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Introduction

The need to assist Christian parents with the education of their disabled children is an issue that many Christian school administrators will need to address in the near future if they have not already done so. While it is a personally held belief that Christian schools have a responsibility to disabled young people the reality is that less than 10% of Christian schools provide special education services (J. Sutton, Everett, & C. Sutton, 1993). Because of the lack of services, there are times when a Christian young person is referred to and/or placed in a public school. Although this is not the first choice of either the parent or the school official, it often appears to be the only choice. The administrator's knowledge of special education law may provide the parents and child with needed guidance during this time of transition.

The parents of a disabled child and the child himself are guaranteed certain rights when requesting and receiving special education services from the public school. The laws explaining these rights and provisions are outlined in the information that follows.

The Origin

Individuals with disabilities have always been part of our lives. For years, however, many people have been reluctant to extend a needed helping hand to the physically disabled, mentally handicapped, and others who do not "fit the norm" of our society. For centuries the disabled have been mocked, ridiculed, and treated as though they were less than human. "In the prerevolutionary era, the most society had offered children with disabilities was protection — asylum from a cruel world into which they did not fit and in which they could not survive with dignity, if they could survive at all" (Hallahan & Kauffman, 1994, p. 25). It was not until the early part of the nineteenth century that the first systematic attempts were made to educate "idiotic" and "insane" children (Hallahan & Kauffman, 1994).

Fortunately, during the early 1800s there were family members, educators, medical personnel, and concerned governmental leaders who would not accept the conditions imposed on the disabled. Early leaders sought to do more than to protect and defend them. Their goal was to teach skills that

would allow them to become independent, productive citizens of their communities. Most of the originators of special education were European physicians who were years ahead of their time with ideas that have become the foundation of many of the special education laws in effect today. A few of these ideas include:

1. Individualized instruction, in which the child's characteristics rather than prescribed academic content provide the basis for teaching techniques.
2. A carefully sequenced series of educational tasks, beginning with tasks the child can perform and gradually lead the child to more complex learning.
3. Emphasis on stimulation and awakening of the child's senses, the aim being to make the child more aware of and responsive to educational stimuli.
4. Meticulous arrangement of the child's environment, so that the structure of the environment and the child's experience of it lead naturally to learning.
5. Immediate reward for correct performance, providing reinforcement for desirable behavior.
6. Tutoring in functional skills, the desire being to make the child as self-sufficient and productive as possible in everyday life.
7. Belief that every child should be educated to the greatest extent possible, the assumption being that every child can improve to some degree (Hallahan & Kauffman, 1994, pp. 26-27).

Although these ideas and philosophies took root in the 1800s, little was done to actually implement them. It was not until the mid 1950s that significant steps were taken to assist those with special education needs. These steps were not necessarily a result of a willingness to assist but were the result of federal government mandates. Since the mid 1950s, Congress has passed laws that provide funding and require states to give all disabled persons the opportunity to participate in educational programs. These programs are to be consistent with an individual's abilities and with the programs of his nondisabled peers (Sutton, 1993).

The Laws

The Rehabilitation Act of 1973 was one of the first laws to deal with the education of disabled persons. Section 504 of this law states:

No otherwise qualified handicapped individual in the United States . . . shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefit of, or be subjected to discrimination under any program or activity receiving federal financial assistance (United States Statutes, 1974).

This Act stated that no person could be excluded from any program or activity that was receiving public funds. However, because there was no funding to support the law, compliance with its demands was difficult.

Since 1973 there have been several amendments to this law as well as the establishment of other laws guaranteeing all disabled persons the right to a free public education. The most significant of these is Public Law (PL) 94-142, The Education of All Handicapped Children Act. PL 94-142 is the landmark piece of legislation that mandated that an education be provided for all individuals with disabilities. All other laws regarding special education are based on the principles established by this law. Subsequent laws include:

- Public Law 95-602 (1978) — extended the vocational program established in the Rehabilitation Act for four more years and created a new program for comprehensive independent living services for disabled persons and a new National Institute of Handicapped Research.
- PL 98-199 (1983) — provides funds for the establishment and operation of regional centers to develop and apply the best methods of appraising the special education needs of disabled children.
- PL 94-457 (1986) — provides a free appropriate education to all eligible children from 3 years to 21 years of age. States must also have in place a statewide system of early intervention services for eligible children from birth through age 2.
- PL 101-476 (1990) — represents a renaming of PL 94-142 from the Education of All Handicapped Children Act (EAHCA) to the Individuals with Disabilities Act (IDEA). It replaces the term *handicapped* with *disabled* and mandates a variety of other changes such as clearly identifying in the individualized education program (IEP) the

transitional services which will take place when a child transfers from one community or school environment to another.

