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Legal rights of the gifted

Ernest E. Singletary, Gary D. Collings, and
H. Floyd Dennis

Law Briefs on Litigation and the Rights of Exceptional Children, Youth, and Adults

There is little doubt that the recent expressions of concern focused upon appropriate education for exceptional children have brought about significant changes. Although legislation and litigation involving the identification and education of exceptional children are not recent phenomena, events of recent vintage, particularly the 1970's, record an exponential increase in progress toward the goal of fulfilling the needs of exceptional children. Foremost among such developments is the enactment of Public Law 94-142, The Education for All Handicapped Children Act of 1975. Like many other major pieces of legislation, most of the provisions of P.L. 94-142 have their genesis in case law. In light of efforts to provide appropriate education for exceptional children, including the provisions of P.L. 94-142, *Law Briefs on Litigation and the Rights of Exceptional, Youth, and Adults* should prove to be an especially timely and useful exposition of legal precedents.

The work is organized in seven major divisions: 1) right to an education; 2) testing, placement, and labeling; 3) commitment and treatment procedures: civil; 4) commitment and treatment procedures: criminal and quasi-criminal; 5) administration; 6) nonpublic and state schools; and, 7) finance. Each division is ordered into dimensions with each dimension "reflect(ing) not only the chronological development of the chapter topic, but . . . depict(ing) the progressive development of the chapter content. (pp. ii-iii)" For example, the division relating to testing, placement, and labeling is ordered into four dimensions.

The authors brief cases in the first dimension wherein rulings do not recognize consumers in the labeling process. Second dimension cases deal with abolition of "tracking" or ability grouping. The cases in the third dimension question the use of standardized tests, generally I.Q. tests, for placement in special classes. Finally, the fourth dimension case specifically outlines the necessary steps for insuring that mentally retarded children are afforded an appropriate education. The fourth dimension case culminates a logical sequence beginning

with the absence of consumer influence upon labeling, and processing through the use of ability grouping and standardized tests to the delineation of specific steps required for placement.

Although the use of the dimensional format generally provides a logical and progressive structure of development in each of the seven dimensions, there are instances where the authors have apparently strained to develop dimensions simply to maintain some degree of symmetry of commonality among the divisions. The division entitled "Nonpublic and State Schools" illustrates this point. The first dimension consists of "background information from a descriptive nonpublic school case," and an examination of provisions of a New York statute relating to the use of "nonpublic schools as an alternative education. (p. 404)" The question in the "descriptive case" focuses upon the use of public aid for the education of exceptional children at a private institution. The cases in the second dimension involve basically the same question. Payment of "tuition" rather than "aid" in some of the second dimension cases marks the greatest distinction between the two dimensions in regard to the substance of the question. Cases in the third dimension settle questions relating to residency requirements, aid to sectarian schools, and tax deductions.

Despite the obvious difficulties of attempting to force the content into predetermined molds, Singletary, Collings, and Dennis have compiled a veritable storehouse of valuable and accessible information. The divisions on commitment and treatment exemplify both the scope and detail afforded topics throughout the book. The authors present detailed briefs of nearly a hundred cases covering both civil and criminal and quasi-criminal aspects of commitment and treatment procedures. The cases address a considerable breadth of questions ranging from "right to treatment" to "least restrictive environment." Specific sections of selected cases are quoted in order to provide clarity in several issues.

In addition to the numerous court cases presented, sections describing court structure, court jurisdiction, legal precedent, and state and federal legislation are included. A handy reference to case law containing specific questions and a table of landmark cases located immediately following the table of contents add to the overall value of the book as an excellent source for those concerned with the education of exceptional children. The novice as well as the experienced educator will find this book a particularly useful reference for assistance in the determination of appropriate and legal educational applications.

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