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Point of View
The Power of Policy:
Premise and Product

By: William J. A. Marshall

This section provides a forum for exchange and reasonable ideas on all sides of an issue in the area of deafness. The opinions expressed in this article, and others that appear in Point of View, are those of the authors and should not be considered the position of ADARA.

Introduction

To discuss the power of policy is to know the policy of power. And the policy of power is this:

"First hold on to it; second, expand it."
(Machiavelli, 16th Century)

Educational leaders administering their positions of decision and educational policymakers wielding their positions of influence would do well to revisit the premises upon which their power is predicated. Why? Because their power defines the direction of our schools. Because their power affects the dedication of our teachers. And because their power frames the destiny of our students. Such power is played out in its pedestrian sense whenever *policymakers* give expression to the value system of community beliefs that they assume a given educational policy platform reflects; whenever *legislators* spell out the scope-and-scale of a policy in terms of the people to whom it will reach

out; whenever *educators* convince teachers and students to carry out the policy for the purpose of reforming some aspect of instruction and learning; and whenever *evaluators* from the research community tell all these players whether *what they assume to be happening* at the policy-directive level is **actually** happening at the classroom-and-beyond level. The four **P**'s of policy defined by Palmer, Redfern and Smith (1994) specify: 1. the philosophy of why the schools believe they must respect the individual needs of their students; 2. the principles of how the schools intend to put this philosophy into practice by involving teachers and parents; 3. the procedures by which the schools will achieve such intent through the reallocation of resources and the reassignment of responsibility; and, 4. the performance outcomes by which the effectiveness of these policy initiatives can be measured.

Policies are organic testaments of the creative community of forces that shaped them, whether locally or nationally. In the field of special education, the cross-hairs of every political gunsight are currently being aimed at the *place* wherein special school services are to be delivered. We will, in all likelihood, be living-out the remaining years of the last decade of this century in a veritable *Van de Graaff Generator* of change whose current flashes white hot between the forces for inclusion

within the mainstream and the forces for extruded placement within the sidestream. So heated is this emotional debate that Education Secretary Richard Riley (Hoff, 1995)–addressing the February 1995 convention of the American Association of School Administrators–pleaded:

"We need to lower our voices and listen to each other. Our rhetoric has been much too strident...much too condemning."

Nor has the debate been limited to America! Scores of nations are moving in the direction of including disabled learners into the regular classroom (Organization for Economic Cooperation and Development, 1995). OCED is a 21-member group of market-economy nations comprising North America, Western Europe, Japan, and the Southern Hemisphere. The report showcased Canada's New Brunswick province which–having replaced its two special education schools in the early '80s–developed public schools capable of providing an array of special support services for their regular classroom teachers having disability learners. Further examples abound from Iceland, Norway, and Italy. Nations identified, however, as relying most heavily on the continuation of special schools include Austria, Belgium, Germany, and the Netherlands. No mention is made of Israel and little is mentioned of the United States. Though the

OECD report acknowledges that the struggle being witnessed within the U.S. in trying to blend special education into regular education is most pronounced, it dismissed the problem out-of-hand as being no more than a case of insufficient awareness, inadequate training, and a skewed distribution of resources!

Policymakers and educators--though balancing the interests of the informed public against the accumulated evidence of validated processional practice--must begin leading from their moral center. They must temper their temptations of resorting to political expediency. While they must keep an ear-to-the-rail of public opinion, they must also resist the urge to jump onto bandwagons heralding the latest fad *du jour* of popularity and political-correctness. As Gerber (1994) so trenchantly observed:

> *"Rather than becoming a point of departure for sensitive and thoughtful leaders, the polls have become a point of no return that over- shadows the moral imperative for true leadership."*

The field of special education invites its leaders to come forth to listen and to interpret the sometimes incoherent messages that will ultimately be forged into policies; policies that will of necessity become greater than the sum of the collective consciousness that shaped them. This will come about only if our education decision-makers show a willingness to lead from the moral centers of their hearts and to administer from the dispassionate centers of their professional judgments. The issues, trends, and policy platforms raised in this paper may revive these hearts and galvanize these minds to action.

Coming to Terms with the Terms

"Does thought influence language or language influence thought?" (Vygotskii, 1962)

Equity/Excellence

Philosophical conundrums aside, thought and language are keys to changing people's perceptions. Take, for example, two of the more popular buzzwords of the *inclusion* and *educational reform* literature--**equity** and **excellence**. Federal policy platforms in the early *post-Sputnik* days of education reform espoused **equity of access** along with its more liberal-leaning companion terms of *accessibility, welfare, regulation, federal intervention* and *dissemination* as being the centerpieces of the *Great Society's* political initiatives. Keeping in mind that shifts in language reflect concomitant shifts in thought, we must realize that it is one thing to push for educational excellence by measuring the quantum changes of those who are already achieving, but quite another thing to open up equitable opportunities of access for students who are not being given comparable opportunities for achieving. Close down access to such educational opportunities for a marginalized group and you rob them of their ticket to competitive employment, economic advancement, and self-improvement.

Federal policy platforms of late, however, have prominently promulgated the conservative ethos of **excellence**; a term connoting such notions of "standards," "performance," and "competition." The current federal practice to publish state-by-state comparison statistics of education achievement

scores for the ostensible reason of fomenting greater effort at reform has all but bankrupted the morality of purpose for teaching. In the chilling practicality of the Machiavellian scheme of reality, the ends justify the means so teach-to-the-test! The equally conservative terminology trailing in the policy wake of "excellence"–*ability, economic sufficiency, deregulation, states' initiatives,* and *exhortation*–is entirely in keeping with Vice President Gore's "simplified government" movement and House Speaker Gingrich's "balance the budget in-seven-years" movement with its school-lunches-and-*Big-Bird*-be-damned attitude. In all fairness, however, Clark and Astuto (1990) cautioned that conservatism, per se, does not always imply a drastic curtailment of federal presence at the education policy level. They documented many instances of congressional coalitions composed of conservatives and liberals under both Democratic and Republican administrations and Congresses who have sustained federal categorical aid to education.

