#### DOCUMENT RESUME

RD 135 193 ... EC 093 169

AUTHOR Murphy, Harry J., 1d.

TITLE Proceedings of a Conference to Develop a Rationale

for Higher Education for Deaf-Blind Persons.

INSTITUTION California State Univ., Northridge. Center on

Deafness.

SPONS AGENCY Bureau of Elementary and Secondary Education

(BREW/OE), Washington, D.C.

PUB DATE 76
NOTE 33p.

EDRS PRICE MF-\$0.83 HC-\$2.06 Plus Postage.

DESCRIPTORS Conference Reports; \*Deaf Blind; \*Educational Needs;

\*Equal Education; \*Higher Education; Multiply

Hardicapped

#### ABSTRACT

Presented are the proceedings of a 1975 conference on higher education for deaf blind persons which emphasized ways to raise the level of expectation that society and educators hold for the deaf blind. Noted are various communication methods used during the conference including platform interpreting (for the deaf) and the Tadoma method, fingerspelling into the hand, and use of the Braille typewriter for the deaf blind. Included are the texts of the opening address by R. Jones, and presentations with the following titles: "An Educational Bill of Rights for Deaf Blind Persons" (by F. Laski); "Strategies for Increasing Educational Opportunities for Deaf Blind Persons" (by R. Kinney); and "Personal Experiences of Deaf Blind Persons" (By R. Joy, Jr. and S. Ehrlich). Summarized are two group discussions on forces driving toward positive change and restraining forces. (DB)

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Proceedings of

# A Conference To Develop a Rationale For Higher Education For Deaf-Blind Persons

Workshop Director W. Lloyd Johns

Editor Harry J. Murphy

Recorders Eloise Morris Mary Rapier

This conference was supported by
The Southwestern Region Deaf-Blind Center
William A. Blea. Project Director

And conducted by
The Center on Deafness
California State University, Northridge

Ray L. Jones, Director

KC 07316

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This publication, which was edited and prepared for photo-offset production by the Bureau of Publications, California State Department of Education, was published by the Department, 721 Capitol Mall, Sacramento, CA 95814.

The activity which is the subject of this report was funded under the Elementary and Secondary Education Act of 1965 as Amended, Title VI (Education of the Handicapped Act) and was supported in whole or in part by the U.S. Office of Education, Department of Health, Education, and Welfare. However, the opinions expressed herein do not necessarily reflect the position or policy of the U.S. Office of Education, and no official endorsement by the U.S. Office of Education should be inferred.

Printed by the Office of State Printing and distributed under the provisions of the Library Distribution Act 1976





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## Introduction

The Conference on Higher Education for Deaf-Blind Persons was called to explore ways to raise the level of expectation that society in general and educators in particular hold for deaf-blind persons in the area of higher education. A rationale was to be developed, and specific techniques were to be identified.

The conference was characterized by communication; discussions were free and open. More than that, a broad variety of communication techniques were brought into play to meet specific needs of the audience, which consisted of deaf, deaf-blind, and blind-deaf individuals. During the course of the conference, several communication methods were used:

For deaf persons:
Platform interpreting

For deaf-blind persons:

Tadoma method
White glove method
Fingerspelling into the hand
Side-to-side sign language interpreting
Face-to-face sign language interpreting
Braille typewriter
Morse code typewriter

At one point a deaf-blind individual spoke aloud, referring to Braille notes. His words were interpreted by a hearing person and received visually by deaf persons, one of whom, a woman, reinterpreted what was being said for a deaf-blind person at her side who lightly held her hand and followed the message on it.

The conference itself was a dramatic example of how much of a contribution severely handicapped individuals can make if the resources needed to receive and transmit information are made available. The comments from deaf and deaf-blind individuals present showed clearly that not only were they "getting the message" but that they also had a message to give.

It is hoped that this conference will help bring about increased opportunities for deaf-blind persons in higher education.

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W. Lloyd Johns Workshop Director Ray L. Jones Director, Center on Deafness



# Monday, April 21, 1975 Morning Session

## **Opening Address**

Ray L. Jones
Director, Center on Deafness

It is a pleasure to welcome you to this important conference and to bring greetings from William Blea, Director of the Southwestern Region Deaf-Blind Center, which is funding this workshop. Dr. Blea and the directors of the other nine centers for deaf-blind children had planned to be in attendance; but they're all working to meet their deadlines for the annual renewal of contracts. However, Dr. Blea does plan to be with us for tomorrow's sessions.

