

Right to Education-- A Chronology

August 1969... Attorney Thomas K. Gilhool, Philadelphia, as special counsel for the Pennsylvania Association for Retarded Children, began researching possibilities for litigation.

January 1971... Suit filed in the U.S. District Court for the Eastern District of Pennsylvania under the Equal Protection Law of the 14th Amendment against the State Departments of Education and Public Welfare alleging the unconstitutionality of certain state statutes and practices regarding the education of mentally retarded persons.

May 26, 1971... Arguments heard before a three-judge panel.

June 18, 1971... Order issued requiring notice and a due process hearing before the educational assignment of any retarded child may be changed. As a result, Departments of Education and Public Welfare entered into a consent agreement which provided:

1 — No child 5 years 7 months old through 21 years who is mentally retarded shall have his or her educational status changed — including a child who has never had an educational assignment — without being notified first and then having the opportunity for a due process hearing.

2 — Within 30 days of the approval of the stipulation, the State Board of Education shall adopt regulations and distribute copies to superintendents of school districts and intermediate units. These regulations shall include:

a — Notice of change in status must first be given by registered letter to parents or guardians and must include specific reasons based on tests and reports.

b — Alternatives to proposed educational change must be given, if any.

c — Notice shall include right to protest the proposed action at a full hearing before Secretary of Education, or his designee, place and time convenient to the parent.

d — Legal counsel may be obtained for hearing.

child's tests, records and reports

October 7, 1971 . . . Final order, including clarification of the intent of the School Code as it relates to the Mentally Retarded, is signed. As a result, following sections of School Code can no longer be used as automatic reasons for exclusion of mentally retarded children from school!

Section 1304 requiring beginners to have attained mental age of five years.

Section 1326 using "compulsory school age" as meaning 8 to 17 years.

Section 1330 (2) excluding children "unable to profit from school."

Section 1371 defining "exceptional children" in an arbitrary way.

Section 1372 denying a retarded child homebound instruction.

Section 1375 considering some children "uneducable" or "untrainable" and having Welfare Department provide their "care and treatment."

Section 1376 not including mentally retarded under the term "brain damage."

December 1971 . . . Thirteen school districts and the Pennsylvania Association of Private Schools for Exceptional Children filed objections to the court action, claiming that the federal court had no jurisdiction and should abstain from the proceedings. Twelve of these districts later dropped their objections, leaving only the private school association and the Lancaster-Lebanon Intermediate Unit as challengers.

May 5, 1972 . . . Three-judge panel composed of U.S. Court of Appeals Judge Arlin M. Adams and U.S. District Court Judges Thomas A. Masterson and Raymond J. Broderick, sign court order mandating the Commonwealth to find and educate all retarded children not now in school.

May 12, 1972 . . . Gov. Milton J. Shapp launches "Right to Education" drive at a meeting of more than 1,400 educators, welfare personnel and members of the Pennsylvania Association of Retarded Children.