The policy implications that flow from these terminological differences are not the idle speculations of wordsmiths. The policy implications flowing from yesterday's **equity** platforms and from today's **excellence** rhetoric are pronounced. The accumulated 20-year-plus flotsam that this river of thought has deposited on the present shores of special education in general and deaf education in particular has contributed enormously to today's inclusion-debate morass within educational reform. Deaf children, for example, are floundering in the deep waters of *least restrictive* mainstream placements while simultaneously arguing their rights-of-access to the sidestream placements capable of

accommodating their *unique needs.* Choosing to ignore the ins-and-outs of the present policy climate engulfing the 1995 reauthorization of the Individuals with Disabilities Education Act (PL 101-476) is tantamount to consigning an entire generation of deaf children to the slipstream of missing out on the opportunities of the proverbial *Great American Dream.* It, thus, behooves us to know what is at stake.

The consentaneous political and economic realities shaping federal policy initiatives in education force us to acknowledge how malleable the political membrane is in terms of: a. "Does public opinion support maintaining federal involvement in education?," b. "Does public opinion support the direction in which federal policy directives are headed in the field of special education?," c. "Does public opinion support the need for change in the federal regulatory picture?," d. "Will education policymakers be able to restore to the schools the benefits of the accumulated reforms form the *Sputnik*-sparked '60s to the watershed '90s?," and e. "Will policymakers and leaders in special education be able and willing to prevent any erosion on the gains to increase access points to those who were heretofore denied such accessibility?" (*cf.* Mitchell & Goertz, 1990).

Reform/Restructuring

Leaders–unlike managers who plan, organize, and control resources–establish policy climates that motivate a community of stakeholders committed to the teaching/learning process. The acid test of any leader is the ability to create an attitude of teamness within such an assembly of stakeholders. Leaders have

alchemy. Leaders have no need to affix blame for failures because they prize the lessons that failure teach. This encourages their team members to push the envelope of risk-taking and to do so within a fail-safe atmosphere. Leaders have a knack for getting people out of their walled-in *boxes* into their malleable-membraned *bubbles* wherein territoriality gives way to sharing and caring. *Bubbles* capture the sense of the "soft" thought structures that conjure up the notions of *right-brain brainstorming, possibilities, creativity, intuitive heart-over-head, delegated responsibility and authority for decisions, visions, values, missions, directions, and frameworks. Boxes,* on the other hand, capture the contrapuntal companion notions of "hard" *left-brain critiquing, inevitabilities, objectivity, rational head-over-heart, control of top-down decision making, forecasts, principles, strategies, and clockworks (cf.* Hurst, 1984). Such metaphors help simplify the complexities of what we are trying to explain when it comes to **reform/restructuring.**

Reform is a word, not a sentence! **Reform** is a Rohrschach test–beckoning us to read into the blot whatever opinions we already had about it. **Reform** is the congregation listening to a Sunday morning sermon about lax parents and their undisciplined teens and knowing full-well the pastor is referring to the *others* sitting nearby. The reform literature reads in a language rippling with a slew of "now/then," "up-to-date/out-of-date," "better than/worse than" contrapuntals. Consider this sampling of distilled gleanings from the literature in general and special education, representative of which we find Fuchs and Fuchs (1995); Kauffmann and Hallahan (1995); Sailor, Gee, and Karasoff (1992);

Sage and Burello (1994); and Lipp (1992).

This massive and recent literature converges on such ever-recurring reform themes as the following:

- *locus of control*
  - decentralization vs. centralization;
  - teacher empowerment vs. administrative aggrandizement;
  - the school's responsibility to the community vs. the school's accountability to funding sources;
  - applying resources vs. pressures
  - monitoring of outcomes vs. managing of processes.

- *locus of instruction*
  - learner needs model vs. medical model of deviance;
  - integration of services vs. segregation of students;
  - intervention-based assessment vs. remedial-based assessment;
  - absorption of all services into regular education vs. parallel system of special and regular education;
  - no labeling vs. categorization;
  - collaboration vs. competition;
  - seamless-webbed delivery systems vs. cascade of services.
- *locus of curriculum and methodology*
  - flexibly determined at site vs. uniformly controlled at system level;
  - learner centered vs. instructional methodology centered;
  - diversity of student learning pace/style vs. conformity to teacher-preferred vectors of instruction;
  - zero reject promote-to mastery vs. competition for grades;
  - retention of factual material vs. development of reasoning faculties and core values.

Restructuring--the most common of the proposed reform strategies--is like its ink-blot counterpart: elusive! As an entry into the educational lexicon, it means everything and nothing simultaneously. As an operational term in educational research, the literature remains silent--showing scant agreement as to what a *restructured* school is supposed to look like. And as a term used interchangeably with *reform*, it comes out as a *partially-well* but *equally-bad* episode of a keeping-up-with-the-Jones' in the school district leadership derby. Whatever its pedagogical significance, restructuring--within its reform context--is far more than realigning walls and buildings, curricular programs and instructional approaches, or even reporting relationships and teacher empowerment (*cf.* Timar, 1990). School restructuring--far from being an accretion of changes that replace an older set of rituals with a newer set--is not something that can be legislated from afar, nor is it something that can be dictated to occur from above in one-fell-managerial swoop. Instead, restructuring is but a spoke in the reform umbrella. Reform in education is accumulative by nature: building on past successes and thriving within a policy climate embracing diversity of input from the community of stakeholders. Shorn of its accumulative-ness, reform reduces to unchecked incrementalism.

Restructuring flows from reform; it does not define reform. **Reforms** flow from policy platforms which themselves have emerged from the collective opinions of the profession and public alike. Throughout the 20-plus year history of the Gallup Poll, the public has indicated a genuine willingness to support innovations improving teaching/learning. Results of polls influence but do not determine educational policy. Though no direct cause/effect relationships have ever been demonstrated between the two, a healthy correlation exists, nonetheless, between poll findings and reform initiatives. Marcus and Stickney (1990) noted that with the media saturation attending the release of *A nation at risk* on April 26, 1983, the subsequently released Gallup Poll in the middle of May 1983 reported the sharpest, most precipitous decline in the public's ratings of education since the start of the polling in 1969. Twelve months later, the U.S. Office of Education (1984) released *A nation responds: Recent efforts to improve education*, chronicling the putative reform efforts put in place in the short space of one year. Predictably, the applause meter for the 1984 Gallup returns swung upwards in the public's evaluation of education.