- PL 105-17 (1997), the Individuals with Disabilities Education Act Amendments — enhances the input of parents in decisions that effect their child's education. It also reduces the paperwork requirements related to special education and strengthens the capacity of schools to effectively serve children with disabilities, including infants and toddlers.

While the Rehabilitation Act of 1973 stated that no one was to be excluded from programs or activities receiving federal financial assistance, PL 94-142 and subsequent laws and amendments outlined specific ways in which this was to be accomplished and provided the funding to see to it that the guidelines were adhered to.

According to the Federal Register (1974), the purpose of PL 94-142 is fourfold:

1. to assure that all disabled children have available to them a free appropriate public education
2. to assure that the rights of handicapped children and their parents are protected
3. to assist States and localities to provide for the education of all handicapped children
4. to assess and assure the effectiveness of efforts to educate such children (p. 42474).

The following information provides a more detailed look at these purposes.

Free Appropriate Public Education

The main emphasis of PL 94-142 is to insure that all disabled students receive a free appropriate public education. The term "free appropriate public education", however, is somewhat open to interpretation. "Appropriate" does not mean the best. It does not mean that if a better program is available, a child is to be enrolled in that program. Nor does it mean a program that the parents chose for their child. A free appropriate public education is made up of special education and related services which (a) are provided at public expense under public supervision and direction, and without charge, (b) meet the standards of the state educational agency (c) include preschool, elementary school, or secondary school education in the state involved, and (d) are provided in

conformity with an individualized education program (Federal Register, 1977). Related services may include, but are not limited to, transportation and such developmental, corrective and other supportive services as are required to assist a handicapped child to benefit from special education.

The state, therefore, is not obligated to provide for the private schooling of a child **unless** it cannot meet the needs outlined and agreed upon in the child's individualized education program (IEP). The IEP is the key component in the education of a disabled child. When terms have been agreed upon by all those involved in creating this document, then every attempt to meet those terms must be carried out by the local school agency. A free appropriate public education, therefore, is one that is carried out according to the terms that have been agreed upon in the IEP.

Rights of the Parent and Child

When parents suspect that their child may need special education there are certain rights that are available to them and to their child. Parents who choose to send their child to a private school (religious or non-religious) have the identical rights of parents and children who attend public schools. These rights are protected under PL 94-142. Parents have the right to certain information, they have the right to have their child evaluated, they have the right to have an individualized education program developed for their child, and they have the right to certain appeals and hearings in the event they are not in agreement with the public agency's placement and recommendations made on behalf of their child.

Information provided to the parents by the local school district should outline all the steps the district may take in order to provide special education and related services to their child as well as a description of the parents' legal rights involved in those steps. (There is a concern on the part of parents that once the state has information regarding their child, that undue pressure may be placed upon them to enroll their child in the public school. The pressure may be applied, but the parent is under no legal obligation to do so. Receiving initial materials from the state agency may provide necessary information as to whether or not to pursue state services). The student and the parent have the right to be informed, and informed consent must be given before the student

is evaluated, classified, or placed in an educational setting.

Evaluation of the child's needs takes place through comprehensive individual assessment or a psychological evaluation. These terms describe the battery of tests that are administered. These tests include individual tests of intelligence and achievement along with tests for a wide range of behaviors. If parents suspect that their child might have a disability, they have the right to contact their local school district and request that testing be performed. The testing is to be performed free of charge and within a reasonable amount of time from the request (45 days). It is not a requirement to have an individual tested through the school district. An independent evaluation from a qualified psychometrist or private psychologist may be sought. However, it is unlikely that the school district would be in complete agreement with the evaluation; therefore, necessary services would not be provided by the local school district until it performs its own evaluation.

