

The Supreme Court of the United States

484 U. S. 305

HONIG, California Superintendent of Public Instruction,
Plaintiff

v.

DOE, et al.,
Respondents

No. 86-728

January 20, 1988

JUSTICE BRENNAN delivered the opinion of the Court as to holdings in number 1 and 2, in which Rehnquist, C.J., and White, Marshall, Blackmun, and Stevens, J.J. joined. Rehnquist, C.J., filed a concurring opinion. Scalia, J. filed a dissenting opinion, in which O'Connor, J. joined.

As a condition of federal financial assistance, the Education of the Handicapped Act requires States to ensure a “free appropriate public education” for all disabled children within their jurisdictions. In aid of this goal, the Act establishes a comprehensive system of procedural safeguards designed to ensure parental participation in decisions concerning the education of their disabled children and to provide administrative and judicial review of any decisions with which those parents disagree. Among these safeguards is the so-called “stay-put” provision, which directs that a disabled child “shall remain in [his or her] then current educational placement” pending completion of any review proceedings, unless the parents and state or local educational agencies otherwise agree. 20 U.S.C. 1415(e)(3). Today we must decide whether, in the face of this statutory proscription, state or local school authorities may nevertheless unilaterally exclude disabled children from the classroom for dangerous or disruptive conduct growing out of their disabilities. In addition, we are called upon to decide whether a district court may, in the exercise of its equitable powers, order a State to provide educational services directly to a disabled child when the local agency fails to do so.

I

In the Education of the Handicapped Act (EHA or the Act), 84 Stat. 175, as amended, 20 U.S.C. 1400 *et seq.*, Congress sought “to assure that all handicapped children have available to them . . . a free appropriate public education which emphasizes special education and related services designed to meet their unique needs, [and] to assure that the rights of handicapped children and their parents or guardians are protected.” 1400(c). When the law was

passed in 1975, Congress had before it ample evidence that such legislative assurances were sorely needed: 21 years after this Court declared education to be “perhaps the most important function of state and local governments,” *Brown v. Board of Education*, 347 U.S. 483, 493 (1954), Congressional studies revealed that better than half of the Nation’s eight million disabled children were not receiving appropriate educational services. 1400(b)(3). Indeed, one out of every eight of these children was excluded from the public school system altogether, 1400(b)(4); many others were simply “warehoused” in special classes or were neglectfully shepherded through the system until they were old enough to drop out. See H. R. Rep. No. 94-332, p. 2 (1975). Among the most poorly served of disabled students were emotionally disturbed children: Congressional statistics revealed that for the school year immediately preceding passage of the Act, the educational needs of 82 percent of all children with emotional disabilities went unmet. See S. Rep. No. 94-168, p. 8 (1975) (hereinafter S. Rep.).

Although these educational failings resulted in part from funding constraints, Congress recognized that the problem reflected more than a lack of financial resources at the state and local levels. Two federal-court decisions, which the Senate Report characterized as “landmark,” see *id.*, at 6, demonstrated that many disabled children were excluded pursuant to state statutes or local rules and policies, typically without any consultation with, or even notice to, their parents. See *Mills v. Board of Education of District of Columbia*, 348 F. Supp. 866 (DC 1972); *Pennsylvania Assn. for Retarded Children v. Pennsylvania*, 334 F. Supp. 1257 (ED Pa. 1971), and 343 F. Supp. 279 (1972) (*PARC*). Indeed, by the time of the EHA’s enactment, parents had brought legal challenges to similar exclusionary practices in 27 other states. See S. Rep., at 6.

In responding to these problems, Congress did not content itself with passage of a simple funding statute. Rather, the EHA confers upon disabled students an enforceable substantive right to public education in participating States, see *Board of Education of Hendrick Hudson Central School Dist. v. Rowley*, 458 U.S. 176 (1982)¹, and conditions federal financial assistance upon a State’s compliance with the substantive and procedural goals of the Act. Accordingly, States seeking to qualify for federal funds must develop policies assuring all disabled children the “right to a free appropriate public education,” and must file with the Secretary of Education formal plans mapping out in detail the programs, procedures and timetables under which they will effectuate these policies. 20 U. S. C. 1412(1), 1413(a). Such plans must assure that, “to the maximum extent appropriate,” States will “mainstream” disabled children, i.e., that they will educate them with children who are not disabled, and that they will segregate or otherwise remove such children from the regular classroom setting