There are enormous lessons to be learned here for the special education community of stakeholders. *First*, results of polls provide the compass points and minefield markers of where to go and where not to go. When the practices of the education profession and the opinions and sentiments of the public are in reasonable synchrony, then conflict with abate among the "adults" and dividends will be reaped among the "students." *Second*, when educational practices are at loggerheads with public/parental expectations, then some community-inspired consciousness-raising sets the stage for a new agenda of reform. School administrators and policymakers in special education have generally failed to grasp the difference between *public opinion* and *public sentiment*. Lukacs (1993) explained

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public opinion as being what you spout off to all comers near and far, especially to the pollster, about what you think on a given issue. As a case in point, this is not too unlike Mrs. Gingrich sharing her *opinions* of Mrs. Clinton to news correspondent Connie Chung. *Public sentiment*, however, embodies a private set of beliefs and biases that are not generally freely shared for fear of being criticized or embarrassed. As another case in point, improving education is a politically correct and patriotic *opinion* to express; yet, in the privacy of the voting booth, you *sentiment* for approving a school bond issue may be something else again. The lesson at work here from understanding the power of the poll is this: The polls have shown (1) that the public admits to its own ignorance about the schools, (2) that the public wants more information about what educators are doing in the schools, and (3) that the more aware the public is of what the schools are doing to improve teaching and learning, the more respect and confidence the public expresses in education. And because respect is the *lingua franca* of authority, then educators need to cultivate the public's trust before they can expect to be given the license for more reforms.

Are we doing enough in special education and deaf education? The National Council on Disability testified during the IDEA reauthorization hearings held during May 1995 before the Senate's *Disability Policy Subcommittee* showing (1) that parents of disabled learners in many parts of the country feel largely left out of the special education process, (2) that parents arrive at school to design their child's individualized education plan only to be greeted by school officials with a finished

plan, and (3) the family/school/community partnerships are not working like they are said to be working. During these same hearings, the national president of Children with Attention Deficit Disorders testified that *"without sustained and intense parental self-education and involvement, the public schools would give IDEA short shrift"* (Briand, 1995a, p. 03).

And this brings us to the *third* and final lesson available for special educators, *viz*, that leadership need not always be a reflection of what the people want but can instead become an opportunity for getting the people to a place where they have not yet been. Influence is a two-way street and leaders are just as capable of setting the trends as they are in following the trends. The polls in the mid-'80s registered strong *opinions* against the reform initiatives of lengthening the school day and lengthening the school year. To their credit, educators exercised their prerogatives as professionals and proceeded with implementing these initiatives, anyway, using the media to explain *why* they were doing *what* they were doing and *how* they were going about doing it. The public came around and supported the reform initiative (Elam & Stickney 1990).

Are we doing enough in special education and deaf education? What the National Council on Disability (1995) reported in May, the results of testimony culled from a ten-site set of hearings from around the nation on reauthorization for IDEA did the leaders in deafness weigh in? When this self-same report synthesized the results of the 400-plus testimonies into a dozen pages and further collapsed them into a set of "Six Basic Principles of

Support" (pp. 216-217), were any of the 52 well-articulated recommendations emanating from the Congressionally-appointed Commission on the Education of the Deaf (Bowie, 1991) in evidence? Are we doing enough to harness the power of public opinion polling to influence our legislators? When the National Governors Association sends the House Speaker a three-page letter seeking changes in IDEA as it is presently conceived and goes further by suggesting that the House institute a once-a-month *corrections day* to facilitate the amendment process of onerous legislation, where were our leaders? It took a legislative staff member of Rep. Major Owens' office to remonstrate: *"Holding a 'corrections day' for disability law is outrageous...it is ridiculous, given the fact that floor debate on corrections day is limited to 30 minutes; ...it gives short shrift to children protected by IDEA"* (Briand, 1995b).

Are we doing enough? Or are we playing out an early-in-the-century line from Gertrude Stein about Oakland, California, cited by Elmore (1990): *"When you get there, is there any there, there?"* When the NCD (1995) closed off its conclusive report on IDEA reauthorization with the comment that *"Intensive oversight by Congress...is especially warranted due to the risk that school restructuring will proceed without special education constituents being substantially involved, resulting in school norms...that reduce opportunities for students with disabilities to receive education in the least restrictive environment of their neighborhood's schools"* (p. 246; emphasis added), then we are in trouble and floundering in the midst of a leadership vacuum. Now is the time to force the major policy line question in the debate over **restructuring** and **reform**.

To wit: *urging the regulatory players to counterbalance the least restrictive environment concept with a greater emphasis on appropriateness when dealing with the unique needs of deaf children* (cf. Bowe, 1991). Now is the time to stand up and be counted. Now is the time to ask more **WHY** and less **HOW**. Now is the time to ask what exactly is our reform agenda in deaf education? If we do now, how will we know when we arrive at the mythical destination of *there*, that we have even completed the agenda?

Inclusion and Its Allusions to Our Critical Condition

"Fanatics have answers, not questions; certainties, not hesitations." (Elie Wiesel, 1992)

In Greek, *muthos* means *word, speech, the thing spoken, the tale told*. In English, it means **myth**. Whether or not a particular myth corresponds to scientific fact is quite immaterial. What makes a myth important is how it influences perceptions. A myth, according to Macpherson (1994a), *"supports existing social structure...programs the attitudes of individuals and groups...encourages uncritical acceptance of the established norms..."* Myths create facts out of the values they propound. Myths make people busy but blind—boxing people in as prisoners of their own traditions. People, by failing to recognize their own myths as being myths, tend to consider all other myths false. Thus, myths contribute mightily to the way people see facts. For this very reason, myths must not be dismissed disparagingly. They must be labeled for what they are and not confused with the facts that they pretend to be. Any intelligent

debate—on so electric a reform issue as incorporating the branch that is special education into the trunk that is regular education by *including* all disability learners in the regular classroom—demands no less an approach from our leaders, our policymakers, and our legislators.

