

ESSENTIAL CONCEPTS AND SCHOOL-BASED CASES IN SPECIAL EDUCATION LAW

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California: Corwin Press, 2008, Pp. xxxii, 350

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It has been aptly said that education is the most powerful weapon a man can have against all challenges that he encounters in life. It is his ladder to attaining wisdom. It is his instrument against all the evil consequences of ignorance. It is his way out of poverty. It enables him to become a productive member of society and contribute positively thereto. It is the core ingredient of civilization and progress of a society. Thus it is imperative that education reaches every individual regardless of sex, age, creed, socio-economic status, physical and mental conditions, racial or ethnic origin, and political or other affiliations.

There is no gainsaying that there is not much problem in administering education to people who are not physically or mentally challenged. The difficulty enters the picture when we speak of administering education to people with disabilities. However, this does not render the case hopeless because when education is properly administered to these people, taking into account their special needs and with funding and support from the government and non-governmental organizations, the education process is not as much of a Herculean task as it may seem.

In the early years of public education in the United States, school programs were not usually available to students with disabilities. Before states enacted their own laws safeguarding the rights of students with disabilities, many local school boards routinely excluded children who were difficult to educate. When challenged, the courts often upheld these exclusionary practices until the early 1970's. It was only through the long-term efforts of advocates

* UST Law Review – *Circulation Manager*.

of these disabled students that the federal government intervened. The educational rights of these students were fought in courts, much of it coming from the civil rights movement. Subsequently, the Congress of the United States enacted laws, which would manage special education in the United States. In the present, there are various state laws and federal laws that deal with special education. Three federal laws primarily govern special education in the United States at the present. These federal laws are the Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act, and the Americans with Disabilities Act.

This book deals with the Special Education Law of the United States of America, as well as the cases decided by the United States Supreme Court relating to the educational rights of American students with disabilities. The book gives insights on the history of the Special Education Law and how it evolved into its present form. It also discusses the emerging issues as well as possible solutions regarding the Special Education Law. It also tackles the rights, obligations and privileges of persons with disabilities as well as troubles they have to face from day to day.

The book is organized into different chapters, covering both the substantive and procedural aspects of the Special Education Law. It starts with the introduction of how the country came to recognize the importance of enacting a Special Education Law for the benefit of individuals with disabilities. The book also presents vital information concerning the rights of a student to special education as well as the legal requirements to provide him with free appropriate public education (FAPE) in the least restrictive environment (LRE). There are also the individualized education programs (IEP) for these students with disabilities. Different factors must also be taken into account when IEP teams make decisions that place children in the LRE. The different states, through its local school boards are also mandated by the IDEA to provide the students with necessary supportive services in order that they may best be benefited from the special education program. The book also discusses the most complex and contentious of all issues in dealing with students with disabilities: discipline. Special procedures must also be followed when disciplining special education children including those who may be suspended or even expelled. The Congress of the United States, when it enacted the IDEA, envisioned the local school officials and parents to work together to plan appropriate placements to qualified students with disabilities. Congress also predicted that disputes would arise, so it included procedures in the IDEA for school officials and parents and to amicably

settle their differences. There are also dispute resolution procedures in the IDEA such as resolution sessions, mediation, due process hearings and judicial proceedings. There are also remedies to parents for school officials who fail to meet their duties to provide children with FAPE. The remedies include tuition reimbursement, compensatory educational services, attorney and other fees, and punitive damages. The book also explains the proper supervision of students with disabilities and state responsibility to ensure compliance with the IDEA. And finally the book touches anti-discrimination laws other special education laws as compared and contrasted with the IDEA.

This book is an excellent reading material that may serve as a basis and inspiration for other countries which do not have special education laws to pass one. In the Philippine jurisdiction, although a law has yet to be enacted which would particularly focus on special education, it has a general education law that touches on the subject matter. This law, Batas Pambansa Bilang (B.P.) 232, otherwise known as the Education Act of 1982, is an act providing for the establishment and maintenance of an integrated system of education. The act reiterates the policy of the fundamental law to give primacy to education for the economic development and social progress of our country. It provides for the basic functions as well as the rights, duties and obligations of the different members of the educational community. The act also provides the machinery of the various school systems including formal education, non-education and specialized educational services, the establishment of schools, the internal organization of schools, and school finance and assistance. The act also establishes the Ministry of Education, Culture and Sports (now Department of Education) and outlines the functions, duties and responsibilities of the Department.

The author urges that it is high time that the Philippine Congress enact a special law and specifically provide for the remedies for the problems and challenges faced in administering special education for people with disabilities. The law must also designate or create the governmental bodies which will be tasked for the implementation of such law. More importantly, it should provide for the necessary governmental funding and support. By making special education mandatory by virtue of the law, people with disabilities will be ensured that they will receive proper education commensurate to their needs and that they will not be neglected as members of the society. The government should utilize every person to their maximum potential by investing in their education. It is only through proper education of people, with or without disabilities, that a society could move forward and towards the path to progress.