For me, this workshop represents the fulfillment of a dream which began about five years ago when I was serving on the Advisory Committee for the National Center for Deaf-Blind Youth and Adults. My work on this committee and prior experience in work with deaf-blind adults had brought into focus the following observations about deaf-blind adults:

First: Approximately 60 percent of adult clients served at the National Center for Deaf-Blind Youth and Adults are victims of Usher's Syndrome. These individuals were born deaf and, as a result of retinitis pigmentosa, gradually lost their vision. Simply stated, these are deaf individuals with progressive loss of vision. As such, they have come through the same, normal educational experience as other deaf persons, including some who have graduated from Gallaudet College, and have the same capabilities as other persons.

Second: Of the two handicaps deafness is by far the more limiting. Professionals experienced in the field of deafness have a great deal to offer in work with the deaf-blind.

Third: In general, community agencies serving deaf-blind youths and adults are rehabilitation-oriented, and they tend to program their clients for short-term evaluation and training and for sheltered, workshop-type employment.

Fourth: In this field very little attention seems to be given to identifying the capable deaf-blind individual and making it possible for that individual to achieve his full potential through education. Somewhere in the pipeline of deaf-blind children in America are



individuals capable of achievement comparable to that of Helen Keller, Richard Kinney, Bob Smithdas, Jackie Coker, Richard Joy, and many others. Professionals in deaf-blind work must assume leadership in developing a rationale in support of the right of qualified deaf-blind citizens to have full access to public higher education.

Fifth: At the present time society tends to view the severely handicapped individual as a "nonperson"—to be "put away" in a hospital or workshop. Such individuals are not accepted as having a legal right to education but are expected to be satisfied with whatever services, or lack of services, are provided through government and community agencies.

Court cases initiated by the National Center for Handicapped Children have been influential in establishing the right of handicapped children to education. At the same time the law requires that handicapped citizens have physical access to public buildings (including colleges and universities), access to public transportation, and access to equal employment opportunities.

There is nothing about blindness or about deafness that affects mentality; deaf-blind individuals are just as capable of achieving academically as individuals who have only the single handicap of deafness or blindness.

We have already established the legal right of any handicapped person to education if he can meet the normal admissions criteria to the college or university of his choice. Now it is our challenge to give to the profession, and to the world, models of capable deaf-blind individuals who are succeeding in higher education.

Sixth: The traditional viewpoint that the handicapped student must have assurance of employment before he can be accepted into a training program is a "copout" for both rehabilitation and education workers. It is the thinking we faced at California State University, Northridge, when we accepted our first deaf students into graduate study. Professionals in the field said, "Our district does not hire deaf teachers; therefore we can't help train them." Fortunately, others were willing to take a chance, and today in California alone almost 100 deaf teachers of the deaf are employed in public schools and in residential school programs. Only by permitting deaf-blind students full access to academic study in fields for which they are qualified will we learn whether they can be successfully employed in those fields.

Society does not require its nonhandicapped students to have a guarantee of employment upon completion of college studies. Why should it demand more of its handicapped students?



### Legal Rights of the Handicapped

In the area of legal rights of the handicapped, several very encouraging movements are emerging that are directly or indirectly related to the theme of this workshop. These include the following:

rirst: The effort to remove architectural barriers. In our communities we are seeing millions of dollars being spent to make public buildings, streets, and public transportation accessible to physically handicapped citizens. Through current legislation enforcing the right of handicapped citizens to physical access to public buildings, architectural barriers are being rapidly removed in government and public buildings and in our colleges and universities. Transportation systems are being modified to give handicapped citizens equal access to public transportation. These developments are establishing a sensitivity to the special needs of handicapped citizens. They are helping to change attitudinal barriers which presently tend to discourage handicapped citizens from seeking higher education to qualify them for professional employment.

Second: The effort to provide a stable source of funding for support services required by handicapped students. Traditionally, these services have been provided by state departments of rehabilitation, which with limited resources and the requirement of "employability" at completion of training have no alternative but to "ration" resources and to support only about one out of ten handicapped individuals who may wish to enter college.

In a paper prepared for the California State Department of Rehabilitation last fall, Frank Laski addressed the general topic of "Higher Education for the Handicapped—Whose Responsibility?" He concluded that it is the state—not vocational rehabilitation agencies—that has legal responsibility for the higher education of handicapped citizens.

Third: The desegregation of schools serving handicapped students. This movement is now sweeping the country. The same arguments that led the United States Supreme Court to reject the "separate but equal" approach to the education of minority students is now being applied with equal force to our traditional "separate but equal" approach to education of the handicapped.



<sup>&</sup>lt;sup>1</sup>Frank Laski, "Post-Secondary Education and Handicapped Students-Some Legal Considerations." An unpublished report prepared for the Sensory Disabilities Study Group, California Conference on Rehabilitation, Sacramento, California, October 8-10, 1974, sponsored by the California State Department of Rehabilitation.