Operations within our schools reflect the myths operating outside our schools. During the '60s when the current reform era began in earnest, concern about the dis-enfranchisement of marginalized groups within American society prompted a soul-searching questioning of such basic American values as—opportunity, or its lack thereof; equality, or its lack thereof; and, accessibility, or its denial thereto (cf. Meenaghan & Kilty, 1994). During the '70s, the concern of education for the newly enfranchised members of the body-politic focused on *how* and *what* to teach disadvantaged learners and disability learners. During the '80s, the social questioning of the previous decades gave way on the federal front to a political conservatism emphasizing accountability. This forced the deliverer of services to show the deliverer of funds that what was being done was in fact in line with the expectations, values, and norms of the funding body, thereby giving new meaning to the proverbial *Golden Rule: "They who own the gold, rule."* And on the education front, a tectonic plate shift was starting to occur by focusing on *where* such services were to be provided. Absent scientific validation, the prevailing myth centered on the assumption that the general education mainstream was supposed to influence positively the learning and social integration of **all** students (cf. Sailor, Gee & Karasoff, 1993). Now, during the '90s, the resultant fissures on the education

landscape force us to focus on *who* determines the *how, what,* and *where*. In deaf education, the National Association of State Directors of Special Education published a practical navigation guide around these faultlines that holds some promise, some light, some hope (Baker-Hawkins & Easterbrooks, 1994). The remainder of this paper (a) examines the shoals that gave rise to this *critical condition* confronting special education—the Regular Education Initiative, and (b) examines the vortices contributing to deaf education's unfinished agenda within the fast-moving policy-manufacturing stream of today's storm-watch climate.

Regular Education Initiative

When all but two of the 44 issues put forth in NASDSE's (1994) *Educational service guidelines for deaf and hard-of-hearing students* are stated in the *subjunctive mood* condition of *"should,"* we are apprised of a significant feature prevalent in the reform literature. To wit, the use of action verbs in the subjunctive. Sage and Burrello (1994)—offering as they do, one of the more state-of-the-art pronouncements of reform postures in special education—present an extensive tabular summary (pp. 5-7) contrasting an array of *what-is-now* type of conditions with a series of *what-should-be* conditions in special education. A simple example suffices. In the prevailing ethos of the current *what is* reality, a distinct flavor of *accountability* prevails—the measuring up to targets, scores and standards; whereas in the future-oriented *what should be* scheme of things this philosophically unpalatable notion of power differentials suggested by

the term *accountability* gives way to the more collegial and productive notion of *responsibility*. A *responsibility for* in lieu of an *accountability to* addresses the prospect of coalition building and the pushing down of decision levels to those closest to the arena of action (*cf.* Houston, 1988; Sizer, 1993). *Responsibility* thus speaks to a professional's internal locus of motivation–the measuring up to the values and goals of the community and the expectations of learning by the parents; whereas *accountability* speaks to an external locus of motivation of compliance *sans* commitment.

A brief digression to the regular education front helps to adjust this particular *accountability/ responsibility* contrast. Macpherson (1994b)–acknowledging how politically incorrect an issue this matter of accountability can be within the current reform climate, a climate that emphasizes cooperative learning, collaborative planning, teacher empowerment, and participative policymaking–suggested that we not view this matter as an "either/or" proposition. Instead, he emphasized a perspective that casts the matter into the light of the twin reform themes of (a) the marketization of education and (b) the redefinition of the roles of educational stakeholders. The move toward privitization, or the running of schools as a business, brought to bear the market forces of outcome-based measures of student and school performance. This in turn brought with it the realization that a good deal of educational expenditure could well be transferred to a more accountable private sector. But here, the pall of another mentality takes root. First, if the stakeholders adopt what is known as a "technical perspective" towards

education, then the schools will be viewed as capable of improving teaching/learning only on the basis of validated research findings. Accountability, within this context, becomes accomplished through the clear statement of goals and the operational statement of measures of performance. Second, if the stakeholders adopt a "client perspective," wherein school improvement is pegged on the degree of responsiveness to community standards of expectations, then consumerism becomes the rallying point for change. The electorate, the market, and the management of the schools become the levers of accountability. Finally, we have the situation whereby the stakeholders adopt a "professional perspective." This suggests that improvement happens when school administrators and classroom teachers are given greater opportunity to develop their professional skills, to exercise their professional judgments, and to have a level of decision-making authority commensurate with their levels of assigned responsibility. Accountability now becomes a function 1) of the occupational conditions featuring autonomy, respect, and resource allocation, and 2) of de-constructing/re-constructing the scaffolding of reporting relationships, collaborative planning teams, and cooperative teaching schemes.

This brilliant analysis by Macpherson provides special educators with some much needed context. Reforms need not be based exclusively on validated research findings. Reforms need not be based exclusively on the emissions of the electorate. And, reforms need not be based exclusively on the dismantling of hierarchical structures. Absent such musings, we stand in danger of allowing, as Kerr (*cf.* 1990, pp. 30-

35) pointed out, *"the emergence of a jumbled slate of reforms, aimed at an already overly-bureaucratic system, proposing to heal the patient by administering more of what made the patient ill in the first place."* Collectively, our profession of educators and special educators is capable of a schooling that educates. And we will capitalize on that capability only when we get straight who has what authority and what responsibility for the schools.

