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The Individuals with Disabilities Education Act: Congressional Intent

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THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT: CONGRESSIONAL INTENT

SUMMARY

The Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §§ 1400 *et seq.*, mandates the provision of a free appropriate public education for children with disabilities and provides for Federal funding to assist States and localities in meeting this goal. IDEA is currently up for reauthorization although it may be subject to a one year extension. When IDEA is reauthorized, Congress may consider amendments to the act. In light of the reauthorization issues, questions have arisen concerning the original intent of Congress in enacting the legislation. This report will examine the legislative history of P.L. 94-142 to determine the rationale for its enactment.

An examination of the legislative history of the original act indicates that there were four main reasons advanced for its enactment. These reasons were (1) an increased awareness of the needs of children with disabilities, (2) judicial decisions that found constitutional requirements for the education of children with disabilities, (3) the inability of states and localities to fund education for children with disabilities, and (4) the theory that educating children with disabilities will result in these children becoming more productive members of society and thus lessening the burden on taxpayers to support nonproductive persons.

TABLE OF CONTENTS

| | |
|--|----------|
| INTRODUCTION | 1 |
| INCREASED AWARENESS OF THE EDUCATIONAL NEED OF CHILDREN WITH DISABILITIES | 2 |
| JUDICIAL DECISIONS FINDING CONSTITUTIONAL REQUIREMENT FOR THE EDUCATION OF CHILDREN WITH DISABILITIES | 3 |
| INABILITY OF STATES AND LOCALITIES TO FUND EDUCATION FOR CHILDREN WITH DISABILITIES | 5 |
| LONG TERM BENEFITS OF EDUCATING CHILDREN WITH DISABILITIES | 7 |
| CONCLUSION | 8 |

THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT: CONGRESSIONAL INTENT

INTRODUCTION

The Individuals with Disabilities Education Act (IDEA),¹ 20 U.S.C. §§ 1400 *et seq.*, mandates the provision of a free appropriate public education for children with disabilities and provides for Federal funding to assist States and localities in meeting this goal.² IDEA is currently up for reauthorization although it may be subject to a one year extension.³ When IDEA is reauthorized, Congress may consider amendments to the act.⁴ In light of the reauthorization issues, questions have arisen concerning the original intent of Congress in enacting the legislation. This report will examine the legislative history of P.L. 94-142 to determine the rationale for its enactment.

An examination of the legislative history of the original act⁵ indicates that there were four main reasons advanced for its enactment. These reasons were (1) an increased awareness of the needs of children with disabilities, (2) judicial decisions that found constitutional requirements for the education of children with disabilities, (3) the inability of states and localities to fund education for

¹ This act was formerly referred to as the Education for All Handicapped Children Act. The name was changed by P.L. 101-476. This public law also substituted the phrase "children with disabilities" for the phrase "handicapped children" throughout the statute.

² As was stated in the act, its purpose was "to assure that all children with disabilities have available to them....free appropriate public education which emphasizes special education and related services designed to meet their unique needs, to assure that the rights of children with disabilities and their parents or guardians are protected, to assist States and localities to provide for the education of all children with disabilities, and to assess and assure the effectiveness of efforts to educate children with disabilities." 20 U.S.C. § 1400(c).

³ See "Subcommittee Plans to Extend IDEA Provisions for One Year," 18 Rep. on Disability Programs 45 (March 16, 1995).

⁴ Various issues have arisen concerning IDEA. For a discussion of these see Aleman, Steven, "Special Education: Issues in the State Grant Program of the Individuals with Disabilities Education Act," CRS Rep. No. 95-438 EPW (March 20, 1995); Jones, Nancy, "The Individuals with Disabilities Education Act (IDEA): Legal Issues Surrounding the Least Restrictive Environment," CRS Rep. No. 95-286 A (Feb. 13, 1995); Jones, Nancy, "Violence in Schools and the Individuals with Disabilities Education Act," CRS Rep. No. 95-107 A (Jan. 3, 1995).

⁵ The House and Senate Reports, the House and Senate Conference Reports and the House and Senate debates were examined. H.Rep. No. 332, 94th Cong., 1st Sess. (1975); S.Rep. No. 168, 94th Cong., 1st Sess. (1975), reprinted in [1975] U.S.Code Cong. & Ad. News 1425; H.Conf. Rep. No. 664, 94th Cong., 1st Sess. (1975); S. Conf. Rep. No. 455, 94th Cong., 1st Sess. (1975), reprinted in [1975] U.S.Code Cong. & Ad. News 1480 (1975); 121 Cong. Rec. 19482 *et seq.* (1975); 121 Cong. Rec. 23701 *et seq.* (1975); and 121 Cong. Rec. 25534 *et seq.*

children with disabilities, and (4) the theory that educating children with disabilities will result in these children becoming more productive members of society and thus lessening the burden on taxpayers to support nonproductive persons.

