

- A lack of teacher skill with the individualization process mandated by PL 94-142;
- A lack of school district budget for proper in-service education and facilities changes;
- Authority inevitably being at the top, with responsibility delegated downward.

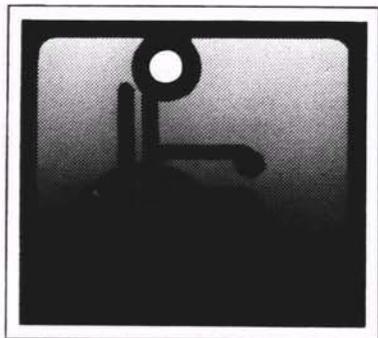
You may understand why we suggest that mainstreaming is likely to increase the number of malpractice suits brought against school districts on behalf of their students.

Ten years ago, few of us would have suspected that the courts *would even entertain* litigation against school districts. That some of those cases have resulted in awards to parents or their children causes us to suspect that such suits will continue. We believe that supervisors should be aware of possible trouble areas so that conflict

may be avoided. That appears to be a better alternative than putting our heads into the sand on the premise that "it can't happen here!"



Rita S. Dunn is Professor, St. John's University, New York; and Robert W. Cole is Managing Editor, Phi Delta Kappan, Bloomington, Indiana.



A Response to Dunn and Cole

Paul L. Tractenberg

If the report by Dunn and Cole is accurate, litigation may be called for—but the real issue is professional responsibility to students.

Although I had considerable difficulty understanding the ultimate thrust of the article by Dunn and Cole, I was troubled by a number of the propositions they advance. These included the following:

1. That "educational malpractice" suits, no matter what the circumstances, are the classroom teacher's worst nightmare become reality and, presumably, are unfortunate legal intrusions into the classroom;

2. That handicapped children are better educated in "special" schools and classes;

3. That Congress was misguided in adopting an integrationist philosophy for handicapped children who can benefit from the "least restrictive environment";

4. That "regular" schools and their teachers are not dealing effectively with children who have special needs and are unable or unwilling to develop the ability to do so;

5. That school districts will read PL 94-142 as an absolute mandate (or excuse) to put some handicapped children into such "regular" classes;

6. That all of this will lead to increased malpractice litigation on behalf of handicapped students.

The authors seek to buttress their views by referring to their visits to "regular" classrooms. My overwhelming reaction is that the real nightmare is not educational malpractice litigation; it is the insensitivity and ineptitude of the classroom teachers and of their supervisors if such practices are permitted to exist. If Dunn's and Cole's observations accurately portray and are representative of the quality of public education, then its most virulent critics have been far too kind. Although decrying the intervention of the courts in classroom management, Dunn and Cole present, perhaps unwittingly, the most compelling case for it (on behalf of "regular" as well as handicapped children).

I agree with Dunn and Cole that litigation can be expected to increase if schools and their professional staffs ignore (a) the spirit and letter of PL 94-142 and state counterpart statutes; (b) standards of responsible professional conduct; (c) common sense; and (d) morality. It would be unfortunate if we reach that situation; not because I oppose judicial involvement in school affairs as a matter of principle, but because it would signal a serious default by some educational systems and their professionals. Mainstreaming is not a quick, cheap, and easy way to educate handicapped students. On the contrary, if it is to succeed, mainstreaming must be implemented with care, intelligence, and the application of adequate resources. Difficult judgments must be made about the "least restrictive environment" appropriate to each handicapped child. For some children that will continue to be separate special education programs. "Regular" classroom teachers must be adequately trained and otherwise supported to respond to the needs of handicapped pupils placed in their classes. Effective communication and coordination between such teachers and special education personnel are crucial.

If school systems and their professionals make serious efforts in these directions, they will

*Some Subliminal Second Thoughts**

He's in my classroom, but he didn't choose to be there. . . .
He didn't choose this school, and he didn't choose me as his teacher.
He didn't select his father's income, his mother's absence, or his crowded house.
He didn't choose to confound my pat curriculum and my pet teaching prescriptions.
He didn't choose to value different things than I, or to speak in a different, albeit more colorful, idiom;
He just didn't choose. . . .
He can't smile nicely when his world tells him to feel anger, nor can he frown away warmth and fair play . . . his mask is not like mine.
He could never comprehend the gap that separates his mercurial moods from my pale, practiced rightness.
He didn't decide one day to shape his nose, his brow, or his mouth into forms that trigger my discomfort and disdain.
He doesn't know that he won't learn if I don't think he can, or that my eyes and voice limit his circle of friends.
He doesn't know how much his future depends on me.
He just doesn't know. . . .

Richard Larson

* Reprinted by permission of the Wisconsin Education Association *Journal of Education*.

tend to minimize the likelihood of judicial intervention; more importantly, they will be carrying out their legal and professional responsibilities to their students.



Paul L. Tractenberg is Professor of Law, Rutgers, The State University of New Jersey, Newark.

Copyright © 1979 by the Association for Supervision and Curriculum Development. All rights reserved.