The U.S. Department of Education's Office of Special Education Programs convened a conference on technical assistance for special educators in January 1994 (Office of Special Education Programs, 1994) that understood such collective capabilities. Warning against a ready-aim-fire mentality, the conference proceedings urged a set of buoy markers that must guide our reforms. First: policymaking must be predicated on an examination of what is needed by whom and when. This helps to define the problem. And second: problems don't stand still in special education. They have an ornery capacity to grow worse over time. They also have an ornery capacity to have money thrown at them with the expectation that they will just go away. So it becomes incumbent upon the leadership whenever a policy response is defined, to continue to monitor the problem by asking–*"What in fact have we done?", "What have we learned from what we have done?"* and *"What remains to be done"*–else failure is being courted. Attempts to avert such failure are amply in evidence. One such being the efforts of *Project Forum* (NASDSE, 1994) which have been peppering the profession of special educators with accountability questions of this ilk. The national assemblies

hosted by the *Project* have resulted thus far with the charges a) to get regular educators and special educators together to identify the components of program effectiveness, b) to gain consensus on how to measure effectiveness by including members of the disability community in this definition process, and c) to sell this measure of consensus on effectiveness convincingly to the stakeholders. As for the importance of stakeholders, consider the findings of Hodapp (1995) who, using the 1988 National Education Longitudinal Study data base, found that educational expectations among parents of sensory disability students--deaf--were significantly higher than for parents of other students. And this brings us to the classic instance of a problem that is not standing still--the legislation spawned by *Regular Education Initiatives (REI)*. Characterizations as to what constitutes REI are as multitudinous as the writers weighing-in on the matter. At its barest, the characterology--condensed from the writings of Jenkins & Pious (1991) and Fuchs & Fuchs (1991)--has included the following operating norms: (1) the local school administers the service delivery system to the disabilities learner; (2) the support system for the disabilities learner must be in place for use by the regular classroom teacher; and (3) the instructional process must be a personalized, curriculum-referenced and collaborative effort between regular education and special education support services. These norms find placement along a spectrum that seesaws a) from the radical "total inclusion" end that calls for the total dismantling of the special education system as we now know it, b) to a close-to-the-fulcrum centrist position calling for the availability of a selective

mainstreaming option along with the retaining of the parallel system of special education services, and c) to the highly conservative "do-no-harm" end of the balance beam that calls for the least number of changes to the present system.

As Braaten, Kauffman, Braaten, Polsgrove and Nelson (1988, p. 21) concluded from their extensive case law citations, *"because we are dealing with decisions that affect the lives of other people's children, the burden of proof should lie with the advocates of the REI platform demonstrating that parents would indeed realize better educational benefits for their children than through the present parallel system of special education."* Thus, the burden of the proof lies with those who want to radically dismantle the present system of special education by showing *a priori* that regular education could in effect be more resource efficient and more instructionally effective than the system of services it seeks to replace. McCrone (1994), citing a 1993 National Council on Disability study, reported that--in a sampling population including over 13,000 disability learners--over half (55%) of the parents had registered dissatisfaction with the slate of services their children were receiving in regular class placements. This finding is not surprising given what Braaten *et al.* (1988, p 24) noted: *"Teachers who use effective instructional procedures were less tolerant of students' behavioral excesses...expressing a decreased willingness to accept such students within their classrooms."* Apparently, the attitudes of teachers are not too dissimilar to that of parents! McCarty (1993), in canvassing the perceptions of over 40 public school teachers in Ohio, documented the following: (1) 63% of the teachers decried as an out-and-out myth that special educators

would become aids to regular educators; and (2) 71% of the teachers pegged the success of inclusion on the huge assumptions of a regular educator's attitude and willingness to collaborate.

Are we doing enough in deaf education to make these messages heard? For example, when the present *continuum of services* replaced the earlier *cascade of services* model--popular during the Dunn (1968) and Deno (1970) era of special education reform--the notion implicit in accepting varying degrees of *restrictiveness* of placement brought with it the policy implication of legitimizing an extruded placement possibility. Aside from this thinking being supported in the set of COED (Bowe, 1991) recommendations, are our leaders making this logic explicit in the canvass of testimony for IDEA reauthorization? The Dunn and Deno positions of 25 years ago heavily influenced the direction of REI-type legislative initiatives by suggesting that instead of trying to *fix* the disabilities learner we should instead focus on correcting the deficiencies of the entire educational system. Will (1986), as Assistant Secretary for Special Education, reflected this influence-effect when she pronounced a decade ago that because the philosophy of "pull-out" or extruded placement programs was fundamentally flawed, then the *"...poor performance of disabled learners was due to the deficiencies existing in the environment of the regular classroom."* So the race to *place*--the decision of *where* the services were to be delivered--was on and continues to be on without let-up. As recent evidence of this *zeitgeist,* Snell (1993) reported that special education continues to be viewed pejoratively as *"...a place where students who are different are sent to*

be treated by experts...in much the same manner as accident victims are sent for treatment by experts in a hospital emergency room" (p. 176). Advocates of inclusion offer IDEA as the alternative model *"wherein special educators collaborate with regular educators in a support role to educate all children"* and offer *Goals 2000: Educate America Act* (PL 103-227) as the "patriotic" justification for this inclusion model.

Pearpoint and Forest (1992) pandered to the sound-bit mentality of the six o'clock news by bandying about such snippets as: *"Return to the basics...the ABC's of reform--acceptance, belonging, community,"* *"Bring back the 3 R's--reading, 'riting, relationships"* (p. xvi). They also viewed inclusion as being more than a method, philosophy, or research agenda. Like more of the lobby at the far end of that REI seesaw, inclusion is viewed as *a way of life...a better way to live; a welcoming back of the stranger by providing quality education and equity of services for all students.* Inclusion is but a step in the direction of the reform goal of integration. Whereas inclusion implies shutting the door after someone has entered the room, integration implies belonging-ness and restoring of wholeness (Idol, 1994) (*cf.* Sailor, Gee, & Karasoff, 1992) . The "seamless web of services" upon which such integration is predicted is tantamount to the "wraparound" services the Office of Special Education Programs recognizes as being equally applicable to both special and non-special learners in the mainstream (*cf.* Hehir, 1994). Though much more can be said about the stance of inclusion, those who are willing to exert leadership in the legislative advocacy arena would do well to consider accessing the following source materials.