INCREASED AWARENESS OF THE EDUCATIONAL NEED OF CHILDREN WITH DISABILITIES

The legislative history of P.L. 94-142 emphasized the increased congressional awareness of the need to educate children with disabilities. For example, the Senate report stated: "(i)ncreased awareness of the educational needs of handicapped children and landmark court decisions establishing the right to education for handicapped children pointed to the necessity of an expanded Federal fiscal role."⁶ More specifically, both the House and Senate reports noted that statistics provided by the Bureau for the Education of the Handicapped in the then Department of Health, Education and Welfare indicated that of the more than eight million children with disabilities in the country, "only 3.9 million such children are receiving an appropriate education and 1.75 million handicapped children are receiving no educational services at all, and 2.5 million handicapped children are receiving an inappropriate education."⁷

The congressional debate on P.L. 94-142 also discussed the statistics relating to the provision of education for children with disabilities. It was stated in the House debate that "the need for a strong measure like the Education for all Handicapped Children Act of 1975 is made evident by ... (these) grim and depressing fact."⁸ The statistics concerning the education of children with disabilities were discussed in detail in the Senate debates where a table indicating the estimated number of children with disabilities served and unserved by type of disability was inserted.⁹ In addition, a report on the status of state education programs for children with disabilities in a state-by-state format was included.¹⁰

The Senate report discussed the philosophical concept behind a right to education for children with disabilities. The report stated:

⁶ S. Rep. No. 168, 94th Cong., 1st Sess., reprinted in [1975] U.S.Code Cong. & Ad. News 1425, 1429.

⁷ H. Rep. No. 332, 94th Cong., 1st Sess. 11 (1975). See also S. Rep. 168, 94th Cong., 1st Sess., reprinted in [1975] U.S. Code Cong. & Ad. News 1425, 1432.

⁸ 121 Cong. Rec. 25537 (1975) (Remarks of Rep. Ford).

⁹ 121 Cong. Rec. 19487 (1975).

¹⁰ *Id.* at 19487-19492.

This Nation has long embraced a philosophy that the right to a free appropriate public education is basic to equal opportunity and is vital to secure the future and prosperity of our people. It is contradictory to that philosophy when that right is not assured equally to all groups of people within the Nation. Certainly the failure to provide a right to education to handicapped children cannot be allowed to continue.¹¹

JUDICIAL DECISIONS FINDING CONSTITUTIONAL REQUIREMENT FOR THE EDUCATION OF CHILDREN WITH DISABILITIES

The legislative history of P.L. 94-142 indicates in numerous places that the act was a response to lower court decisions, notably *PARC v. State of Pennsylvania*, 343 F.Supp. 279 (E.D. Pa. 1972), and *Mills v. Board of Education of the District of Columbia*, 348 F.Supp. 866 (D.D.C. 1972). For example, the Senate report stated that the legislation as originally introduced "...followed a series of landmark cases establishing in law the right to education for all handicapped children."¹²

PARC was a class action suit by a state association and parents of certain children with mental disabilities. The suit alleged that the state statutes which excluded these children from education in the public schools were unconstitutional but was settled when the parties joined in a joint consent decree. The decree stated in part that all these children must have access to a free public program of education, each of these children must receive education and training appropriate to his or her capacity and, if possible, receive instruction in a class with children who are not disabled. While it was not required to comment on the constitutional issues, the *PARC* court did address the equal protection claim, noting that the court "was satisfied that the plaintiffs have established a colorable constitutional claim...." At 282. This language provided support for later cases.

One of those later cases was *Mills v. Board of Education, supra*. *Mills* was an action brought on behalf of seven school age children who had been excluded from the District of Columbia public school system after being labeled as behavioral problems, mentally retarded, emotionally disturbed, or hyperactive. These children had received no hearings or review of the decision to exclude. The court in *Mills* held that this denial of an education violated certain statutes and regulations and was a denial of constitutional due process. In addition, the court found that it was a denial of due process to suspend or expel a child without a prior hearing. The court also discussed the defendant's contention

¹¹ S.Rep. No. 168, 94th Cong., 1st Sess., reprinted in [1975] U.S. Code Cong. & Ad. News 1425, 1433.

