

the ongoing blessing of the American medical establishment—and not only that establishment. In a particularly enthusiastic account of the drug in a recent issue of *The New Yorker*, writer Malcolm Gladwell exults in the idea that “we are now extending to the young cognitive aids of a kind that used to be reserved exclusively for the old.” He further suggests that, given expert estimates of the prevalence of ADD (up to 10 percent of the population, depending on the expert), if anything “too few” children are taking the drug. Surely all these experts have a point. Surely this country can do more, much more, to reduce fidgeting, squirming, talking excessively, interrupting, losing things, ignoring adults, and all those other pathologies of what used to be called childhood.

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## The Scandal of Special Ed

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If you've ever wondered what the words “special education” mean, consider Saundra Lemons. A tall, gangly 19-year-old senior in a Washington, D.C., public high school, she is quiet and attentive. Like the vast majority of children in special ed, she's not blind or deaf or confined to a wheelchair; instead she has had trouble learning to read. If dollars were education, Saundra would be in fine shape. D.C. pours almost a third of its total education budget into the 10 percent of its students who are special ed. In theory—or rather, in wealthy school districts—this money buys kids like Saundra all kinds of assistance: special tutoring sessions, a modified curriculum, specially trained therapists and consultants, even untimed tests.

But Saundra wasn't born in a wealthy suburb. So when she started having trouble in first grade, she was placed—like many kids in D.C.—into a dead-end classroom where she learned nothing. In her case, it was a class for the mentally retarded. It took six years for a teacher to notice

that Sandra wasn't retarded at all. Now she's catching up, but probably not fast enough to attend college next year. "You can never make up for that lost time," says one social worker who has helped Sandra.

Twenty-five years after the passage of the nation's special ed law, the Individuals with Disabilities Education Act (IDEA), the real scandal is not simply that we spend too much to educate handicapped kids. It's the inequity in the way the law is applied. At an estimated \$35 billion a year, special education is like a huge regressive tax—helpful to those wealthy enough to take advantage of it, and often harmful to those who are not.

Furthermore, poor children like Sandra who get shunted into dead-end classrooms aren't the only victims. In order to pay for special ed's enormous, ineffectual bureaucracy and skyrocketing enrollments, school districts are being forced to cheat their conventional students. Unlike general education, special ed is a federal mandate: School districts can be sued (and routinely are) for not providing every service parents think is appropriate for their disabled kids. It's also massively underfunded. When IDEA was passed in 1975, the feds offered to pay up to 40 percent of the costs. They've averaged less than 10 percent ever since, and states don't make up the difference. This is not the kind of program you can fund with bake sales. One southern California district has seen its special ed layouts grow from \$3 million to almost \$11 million in just the past three years. School districts face a painful choice: Raise local property taxes or cut back on students. "We are cannibalizing our regular education budget," says Joe Quick, an administrator in the Wisconsin public school system. "For the first time since 1975, teachers are saying 'why are those kids here?' . . . it's really starting to drive a wedge between regular ed and special ed."

Republicans in Congress have pounced on this issue, declaring Clinton a hypocrite for announcing new school initiatives without promising to increase special education funding first. "What President Clinton isn't saying about this new budget is how he has decided to . . . trim special education funding," declared Rep. Bill Goodling (R-Pa.), a former teacher and superintendent and chair of the House Education and the Workforce Committee, in March. "The president decided not to provide funding for our most vulnerable children," added Senate Majority Leader Trent Lott. The irony here is delicious: The party that tried to abolish the Department of Education and slash the federal role in education has now become a cheerleader for the most regulated and costly federal program under the sun.

Democrats counter that their plan to hire 100,000 new teachers will reduce the need for referrals to special ed in the first place. But neither party has even tried to reform special ed's mountainous bureaucracy and skewed incentives. It's not hard to see why. "If you criticize [IDEA] you will be publicly vilified as anti-handicap," says James Fleming, superintendent of the Capistrano Unified school district, near Los Angeles. "But what is happening now will absolutely destroy public education before the next decade is out."

### **The Road to Hell**

There's no question that the special ed law served a crying need. Before Congress passed it in 1975, an estimated one million handicapped kids were not getting any education at all, and vastly disproportionate numbers of black children were being warehoused under the rubric "educably mentally retarded." The new law's intention was to remedy these conditions by mandating "specially designed instruction" for each child and "related services to meet his unique needs," including transportation, physical therapy, speech therapy, psychological counseling, occupational therapy, social work and services, and virtually anything else a child might conceivably need. To ensure that no one was left out, Congress mandated that each handicapped child receive an Individualized Education Plan from a multidisciplinary team, which would specify long- and short-term goals, and describe required services and special equipment. Furthermore, handicapped children had to be taught in the "least restrictive environment."

