



CASE STUDIES IN SPECIAL EDUCATION

A SOCIAL JUSTICE PERSPECTIVE

Tera Torres and Catherine R. Barber

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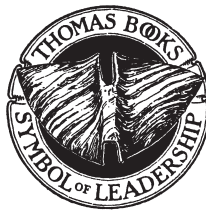
A Social Justice Perspective

Edited by

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To the hills upon which I have died a slow and painful death (and you likely do not even know who you are): This is my offering to you. May you continue to resonate within my soul as a powerful force to be reckoned with so that I may be an agent of change rather than a part of the machine.

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C. R. B.

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CASE STUDIES IN SPECIAL EDUCATION

INTRODUCTION

TERA TORRES, KATIE DECATUR, CORRIE STANISZEWSKI,
AND CATHERINE R. BARBER

From the early formation of the United States of America, children and adults with physical or mental impairments were considered to be of no benefit to society. In fact, these members of society were often barred from public places in general. A comprehensive historical review of the treatment of individuals with disabilities from the early 1600s to present (Neuhaus, Smith, & Burgdorf, 2014) indicated that there were residences set in place for those who were considered unable to contribute to the progression of society. Because there was no value placed on the lives of those living within these shelters, minimal effort was given to maintaining them. Abuse and neglect were common. Those with mental or physical impairments were afforded no civil rights and were often blamed for societal maladies such as poverty and crime.

Given this opinion of people with disabilities, it comes as no surprise that children with any type of disability were not included in the public education system. It was widely thought that physical or mental impairments would prevent a child from participating in any type of structured education. The public wanted to use as few resources as possible in caring for these devalued members of society. In the 1800s, this slowly started to change with a focus on the creation of at least some institutions for education of those with sensory disorders such as blindness or deafness. However, despite this sluggish movement forward, most children with disabilities still remained at home or in an institution, with only a small percentage of those children being educated privately if their parents had the means. However, by the mid-1900s, society was becoming more educated about physical and mental impairments, and social reform was taking place across the country.

Neuhaus and colleagues (2014) noted that as society changed its way of thinking, it worked to apply this change in a variety of ways to ensure fair treatment of individuals with disabilities, including within the educational realm.

One of the most important changes in the treatment of children with disabilities occurred when they were given the right to be educated by the public school system. Although states were initially encouraged to provide educational programs to children with disabilities through the passage of the Education of the Handicapped Act of 1970 (EHA; P.L. 91-230), this legislation was vague, and the interpretation of the law was left to the states (Martin, Martin, & Terman, 1996). However, current laws have specified that public education has the responsibility of ensuring equal opportunity within schools; that is, each child has the right to a free appropriate public education (FAPE) within the walls of any public school in America, and even access to some services provided at no cost if the child is participating in a private educational system. Yet the pursuit of equal opportunity for education regardless of ability is challenging, considering the wide range of mental and physical abilities that exist among children. The educational system needs to be able to accommodate a variety of individuals with a variety of needs, so special education continues to require refinement even today.

REVIEW OF EDUCATIONAL LEGISLATION

To grasp progression of the educational system and its current status, a review of relevant educational legislation is essential. The first major legislation aimed at improving success of students across the board was the Elementary and Secondary Education Act of 1965 (ESEA; P.L. 89-10), which emphasized that all students, regardless of socioeconomic status, should have equal opportunities and which began to set federal standards and accountability within public education. ESEA offered more equality with respect to educational opportunity for children who were economically disenfranchised and laid the framework for early special education laws. This Act marked the first time the federal government acknowledged an inequality in education. The Act was amended one year later and included two parts: (1) grant money was allocated to state education agencies for the creation of schools devoted to the education of children with special needs, and (2) Congress

established the Bureau of Education of the Handicapped and the National Advisory Council for the benefit of students with disabilities. In 1968, this Act was amended again and established programs that supplemented the improvement of special education services.

As noted above, the federal government encouraged states to provide educational programs to children with disabilities through the passage of the Education of the Handicapped Act of 1970 (EHA); at this time, learning disabilities were established as a disability category. The Rehabilitation Act of 1973 (P.L. 93-112) is a critical piece of legislation because it addresses discrimination against people with disabilities. Specifically, this law includes Section 504, which is still used in public education today. Section 504 provides protection to all persons with disabilities; federal law defines a person with a disability as any person who “(i) [has] a physical or mental impairment that substantially limits one or more major life activities of such individual; (ii) [has] a record of such an impairment’ or (iii) [is] regarded as having such an impairment. . .” (Americans with Disabilities Act of 1990, 42 U.S.C. § 12102).

In 1975, the Education for All Handicapped Children Act (P.L. 94-142) was passed. For the first time, reform for the education of children with disabilities was spelled out and required by law, a law that would guarantee that every child with special needs would have access to educational opportunity. The Education for All Handicapped Children Act of 1975 outlines the four main purposes of the law as follows:

1. to assure that all children with disabilities have available to them . . . a free appropriate public education which emphasizes special education and related services designed to meet their unique needs
 2. to assure that the rights of children with disabilities and their parents . . . are protected
 3. to assist States and localities to provide for the education of all children with disabilities
 4. to assess and assure the effectiveness of efforts to educate all children with disabilities.
- (EAHCA, 1975, Section 3a)

The Education for All Handicapped Children Act is a pivotal piece of legislation for special education. This legislation specified the need for a free appropriate public education (FAPE) for all children and protected the rights of children with disabilities and their parents. This act was also designed to assess the effectiveness of special education