First, the most significant source of testimony armamentarium comes from the *The illusion of full inclusion: A comprehensive critique of a current special education bandwagon*--an 18-chapter collection of viewpoints edited by Kauffman and Hallahan (1995). This definitive work also contains an appendiced collection of position statements on inclusion from 13 national organizations. The longest such position--pp. 322 to 328--being contributed by **Consumer Action Network of, by and for Deaf Americans**. And second, a companion source-set offering of a) an annotated bibliography on inclusion by Moore and Carter (1994), and b) a set of 18 national organization position-statement analyses on inclusion by Catlett and Osher (1994). Fuchs and Fuchs (1995) have it right: *Special education has big problems...not the least of which is the re-defining of its relationship with general education"* (p. 234). Are we doing enough to influence these fluctuations in the balance beam of professional opinion?

An Unfinished Century, an Unfinished Agenda

"No one is more deaf than those who refuse to listen." (Jesse Jackson)

The intent of REI-type legislation is to decrease the putative societal stigma being attached to disability by promoting inclusion within the mainstream. The assumptions implicitly at work stem from the disreputable "medical model perspective," wherein a perceived "abnormality" is cauterized to become a perceived version of "normalcy." The net effect of both this thinking and its consequent legislation has been, in fact, just the opposite. The distance

between both students and professionals within the parallel systems of education has dramatically increased (Skrtic, 1991). The current political trend of increasing federal disengagement from the general education policy level may inevitably be felt in special education. Though the prospect of such control at the local level holds some promise, the question of equity and the gains already realized by the marginalized communities of the nation may be up for grabs. In this fiscally fraught climate, social and educational reforms may be dictated by matters economic, thus suggesting that at the local level triage--a system of allocating the best of limited resources to those capable of benefiting from them most--may emerge as the system of choice. The forces of budgetary retrenchment are naturally going to be more acutely felt at the local level of "block funding" that at the federal level of formulated funding. Performing triage in school reform entails informed judgment. If such judgment is not based on either valid needs assessment analyses, or outcomes-based evaluation schemas, then the policy of resource allocation may instead become the default choice of picking the most politically expedient option at hand.

The 1987 *Guidelines for effective cooperation between public and private schools in meeting legal and professional responsibilities for the education of children with disabilities* (National Association of Private Schools for Exceptional Children, 1987) said as much when the NAPSEC governing board put out the call for an inventive brand of pragmatism at the policy level and for a coalition-building brand of leadership at the school administration level. NAPSEC strenuously advocated a mid-stream

alteration of cart-and-horse sequencing so that the *needs of children* precede the *needs of programs*. Why roll the dice when dealing with other people's children by assigning them automatically to the dubitable benefits of the nearest regular classroom? Such placement, far from being--at the moment, at least--a politically expedient choice, may be more in line with what the currents of judicial activism have been suggesting. It is thus incumbent upon our leaders in special education and deaf education to stem the flow of the *trickle down* school of economic thought. Why? Because just as the *capital gains tax* plan would end up benefitting those who needed the benefit least, so, too, would deaf and disability learners enjoy only indirectly whatever benefits *trickled down* from the regular beneficiaries of excellence provided to them in mainstream classrooms. What remains to be done? Two things: 1) a brief look at the judicial ruling trends, and 2) a revisiting of the trenchantly-stated recommendations from the *Commission on the Education of the Deaf* reported by its chairman, Bowe (1991).

Judicial Activism

"What all the wisemen praised has not happened; what all the damned fools said would happen has come to pass." (John Taylor, speaking in memory of his father, Gen. Maxwell Taylor, quoting an obscure British statesman in *The Washington Post*, June 20, 1995)

To appreciate more fully the contextual legal environment within which special education reform is embedded, a glance at the spate of key legislative enactments helps us gain perspective when we examine some judicial leanings occurring within the era.

According to Cohen (1981; 1993), a typical year produces (1) upwards of 50,000 pages of statutory material that are enacted at the federal and state levels, (2) upwards of 30,000 case law rulings that are handed down by the courts on such statutes, and (3) upwards of 60,000-plus pages of *administrative regulations, policy letters* and *executive decrees* that crop-up between the covers of the voluminous *Federal Register*. Cohen noted that these *decrees, papers* and *regs*--though not having the full clout of law--are nonetheless enforceable procedural entities, in and of themselves, thereby enjoying the full clout of policy.

REI-type legislative enactments--embracing the education reform themes of *equity, access, excellence,* and *zero reject*--hinge dramatically on the statutory text, *"...education for all handicapped children."* Kauffman and Hallahan (1995) cited, "the cudgel of literalness" with which the courts have been handing down decisions dictating the literal inclusion of all students, no matter the degree of disability, no matter the kind of disability. Whereas the rhetorical meaning of all suggests varying degrees of approximation toward some totality, the etymological meaning of all tolerates few, if any, exceptions toward this same goal of totality. All--as a term frequenting the policy language of school reform--is usually juxtaposed to some form of the verb *to include*. And the very denotation to *include* means "to list some members of the population at hand, but not all" (Lippman, 1989). When *America 2000*--the Republican White House forbear to *Goals 2000*, its

Democratic White House incarnation--proudly asserted, *"All children will start school ready to learn by the year 2000,"* then this becomes appealing rhetoric on the upside and fanciful thinking on the downside. The statement defines neither *ready* nor suggests what developmental age such schooling might begin at, especially for learners with disabilities. Clearly, in this context, **all** connotes *most*, or *predominant measure*. Keogh (1988, p. 20) rounded out this yo-yoing of figurative and literal usage with comparable examples of juxtaposing incongruous meanings (i.e., *"...general education embracing special education to the point where all education is special,"* cf., Will, 1986). Keogh proceeded to eloquently cashier this *non sequitar* by stating: "It is a strange logic indeed that calls for the regular system of education to take over responsibility for learners with special needs when it already has a hard enough time handling the needs of its regular learners!" (p. 20).