IDEA has achieved some of its main goals. Far fewer handicapped children sit at home staring at the walls, and the number attending college has more than tripled since 1978. According to the Department of Education, 62 percent of people with disabilities age 16 to 24 were employed in 1994, compared with 31 percent in the 16 to 64 age range—which suggests that far more are entering the workplace than ever before.

At first, accommodating the handicapped didn't seem like such a big job; total costs were about \$1 billion in 1977. Yet little by little, Congress has added new categories to the original list of 13 disabling conditions. Children age three to five are now included, as are those with autism and traumatic brain injuries—both categories that require intensive supervision and therapy. In March, the Supreme Court ruled that an Iowa school district must pay for full-time nursing care for a

high school sophomore named Garret Frey who is paralyzed from the neck down. Meanwhile the most porous special ed category, "learning disabilities," exploded as parents realized it could be made to include virtually any child who isn't living up to his potential. "It's just like a nightmare," says April Port, special ed director for Marin County, Calif. "They keep opening the barn door wider and wider, and the burden is always on the school." Currently, special ed costs the nation about \$25 billion, with some estimates running closer to \$60 billion.

In almost any individual case, it's hard not to sympathize with the family. Garret Frey is a likeable, smart kid, who has no trouble keeping up with his peers academically. For all we know, he could become a great scientist like the wheelchair-bound Stephen Hawking, the theorist of space-time. But he won't be able to do so unless someone pays for his medical supervision. Handicapped kids often struggle heroically to get by in school, and it's no wonder their parents feel entitled to extra help. One father told me in a voice choking with rage about how he had gone to school to confront a teacher who had taunted and bullied his boy, who has severe learning disabilities. "You hear about some parents demanding horseback riding lessons for their autistic kids, and it sounds ludicrous," another parent told me. "But when you see what they're going through, believe me, you want to do anything you can if there's any chance it would help."

The trouble is that the law pits the single interest of every disabled child against the broader interest of the school and arms his parents with a legal right to a "free and appropriate public education" in the "least restrictive environment." Needless to say, the vagueness of these words is a recipe for litigation. A whole cottage industry of lawyers and advocates has grown up to help parents get what they want out of the school system. Furthermore, school districts must pay parents' court fees if they lose. Overburdened, underfunded, and without the expert legal advice parents can draw on, schools tend to give in rather than face a case that could bankrupt them. "Districts will provide services they don't think are appropriate because they can't afford to go to court," says April Port. One southern California school district pays for a severely brain-damaged boy to attend a specialized school in Massachusetts, and to fly his parents and sister out for regular visits, at an annual cost of roughly \$254,000. The superintendent only balked when the family demanded extra visits for the boy's sister.

Parents of severely disabled kids also regularly try to shoehorn them into mainstream classes, even when it would do little good for the child

and plenty of harm to the rest of the class. It's true that for years schools were too quick to put seriously handicapped kids into classes of their own, where they often learned little and got no experience interacting with ordinary people. But special ed teachers tend to agree that the pendulum has now swung too far in the other direction. "It's hard for parents to give up the dream that their kid is normal," says April Port. The 1997 amendments to the IDEA strengthen the parents' hands: Teachers must prove that a child would be better off in separate classes before they move them, and that can be very hard to do. "Often you'll have a kid with a 40 or 50 IQ, at a pre-kindergarten level, with very little language," says one California elementary teacher. "The kid is all over the place, and the teacher has no idea what to do." In response, many districts are paying for aides—babysitters really—to sit with the student all day long. "Mainstreaming is creating a huge financial burden," says Port.

### **Defining Disability Down**

Still, if special ed were merely a matter of accommodating physically disabled kids like Garret Frey, it would be a relatively straightforward affair. Unfortunately, the special ed law has inflated the meaning of "disability," encouraging wealthier families to capitalize on their weaknesses at the expense of their peers. "We are talking about kids who get tired," says Superintendent James Fleming of Capistrano Unified. "We are talking about people thinking any problem their kid has is a handicap." At worst, the handicap designation—designed to protect kids from discrimination—can become a protection against any sort of discipline. "We found one kid with enough pot on him to be selling," says Fleming. "We suspended him. Then the parents were contacted by an advocate who said, 'all you have to say is that you're handicapped.' Sure enough, the kid was back in school the next day. The kids he sold to were expelled." The 1997 amendments to IDEA gave schools a little more latitude in disciplining violent special ed kids, but the problem remains.