¹² S.Rep. No. 168, 94th Cong., 1st Sess., reprinted in [1975] U.S. Code Cong. & Ad. News 1425, 1430.

that the relief requested was not financially feasible and made the following comment.

The defendants are required by the Constitution of the United States, the District of Columbia Code, and their own regulations to provide a publicly supported education for these "exceptional" children. Their failure to fulfill this clear duty to include and retain these children in the public school system or otherwise provide them with publicly-supported education and their failure to afford them due process hearings and periodical review, cannot be excused by the claim that there are insufficient funds. At 876.¹³

To the extent that current funding could not finance all the required services and programs, the court found that the funds "must be expended equitably in such a manner that no child is entirely excluded from a publicly supported education consistent with his needs and ability to benefit therefrom." *Id.*

The House Report noted that since the decisions in *PARC* and *Mills*, "there have been 46 cases which are completed or still pending in 28 States."¹⁴ These decisions were described as "a nationwide movement in both State and Federal courts to establish that all handicapped children have a constitutional right to a public education."¹⁵ The legislative history of P.L. 94-142 also indicated that parents should not be forced to rely upon time-consuming judicial action to obtain a public education for their children with disabilities. The Senate report specifically stated:

It is this Committee's belief that the Congress must take a more active role under its responsibility for equal protection of the laws to guarantee that handicapped children are provided equal educational opportunity. It can no longer be the policy of the Government to merely establish an unenforceable goal requiring all children to be in school. S. 6 takes positive necessary steps to

¹³ For a more detailed discussion of *PARC* and *Mills* and the constitutional issues they present see Tucker and Goldstein, *Legal Rights of Persons with Disabilities: An Analysis of Federal Law 2:7 - 2:12* (1992). See also *Board of Education of the Hendrick Hudson Center School District v. Rowley*, 458 U.S. 176 (1982), where the Supreme Court noted the importance attached to *PARC* and *Mills* and found that the principles they established were the principles that guided the drafters of the legislation.

¹⁴ H.Rep.No. 332, 94th Cong., 1st Sess. 3 (1975).

¹⁵ *Id.* at 10.

ensure that the rights of children and their families are protected.¹⁶

INABILITY OF STATES AND LOCALITIES TO FUND EDUCATION FOR CHILDREN WITH DISABILITIES

Another reason advanced for the enactment of P.L. 94-142 was the inability of states and localities to fund education for children with disabilities. In the Senate report it was observed that states had made an effort to comply with the judicial decisions mandating a right to education but that "lack of financial resources have prevented the implementation of the various decisions which have been rendered."¹⁷ The Senate report further noted that this was true despite the fact that courts had stated that the lack of funding may not be used as an excuse for failing to provide educational services.¹⁸

The debates on P.L. 94-142 also discussed the inability of the States to fund education for children with disabilities. In the Senate debate it was observed that the enactment of P.L. 94-142 would "greatly change the Federal role in the education of handicapped children since historically the States have had the primary responsibility for education."¹⁹ In addition, it was noted that during the hearings on the legislation, "State representatives stressed that a strong supportive Federal role was necessary if States were to meet their responsibilities to handicapped children."²⁰ Similarly, in the House debate it was stated that State and local educational agencies have a responsibility to provide education but their financial resources were inadequate.²¹ The House debates also indicate that the Federal money was to be used for the excess cost of educating children with disabilities and "in no way would the Federal funds be used to supplant State and local funds unless every handicapped child within that State is receiving a free public education."²²

¹⁶ S.Rep. No. 168, 9th Cong., 1st Sess. (1975), reprinted in [1975] U.S. Code Cong. & Ad. News 1425, 1433. This language was echoed in the Senate debate during a discussion by Senator Williams, the chairman of the Committee considering the legislation. "It is time that Congress took strong and forceful action. It is time for Congress to assure equal protection of the laws and to provide to all handicapped children their right to education." 121 Cong. Rec. 19485 (1975)(remarks of Sen. Williams).

¹⁷ S.Rep.No. 168, 94th Cong., 1st Sess. (1975), reprinted in [1975] U.S. Code Cong. & Ad. News 1425, 1431.

¹⁸ *Id.* at 1432.

¹⁹ 121 Cong. Rec. 19498 (1975)(remarks of Sen. Dole).

²⁰ 121 Cong. Rec. 19482 (1975)(remarks of Sen. Randolph).

²¹ 121 Cong. Rec. 23702 (1975)(remarks of Rep. Madden).

²² 121 Cong.Rec. 23704 (1975)(statement of Rep. Brademas).