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This movement is being accelerated by the awakening of non-handicapped students to the fact that their education is enriched as handicapped students are accepted into their classes. Here they get to know, to understand, and to appreciate the uniqueness of handicapped classmates. In his future employment the nonhandicapped student will be much more willing to accept a handicapped person as an employee or as a fellow worker if he has had college classmates who were handicapped.

# Goals and Objectives of This Workshop

The goals of this workshop may at first glance seem to be too broad and overambitious. If they are too broad, it is because so little has been done to date in this critical area. If they are overly ambitious, it is because we have full confidence in the vision and in the ability of you people who have been brought together to accomplish this task.

The objectives of the workshop are (1) to develop a rationale in support of continuing and higher education for deaf-blind citizens; and (2) to develop strategies through which this rationale may be fully implemented. We are proposing to develop a rationale that will legally, morally, and logically establish the premise that access to higher education is the right of every qualified handicapped citizen. Strategies may well be evolved that include new legislation, court cases to require implementation of existing legislation, professional publications, conferences and news releases, and perhaps most important, the starting of a national search for competent deaf-blind individuals who can become models in testing the capacity of our great colleges and universities to serve their unique needs.

If our task seems a bit formidable, it is because the need is both urgent and great. In my work, study, and travels, I became convinced that the number one priority for handicapped citizens is equal access to quality education.

Someone has said: "If you feed a man, he will hunger again; if you clothe him, his clothes will wear out; but educate him, and he will take care of himself." This is my conviction, and I share it with you as a major charge for the conference.

Let me close my remarks with this quotation by our good friend Richard Kinney: "Challenges are what we live by when we are living at our best. Our challenge in special education is to reach the unhandicapped mind behind the handicapped senses. It is more important to know than to see. To understand is more important than to hear."

Thank you.



#### **Summary of Open Discussion**

To the first two objectives—to develop a rationale and to identify techniques to implement the rationale—a third objective was added during the discussion: to determine what the deaf-blind individual can do with his education after finishing college if no one offers him a job.

The relationship between education and rehabilitation was then discussed. At the present time there is a lack of focus on the respective roles of education and rehabilitation in the training of severely handicapped individuals. It was suggested that the roles be more clearly defined, with educational agencies assuming responsibility for basic educational costs and vocational rehabilitation agencies assuming responsibility for the special services (interpreting, notetaking, and so forth) which are required to ensure success for the handicapped individual. It was cautioned that vocational rehabilitation agencies in many cases are providing the basic educational costs now and that a shift in responsibilities should be gradual and coordinated to ensure that there is no gap in services.

The discussion turned once again to the problem that deaf-blind persons have in finding successful employment after college. It was agreed that very few people are assured of a job as they begin college. It was suggested that the benefits of college are more than vocat anally oriented and that participation in, and knowledge of, our culture enriches and enhances the life of an individual. In terms of an occupational goal, a responsibility exists to assess the potential of a deaf-blind individual and to expose him to those areas of work consistent with his talents.

The group touched on some current legislation affecting handicapped persons. It was pointed out that cases dealing with the right to education have dealt so far with only the elementary and secondary levels. Many persons are now giving some thought to the postsecondary level. It was noted that even when a court case resulted in a meaningful victory for handicapped persons, very unsatisfactory education sometimes resulted; for example, court victories in the East have led to placing handicapped children in "mainstreaming" situations with totally inadequate provisions to ensure an education. The issues extend beyond court victories.



# Monday, April 21 Afternoon Session

# An Educational Bill of Rights for Deaf-Blind Persons

by

Frank J. Laski General Counsel Massachusetts Department of Mental Health

I have been requested to prepare a paper on "An Educational Bill of Rights for Deaf-Blind Persons." However, my view is that in 1975 the time is past for an educational bill of rights or any other version of a bill of rights for deaf-blind persons. Most bills of rights are statements of what ought to be. They seek to define new relationships between the strong and the weak, the governors and the governed, in much the same way that the Magna Charta and the Petition of Right stipulated the relationship between the prince and his subjects. Thus we recently have had proclamations and detailed statements concerning the rights of handicapped persons, the rights of the mentally retarded, patients' rights, the rights of prisoners, the rights of children, and so on. These statements are helpful in describing goals and at times are necessary to clarify and articulate our values. The statement of the Council for Exceptional Children on Basic Commitments and Responsibilities to Exceptional Children 1 serves these purposes well.

Although there is nothing wrong with statements of rights which are for the most part political slogans (after all, the Bill of Rights amending the Constitution was a political document before it was a legal document), the deaf-blind persons in our country today are better served when we speak first and foremost of their rights in terms of legal entitlement as citizens rather than of their "rights" in terms of what ought to be for deaf-blind persons.