Meanwhile, the largest area of disability inflation, known as "specific learning disabilities," remains unaddressed. Learning disabilities, or LDs, account for over 51 percent of all children in special ed, and the numbers are growing at astounding speed. Technically, the 1975 law defines LD as "a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in imperfect ability to listen, think, speak, read, write,

spell, or do mathematical calculations.” Lest this be an open invitation to anyone who has trouble with their homework, the regulations stipulate that a diagnostic team shall identify as LD those students who show a “severe discrepancy” between their achievement in one or more subject areas and their intelligence, usually as measured by an IQ test.

Yet even with this diagnostic testing, LD is a notoriously plastic category. There are 50 state definitions in addition to the federal one, and the methods used to determine intelligence vary wildly. More than 80 percent of all school children in the United States could qualify as learning-disabled under one definition or another, according to University of Minnesota researcher James Ysseldyke. Even if LDs do exist as a legitimate category, it is not a foregone conclusion that learning-disabled children should receive more help than garden-variety poor readers. Why should a kid with a genius IQ but only above-average reading skills get extra help, while his average-scoring peers get none—no matter what obstacles they’ve overcome? It seems especially unfair that the rules should specifically exclude kids whose learning problems derive from “environmental, cultural, or economic disadvantage.”

LD advocates respond by citing voluminous studies purporting to demonstrate that LDs are real, and that they respond to treatment. But the scientific status of LDs is still cloudy at best, and it’s not clear that LD students respond any better than their undiagnosed peers. Indeed, “[T]here is considerable evidence that non-LD pupils would benefit from higher levels of educational inputs, and even stronger evidence that as a group, if not in each individual case, those diagnosed with LDs have been remarkably unresponsive to the costly special education that has been provided to them,” write Mark Kelman and Gillian Lester in their 1998 book, *Jumping the Queue: An Inquiry into the Legal Treatment of Students with Learning Disabilities*. “There is very scant evidence that dyslexics, for instance, benefit more from the interventions of reading specialists than do garden-variety poor readers.”

Furthermore, the LD diagnosis is often little more than an expression of class bias. As Kelman and Lester write, “a student is viewed as LD when the observer finds it *surprising* that he or she is performing poorly.” These expectations, of course, are likely to be informed by the parents’ social status. Learning disabilities grew out of a grassroots movement by middle-class parents in the 1950s and ’60s who wanted a label—and extra help—for what they saw as their “under-achieving” children. That’s not to say that some bright kids don’t suffer from

dyslexia and other serious reading problems. But there's little doubt that the meaning of the LD diagnosis depends, in large measure, on who your parents are.

Consider Michael, a slender, sandy-haired fourth grader in a public school in Marin, one of California's wealthiest counties. Michael's teacher says he has an IQ in the high 120s, but he's about two years behind his classmates in reading. His parents are both wealthy professionals who don't have much time to spend with him—which may account for his reading problems. But his teachers didn't want lawsuits, so they wrote an education plan that includes a modified curriculum with separate tests, special reading sessions in a "resource" room, a buddy to read with, and books on tape to keep him on track. If his problems persist, his parents will see to it that he gets any other accommodations the school can offer, including untimed tests, and eventually, an untimed SAT, to increase his chances of going to Stanford as Mom and Dad did. "We get a lot of referrals junior year," says another teacher in Michael's school. "Parents want to cut their kid a break. And it's starting a lot earlier." The words LD, she adds, no longer have any tainting stigma. Yale psychologist Robert J. Sternberg, who has spent years preparing a book on LDs, agrees. "That's the funny thing—before, no one would want that label. Now it's almost a cachet."

Despite the fact that LD isn't meant to apply to kids whose problems derive from poverty, teachers in poorer schools routinely bend the rules in order to get more attention for kids who are failing. Crowded and decaying inner-city classrooms are a handicap in their own right, and poverty itself can cut deeply into a child's learning. According to the Children's Defense Fund, middle-class children starting first grade have been exposed to 1,000 to 1,700 hours of one-on-one reading, while their low-income counterparts have been exposed to only *25 hours*. It's little wonder that so many of these kids get referred to special ed.

But these efforts often backfire when the students end up in dead-end classrooms where they'll be even less likely to learn. "You need to look at who gets the benefits of being diagnosed LD and who gets the bad side," says Mark Kelman. Tony, an African-American boy from northeast Washington, D.C., is fairly typical. He was diagnosed with learning disabilities a few years ago at roughly the same age as Michael. Like many kids in large urban school systems, he didn't get any help at all, and began falling further behind. Unhappy with his failures, he began "acting out" in class, whereupon he was reassessed and classified "emotionally disturbed"

and put into separate classes. There he was taught nothing and his behavior got worse, because many of his genuinely disturbed classmates picked fights with him. By the sixth grade he barely knew the alphabet. Yet Tony is neither stupid nor disturbed. A public interest lawyer managed to work a minor miracle, getting him assessed and transferred to a private school, where he has thrived. “If he’d had the appropriate intervention in third or fourth grade,” says the lawyer, “who knows where he’d be now.”