Osborne and DiMattia (1994), Thomason (1994), and Yell (1995) have canvassed the breadth and depth of litigation surrounding the legislative mandate for the *least restrictive environment*. Fields and Rostetter (1993) have reported that the incidence of court cases in special education has nearly doubled from 1990 to 1993. In some quarters, the bench has appeared to be unduly adventuresome by abandoning legal precedent to promote the reform measures of *mainstreaming*--the judicial parlance for *inclusion*. Such adventuring is what Yell (1995) called *judicial activism*. Citing standard reference texts in law, Yell explained judicial activism as any highly personalistic effort of decision-making that renders a judge's ruling favorable to the best

perceived interests of the commonwealth, while simultaneously ignoring the accumulated case law on the issue at hand. Appearances to the contrary, such adventures simply do not obtain. For example, though Osborne and DiMattia (1995) allowed that in the early days of related litigation, the courts gave greater latitude to the discretionary judgment of educators; today's litigious environment is different. Now, the inclusionary setting is the norm. Now, the burden of the proof is incumbent upon the plaintiff to show that inclusion is **not** feasible. Now, the judgment of school officials is not sufficient. Though this trend may not--in itself--justify the use of the term *judicial activism*, it does justify the emergence of *educator activism* in special education and, especially deaf education. An activism that is focused on the child, not the *place*.

Yell (1995) and Thomason (1994) have given prominent attention to an inclusion decision that further dispels any allusion to an adventuresome judiciary. The 5th Federal Circuit Court of Appeals handed down the two-pronged *Daniel Test* (Daniel, R.R. v. State Board of Education, 874, F2d 1036, 5th Circuit, 1989). This ruling--applying as it does only to the 5th Circuit District of Texas, Louisiana, and Mississippi--has significant contributory value to the accumulating case law being determined in other jurisdictions. The ruling specifically asked: 1) *"Is the education that is being provided within the mainstream setting--given the presence of supplementary services--satisfactorily achieving the child's IEP?"* and 2) *If the mainstream setting cannot achieve this, then an [extruded] placement option becomes appropriate"* (Thomason, 1994, pp. 02-03). Until

the U.S. Supreme Court incorporates this reasoning into one of its own decisions, the "contributory value" of the *Daniel Test* remains to be seen.

Commission on Education of the Deaf Redux

"America does not want a different set of laws in special education. America wants its present laws to be more responsive to the needs of its children with disabilities." (A <u>*variation on a theme*</u> *propounded by Postmaster General Runyon to the Congress in The Washington Post, June 29, 1995)*

The 1991 U.S. Office of Education *Thirteenth annual report to Congress on the implementation of IDEA* (USOE, 1991) stated that almost 70% of our nation's disability student population has been served in regular classrooms for at least 40% and up to 100% of the school day; whereas for most of the remaining 30%, an extruded placement option fits the specifications of the child's IEP and *least restrictive environment* requirement. In the 1993 U.S. Office of Education *Summary of the 14th annual report to Congress on special education (Summary,* 1993), findings were cited from the *Longitudinal Transition Study of Special Education Students* on school completion rates. Though the dropout rate was pegged at 32% for the 1985-87 school years, the sensory disabilities category-- blindness and deafness--reflected the smallest contributions to this statistic. In this self-same disabilities category, students with

visual impairments were more highly integrated within the mainstream than students with hearing impairments (*cf.* p. 04). The *Summary* (1993) went on to declare...

- *"the larger the school's mainstream program and the greater percentage of time the disabled learner spent in the classroom, the greater would be the likelihood of failing grades, absenteeism and dropping out of school."* (p. 03);
- *"Students with hearing impairments had the second highest graduation rates (73%) and the third lowest dropout rates for all disabilities"* (p. 09); and
- *"Deaf students were 100% more likely than all students with disabilities to continue their schooling through age 21"* (p. 20).

In the most recently available 1994 U.S. Office of Education *Summary of the 15th annual report to Congress on special education (Summary,* 1994), the non-graduation rate for the 1990-91 school year was 41% while at the same time *"more children were being placed in integrated settings than in any previous years of reporting"* (p. 02). Bowe (1991) presented a not dissimilar portrayal during this same time frame when COED cited the data that during the early years of P.L. 94-142, **private** residential schools for the deaf witnessed a 67% drop in enrollment, with their **public** residential school counterparts registering a less dramatic 18% drop *cf.* p. 23). Furthermore, though the number of deaf child placements in **both** public **and** private residential schools combined dropped from 35% to 25% by the mid-80s, that the number has stabilized at the 25% level right down to the mid-90s (Personal communication with Dr. Tom Allen, Dir. of Center for Assessment and Demographic

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Studies at Gallaudet University, June 26, 1995).

Are we doing enough in deaf education to drive home the policy implications of these trends? The Office of Special Education Program's director, Thomas Hehir, addressing the meeting of the National Governor's Association during March 1995, went on record stating: *"Congress must not alter an IDEA provision allowing states the discretion to define a student as disabled if there is a discrepancy between how the student is performing and how the student should be performing. As problematic as this may be, it provides a necessary level of protection"* (Miller, 1995, p. 04). Hehir went on to articulate the five principles guiding USOE in the writing of the 1995 proposed amendments for IDEA. They are as follows:

- *Letting students with disabilities benefit from and participate in school reform.*
- *Promoting high expectations for disabled students.*
- *Addressing the individual needs of students in the least restrictive environment.*
- *Ensuring that those closest to a disabled child--parents, teachers, administrators--have pertinent training.*
- *Focusing more resources on teaching and less on non-direct services* (p. 04).

Our work is cut out for us. We need not re-invent any wheels. Instead, we would do well to re-visit what has already been forthcoming from the prestigious, Congressionally-appointed Commission on the Education of the Deaf. Their definitive set of 52 recommendations have already been partially adopted by appropriate federal responses. However, the set of recommendations that has not been appropriately addressed has

been the very set that attracted the most voluble outcry from the special education community. It is to this set that we direct our closing focus.

- *Recommendations #04 and #05*
  - *The U.S. Department of Education should provide guidelines...for local education agencies and parents to ensure that a deaf child's IEP takes into account.. academic level and learning style,...preferred mode of communication,...linguistic, cultural, socio-emotional needs,...and placement preference. The U.S. Department of Education should refocus the least restrictive environment concept by giving greater emphasis to appropriateness than to restrictiveness...when dealing with the unique needs of deaf children* (Bowe, 1991, pp. 13, 15).