An Individualized Education Program (IEP) is an educational program designed to meet the specific needs of the disabled child. Once the child is identified as having special needs, the school district is obligated to develop an individualized education program for the child. This request is to be honored regardless of the fact that the child attends a private school. The purpose in developing the IEP for a student in a private school is to provide those responsible for his education with appropriate guidelines and information as to how to meet his particular needs. The other advantage of having the school district design the IEP is they would be obligated to provide all services, including related services, outlined in the IEP. The IEP itself must contain the following information:

1. grade level(s) at which the child is performing
2. annual goals, broken down into short-term objectives for reaching those goals
3. the specific special education program (itinerant teacher, resource room, self-contained special class, etc.) that the child will receive
4. the extent to which the child will be able to participate in a regular classroom situation (the law requires that the child be placed in "the least restrictive environment")

5. The anticipated dates for starting these services and an estimated period of time in which these services will continue
6. The procedures and schedules for determining, on at least an annual basis, whether or not the short-term objectives are being met according to specified evaluation criteria (Federal Register, Vol. 42, No. 163, August 23, 1977, p. 42491).

Under the "least restrictive environment" provision the child has a right to (a) be educated, to the extent appropriate, with children who are not handicapped; (b) be in a regular classroom unless the nature or severity of the handicap is such that he or she cannot receive a satisfactory education in the regular classroom by using additional aids and services; (c) have a range of placements available, including regular school classes, special classes, special schools or institutions, residential placements, and home instruction; and (d) participate to the extent appropriate with nonhandicapped peers, unless the IEP calls for a different placement.

Those responsible for developing the IEP are referred to as the multidisciplinary team. This team may be comprised of one or both of the parents or the student's guardians, the child's teacher, a representative of the school knowledgeable in the area of special education (other than the child's teacher), the child himself where appropriate, or any other person the parents or school may request.

The school district is obligated to notify the child's parents when the initial and subsequent IEP meetings are to take place giving enough time to allow the parents the opportunity to participate in the meetings. No IEP meeting and no changes to the IEP are to take place without the parents' knowledge. Every attempt must be made to schedule the meeting at an agreed time and place. If the parents are unable to attend, other methods of parental participation must be sought.

If the parents simply refuse to attend the meeting, the school district may hold the meeting in their absence providing any and all attempts to include them have been made and documented. Under no circumstances is the school district permitted to alter, in any way, the student's IEP without parental knowledge once the content is agreed upon. In order to maintain accountability with the public agency, the parents may and should request a copy of the child's IEP.

Appeals and hearings may take place in the event the parents of the child do not agree with the evaluation performed by the school district. The parents have the right to an independent evaluation. The school district must tell the parents where they might receive this evaluation, and the independent evaluation must be considered in any decision made in providing special education services. All evaluation records in the school's possession must be made available to the child's parents, and the school district must pay for the independent evaluation unless it asks for a hearing and it is found that the district's evaluation is deemed appropriate.

If the parents are still not in agreement with the conclusions, they likewise may request a due process hearing. A due process hearing is conducted to appeal any decision that is made by the public school system on behalf of the child. It is conducted by an impartial hearing officer not involved with the education of the child. The parents and the school representative may be represented by legal counsel and by professionals who are familiar with the needs of disabled students. The activities that take place during the hearing very much resemble what takes place in a court of law. Decisions made in these local hearings may be appealed by either parties to the state agency. If the decision at that level is not satisfactory, a civil action suit at the state level may be pursued. Cases concerning various aspects of special education have gone as far as the Supreme Court.

The laws have forced the public school to address the needs of young people with disabilities. As a result, procedures have been developed to assist young people in getting an education somewhat commensurate with their abilities. The Christian school, at present, is under no obligation to submit itself to the requirements set forth by these laws. This legal exemption and the provisions provided, however, should not lull the Christian school administrator into believing that the needs of Christian disabled young people are being met by the public school any more than they believe the needs of nondisabled young people are being met by the public school.

A group of concerned citizens esteemed the disabled as viable members of their society. As a result, much change occurred to their educational system. When the Body of Christ esteems the disabled as not just viable but *necessary* members of

the Body (I Cor. 12:22), forced change will not be necessary, change will take place willingly.

References

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For additional information concerning rights of special needs children contact your local school district and request a copy of the *Parent Handbook for Special Education*.