According to researchers who have studied trends in the treatment of LD across the country, these patterns apply nationwide. Kelman and Lester argue that the current system “continues to permit relatively privileged white pupils to capture high-cost or non-stigmatic in-class resources that others with similar educational deficits cannot obtain while, at the same time, allowing disproportionate numbers of African-American and poor pupils to be shunted into self-contained classes.”

### **Bureaucrazy**

Why does special ed serve the poor so badly? Part of the answer has to do with its massive, ineffectual, and self-perpetuating bureaucracy. Beneath the federal Office of Special Education Programs, which does research and audits states and school districts, there is a state office, and a localized Special Education Local Plan Area office, and a school district office. This is all on top of whatever counselors, psychologists, therapists, and “educational evaluators” a given school may have working for it. And in some individual states and cities, the situation is even worse. New York City, for instance, has its own separate bureaucracy, jokingly called the “Board of Special Ed,” thanks to a consent decree that grew out of a lawsuit by advocates for special ed students in 1979.

Given this focus on legal liability and procedure, it’s little wonder that teaching takes a back seat to paper-pushing. “[Special ed teachers] complain they’re spending 50 to 60 percent of their time filling out forms,” says Kim Reid, a professor at Columbia Teachers College. This constant bureaucratic drain makes it that much harder to recruit talented young people. It’s bad enough dealing with disabled or disturbed children and their grieving, angry parents all day. The job is so stressful that the average shelf life of special ed teachers is three years, says Reid. The Department of Education website, which proudly displays the voluminous 1997 amendments to the IDEA, notes tersely a ‘chronic’ shortage of special education teachers who are fully certified in their positions.”

The burden of this teacher crisis, and the top-heavy bureaucracy that fuels it, falls disproportionately on the poor. Wealthier parents, after all, can use the law to force schools to accommodate them or place their child in a private school. In Washington, D.C., such private placements account for over a third of the District's entire \$167 million special ed budget, even though less than one-sixth of the District's special ed students attend private school. (The special ed budget itself comprises almost a third of the *entire* school budget, even though only one-tenth of the District's students are in special ed.)

What is left over for the students whose parents lack the money or know-how to work the system to their advantage? Precious little. Despite all those bureaucrats hired to evaluate and place students, more than 250 students in D.C. haven't received an initial evaluation, and almost 2,200 are overdue for their second evaluation. Many of these kids are like Saundra Lemons, languishing in inappropriate classes until an "evaluator" notices them. Often it's far too late by that time, since the crucial learning years are the earliest, and catching up is far more difficult when children are older. And being evaluated doesn't always help. "Often the kid ends up in a class with 20 kids, all with different disabilities, and a teacher who's trained in one of those," says Nancy Opalack, a D.C. social worker. "No one learns anything." Teachers in the District estimate that half the kids in special ed drop out by 10th grade.

### **Gross Inequalities**

Yet anyone who's spent time in an inner-city classroom can tell you that the challenges the average poor kid faces are often hard to distinguish from those you'll find in special ed. This may be the greatest absurdity of the special ed law: It fails to acknowledge "environmental, cultural, or economic disadvantage" as disabling conditions. Why should a child with a broken back be guaranteed round-the-clock, state-of-the-art medical care, no matter what the cost, while the millions of kids whose difficulties stem from poverty and neglect are left to hope that their teachers will break the rules so they can get some extra help? Should we really be spending \$10 billion (at least) a year on "learning disabilities" when we still don't adequately fund Head Start and Title I, the federal programs that were designed to help poor children catch up with their wealthier peers?

If the goal of public education is to give everyone a roughly equal start by the time they reach adulthood, it simply doesn't make sense to

privilege obstacles that can be given a medical diagnosis over those that derive from poverty—which may be the greatest handicapping condition of all. The fact that the special ed bureaucracy often *prevents* poor kids from getting the help they need, by making them wait until they've been properly evaluated, only adds insult to injury.

Reforming IDEA is no easy task. Any politician who touches it runs the risk of being branded a cold-hearted enemy of kids in wheelchairs. But before we start pouring billions more into the program, Congress should ask whether it's really serving the goal of equal opportunity for all. And if special ed has become a kind of band-aid for schools that lack money to teach their kids adequately, or for kids whose parents never prepared them in the first place, then perhaps it's time to address those problems head-on. Kids like Garret Frey deserve a shot at success—but not at the expense of kids like Sandra Lemons.