- *Commentary*
  - The 1989 *policy paper* issued by the Office of Special Education Programs addressed for the first time the necessity of state and local education agencies taking under more careful account the *unique needs* of deaf children in the IEP process.
  - The National Council on Disability (1986) had already said as much when it reported that the preamble section of PL 94-142 while reinforcing the dual concepts of *appropriate education* and *unique needs* omits any direct reference to the concept of *lre*. Consequent upon this analysis, NCOD issued a position statement in favor of the later-developed COED recommendation. To wit:
    - *The Congress should direct the Department of Education...to enforce standards for the application of the least*

restrictive environment requirement; ...such standards should clarify that the primary determinant of which educational setting is the least restrictive is the educational appropriateness of the program (NCOD, 1986, p. 48; emphases added).

- The 1990 *policy paper* issued by USOE/OSEP offering guidance to local and state education agencies on handling the communication needs of deaf children further addressed this need:
  - *All children...have the right to be educated in the least restrictive environment setting in which an appropriate education can be provided. In the case of children who are deaf, it is essential that the staff who are providing the continuum of services can communicate in a mode appropriate to children who are deaf.*
  - *Public agencies are required to make available a continuum of available placement options, including instruction in regular classes, special classes...and institutions* (p. 17).
- *Recommendation #06*
  - *The U.S. Department of Education should issue a policy statement that...brings into consideration both the nature of the curriculum and the nature of the instructional methodology...before making a placement decision* (p. 17).
- *Commentary*
  - The previously referenced 1988 *policy paper* by USOE/OSEP offering guidance to local and state education agencies confirms what the NCOD (1986) previously supported in weighing the *unique needs* of

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the deaf child against the concerns of the *lre*. To wit:

- *The design of each child's educational program **should** take into account matters of curricular content and methods of curricular delivery...and that these needs be addressed in the IEP* (p. 18).

• *Recommendations #07, #08, and #09*

- *The U.S. Department of Education **should**provide guidelines and standards for schools and parents to follow...so that whenever selecting the least restrictive environment consideration be given to the potential harmful effects on the child* (p. 18).
- *The U.S. Department of Education **should**provide interpretive guidance...that removal from the regular classroom does not require compelling evidence* (p. 19).
- *The U.S. Department of Education **should**ensure that the states maintain and nurture the existence of center schools as being viable placement options...required by law* (p. 23).

• *Commentary*

- Prior to 1988, an erroneously worded USOE/OSEP monitoring guide--*Manual 10*-- demanded the accumulation of *compelling evidence* to show the *potential harmful effects* that could result in carrying out *lre* requirements. Although subsequent editions of the manual have removed this damaging interpretation, policymakers and administrators have yet to receive the clear-cut guidance that the deaf child's *unique needs* can legally and justly be considered in overriding *lre* concerns.

- IDEA--in principle--already recognizes these nuances; yet, until its 1995 amended version makes such principles explicit, deaf children will remain at risk to the interpretive whims of decision makers. As it stands, the direction of the recommendations resulting from the hearings for reauthorization reported by both the May 9th National Council on Disability (1995) release and late-breaking sources, cited above, appearing in *Education Daily* seems disposed toward greatly increasing parental involvement in the process.

We have now come full-circle with the reform literature in special education--a literature sprinkled with *shoulds*. The verbs of the subjunctive mood, expressing as they do the idea of desirableness, also communicate a curious sense of being non-committal (*cf.* House & Harman, 1950). Are we doing enough to bridge the gap between the *shoulds* and the action-primed verbs of the indicative and politically-primed verbs of the imperative moods? And speaking of mood, the "moods" of the public's opinions and sentiments will probably continue to hold sway over the published findings of the empirical research community. The need for educator activism and legislative advocacy will thus continue to be with us for the remainder of this century until the placement options of inclusion and extrusion are made a permanent part of the parentally exercised *continuum of services* options. Categorical labeling, though frowned upon by the reform-minded, may indeed be of little pedagogical value; yet, until a more practicable alternative arises, categorical funding must be maintained. Why? Because when

the special identities of children are lost, so, too, are the capacities to address them lost.

PLACE--the real estate of the instructional process--has borders. It is where things are, where things happen. It is the box. And it is incumbent upon our leadership to find the *bubble in the box* that will help us get our focus off the physical coordinates and onto the metaphysical magic that occurs in the teaching/learning process. Yes, place is critical but we must focus on *the what* that goes on inside that place, always keeping in perspective the unique needs of the deaf learner.

Afterwords

After many words are said, some thoughts linger. I have two thoughts for you. One for learners from the letters of Henry James to his friend, Grace Norton. An one for readers from the songs of both the Gershwin brothers and Irving Berlin.

For learners:
Remember that every life has its own special problems, not yours but another's.
Be content with the terrible algebra of your own.
Even if we don't reach the sun, we shall have at least been up in a balloon.
We all live together, and those who love and know, list so most.
And for leaders:
Life is short, we're growing older.
So don't become an also-ran.
You'd better dance little lady, dance little man,

*Dance whenever you
can.
There may be trouble
ahead
But where there's
moonlight, love and
romance
Let's face the music
and dance!*

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End Notes

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THE POWER OF POLICY

P.L. 88-352	Title VII of Civil Rights Act of 1964
P.L. 93-112	Sec. 504 of Rehab. Act of 1973; Amended as P.L. 102-973
P.L. 94-142	Education for All Handicapped Children's Act of 1975; Amended as:

	P.L. 101-476	Education of the Handicapped Act Amendments of 1990
	P.L. 102-119	Individuals with Disabilities Education Amendments of 1992

P.L. 99-372	Handicapped Children's Protection Act of 1986
P.L. 100-259	Civil Rights Restoration Act of 1987
P.L. 101-366	Americans with Disabilities Act of 1990
P.L. 102-166	Civil Rights Act of 1991
P.L. 102-421	1992 Amendments to Education of the Deaf Act of 1986
P.L. 102-973	Rehabilitation Act Amendment of 1992