At several points during the House debate it was noted that an argument could be made that the fiscal burden of educating children with disabilities should remain where it has traditionally been -- that it, with the States and localities.²³ In support of this argument, it can be observed that the judicial decisions mandating education for children with disabilities did not place any requirement on the federal government. However, this argument was criticized in debate.

Some people feel very strongly....that the burden ought to be where the educational burdens have been in the past, that is with the local and State governments. Others, and I fall in this category, believe that, because of the extreme burden placed upon the real estate taxes of this country which have been used fundamentally to provide education and because of the financial straits in which our States find themselves, it is essential that we change our Federal priorities. New areas of education which must be funded, such as we have here, should be absorbed and taken up within the Federal priorities.²⁴

It was further observed that this issue goes to the basic philosophical dispute of who ought to bear the costs.

An appropriate education has been mandated by the courts. This is not some new program springing out of the imagination or the desires of Congress, starting as something completely new. This is something that is going to be required in educational systems; so regardless of who funds it, if we talk about inflation, of course, there is going to be an increase in expenditures. I would agree it might be more likely that on the State or local level that the budget would be balanced than on the Federal level, but there is no question somebody has to provide for this education.²⁵

²³ See e.g., 121 Cong.Rec. 23705 (1975); 121 Cong. Rec. 25535 (1975).

²⁴ 121 Cong.Rec. 23705 (1975) (remarks of Rep. Jeffords).

²⁵ *Id.*

LONG TERM BENEFITS OF EDUCATING CHILDREN WITH DISABILITIES

Practical rationales were also offered as support for the enactment of P.L. 94-142. Following a discussion of the statistics showing the number of children with disabilities who were not receiving an appropriate education, the Senate report discussed the practical implications of these facts.

The long range implications of these statistics are that public agencies and taxpayers will spend billions of dollars over the lifetimes of these individuals to maintain such persons as dependents and in a minimally acceptable lifestyle. With proper education services, many would be able to become productive citizens, contributing to society instead of being forced to remain burdens. Others, through such services, would increase their independence, thus reducing their dependence on society.²⁶

The Senate report also noted that providing educational services would help to decrease the number of persons in institutions. "One need only look at public institutions to find thousands of persons whose families are no longer able to care for them and who themselves have received no educational services. Billions of dollars are expended each year to maintain persons in these subhuman conditions."²⁷

The House report echoed this language and after a discussion of the statistics concerning the education of children with disabilities stated that these figures have long-range implications as well as the short-range implication of the denial of educational opportunity. "The long-range implications are that taxpayers will spend many billions of dollars over the lifetime of these handicapped individuals simply to maintain such persons as dependents on welfare and often in institutions."²⁸ This argument was made in the House debates on P.L. 94-142 as well. Representative Brademas, the Chairman of the Subcommittee on Select Education, stated:

It is a shameful exercise of the principles on which this country was conceived and developed that our educational system completely excluded 1.75 million of these handicapped children and provides inadequate educational opportunities to over half the total population of handicapped children. This

²⁶ S.Rep.No. 168, 94th Cong., 1st Sess. (1975), reprinted in [1975] U.S.Code Cong. & Ad. News 1425, 1433.

²⁷ *Id.*

²⁸ H.Rep.No. 332, 94th Cong., 1st Sess. 11 (1975).

is a waste of one of our most valuable resources, our young people and the potential they possess to become contributing and self-sufficient members of society.²⁹

Similarly, in the Senate debates, Senator Williams stated:

Failure to provide appropriate educational services for all handicapped children results in public agencies and taxpayers spending billions of dollars over the lifetime of these individuals to maintain them as dependents in minimally acceptable lifestyles. Yet, providing appropriate educational services now means that many of these individuals will be able to become a contributing part of our society, and they will not have to depend on subsistence payments from public funds. The time, I hope, has come when we look no longer upon persons with disabilities as charitable objects, unable to make significant contributions. Action on this legislation will establish a public policy which will break the chains of ignorance once and for all.³⁰

CONCLUSION

An examination of the legislative history of the Education for all Handicapped Children Act, P.L. 94-142, indicates that there were four main reasons advanced for its enactment. These reasons were (1) the increased awareness of the educational needs of children with disabilities, (2) the judicial decisions finding constitutional requirements for the education of children with disabilities, (3) the inability of states and localities to fund education for children with disabilities, and (4) the long-term benefits of educating children.

²⁹ 121 Cong.Rec. 23703 (1975)(remarks of Rep. Brademas). See also 121 Cong.Rec. 25538 (1975)(remarks of Rep. Ford).

³⁰ 121 Cong. Rec. 19492 (1975)(remarks of Sen. Williams).

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