in segregated ‘handicapped only’ schools satisfied the legal requirements; others demonstrated a strong preference for integration and mainstreaming.”¹¹ Despite issues surrounding implementation and enforcement, the courts nearly always upheld the principle that handicapped children had the right to free public education in the least restrictive environment.

Educating Handicapped Children Today

Much must still be accomplished for equal educational access to become reality. Notably, there exists a shortage of highly qualified teachers. Many public schools employ para-professionals and psychologists, but often lack certified special educators. Too, a great deal of segregation still exists within many school districts between handicapped children and other students, even as research has shown that handicapped and non-handicapped children both benefit from being educated together. For example, handicapped children benefit from increased opportunities for socialization and many also find role models among their peers. Non-handicapped students benefit from interacting with students different from themselves; they become better equipped to live among a diverse spectrum of people when they reach adulthood.

For many school districts, special education may have become “routine”, with undue emphasis placed on administrative activities, such as heavy paperwork, as opposed

to focusing attention on each child as an individual. Some educational reformers express reservations about the predominant influence of experts in the field, including psychologists, social workers, and physicians, in educating handicapped children, which they believe may devalue the role of parents.

A disproportionate representation of minority students in special education programs still exists. Despite reforms made to the act in 1997, it is the case that at times minority students, especially those who do not speak English, are placed in special education programs solely as a result of language barriers. *What More Can Be Done?*

Today, the law requires that handicapped children be provided with education and services. However, much research can be (and is currently being) done to suggest how best to adapt special education to fit each child's individual needs. For example, educators and policy makers need support to develop means of tailoring special education to fit each child, rather than erecting a treatment canopy for children with different categories of disability.

Reasons behind the prevalence of minority student placement in special education are worth examining. Are some minority students actually more prone to disability? Or is special education being used as a tool to promote racial segregation? If the former, research should be done as to why and how to handle this phenomenon.

Conclusion

In many ways, the EAHCA (now IDEA) brought about dramatic increases in educational opportunities for handicapped children across America. In the course of only a few years, and owing much to the work of influential researchers and policy makers, providing handicapped children with public education went from being limited and

scattershot, to being a socially accepted norm. This is not to say however, that the struggle for educational equality for handicapped children is over. Any family member or friend of a disabled child is aware of the struggles he or she encounters daily with education. The fight for handicapped children's right to quality public education must continue for educational opportunities to ever be truly equal in America.

Notes:

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