My own educational bill of rights for deaf-blind persons would be quite brief; it contains only two points:

- 1. Deaf-blind persons have the same rights as other citizens.
- 2. Deaf-blind persons have a right to such education, training, rehabilitation, and guidance as will enable them to develop their ability and maximum potential.



<sup>&</sup>lt;sup>1</sup>Basic Commitments and Responsibilities to Exceptional Children and Policy Statement on Governmental Affairs. A position paper prepared by the Council for Exceptional Children. Arlington, Va., 1972.

My reliance on these principles is buttressed by the belief that protection under the U.S. Constitution with its Bill of Rights, as extended to all citizens through the due process and equal protection clauses of the Fourteenth Amendment, is, when correctly applied, more than adequate to instruct us as to the rights of deaf-blind persons.

Therefore, instead of formulating an educational bill of rights for deaf-blind persons, I will briefly describe the educational rights, entitlements, and protections that exist in law today for severely handicapped persons as citizens and I will raise questions concerning the application of these rights to deaf-blind persons.

In order to put educational rights of deaf-blind persons in perspective, we should note two parallel legal developments.

First, judicial protection is being extended more and more to all children to guarantee equal educational opportunity. This protection draws much of its basic reasoning from *Brown* v. *Board of Education*, in which the U.S. Supreme Court first stated:

In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity... is a right which must be made available to all on equal terms.

Brown v. Board of Education, 347 U.S. 438,493 (1954)

Although the Supreme Court and many lower courts have held to the Brown decision and have had the opportunity to apply it, there has been doubt in the minds of some commentators as to the nature of the constitutional right to education. The most recent cases tend to support the view that the child or adult entitled to education has a vested property right to that education. This view was best stated many years ago by the California Supreme Court, which held that education is:

...a right gal right—as distinctively so as the vested right in property owned is gal right, and as such is protected, and entitled to be protected by all the guarantees by which other legal rights are protected and secured to the possessor.

Ward v. Flood, 48 Cal. 36,50 (1874)

The second legal development to be noted is that judicial protection of educational right has been most evident and consistent as applied to handicapped children. We are all familiar with the leading federal cases, such as Pennsylvania Association for Retarded Children v. Pennsylvania (PARC) and Mills v. Board of Education of District of Columbia, which first established in law the right to free, publicly supported education for all children, including handicapped children. The precedents established in these cases have led to great numbers of similar actions in state and federal courts throughout the



nation. The judiciary has consistently recognized the right of handicapped persons to equality of educational opportunity.<sup>2</sup>

For purposes of our discussion of educational rights of deaf-blind persons, a few quotations from *Mills* help to remind us of the vital principles that are now a part of our federal law. Basing its decision on the due process and equal protection clauses of the U.S. Constitution, the court ordered that:

No child eligible for a publicly supported education
Columbia public schools shall be excluded from a majority assignment by a rule, policy, or practice of the Boundary and policy and its agents unless such child is produced alternative educational services suited to the child's needs, which may include special education or tuition grants, and (b) a constitutionally adequate prior hearing and periodic review of the child's status, progress, and the adequacy of any educational alternative.

[Mills v. Board of Fducation of District of Columbia, 348 F. Supp. 866 (D.D.C., 1972)]

Also, the court emphasized that its ruling was applicable regardless of degree or type of exceptionality and regardless of the fiscal impact on the school system. The decree reads:

The District of Columbia shall provide to each child of school age a free and suitable publicly supported education regardless of the degree of the child's mental, physical or emotional disability or impairment. Furthermore, defendants shall not exclude any child resident in the District of Columbia from such publicly supported education on the basis of a claim of insufficient resources.

No deaf-blind child was among the Mills plaintiffs. Yet, the language and holding of Mills and all other education cases decided under the U.S. Constitution and state law affect deaf-blind children to the same extent that the affect other children. This reality should be kept in mind in reviewing the following principles, all of which have been clearly established and reinforced in recent cases:

- 1. Every child, regardless of handicap, is guaranteed the right to a free and equal educational opportunity.
- 2. The idea that certain individuals are uneducable or untrainable is without basis. All children are capable of benefiting from a program of education and training.
- 3. The right to education for handicapped children means education appropriate and suitable to the needs of the child. Custodial programs may be equivalent to exclusion.



<sup>&</sup>lt;sup>2</sup>A listing of Right to Education Cases, current as of January 1, 1975, prepared by the staff of the National Center for Law and the Handicapped, is appended to this paper.

4. The right to free public education may not be denied on the basis of a claim of insufficient funds.

5. Normalized and integrated school settings are legally preferred

over separate or segregated settings. 6. Educational decisions must conform to due process requirements, including advance notice of placement and reasons for placement, opportunity for a hearing concerning an educational program, a periodic review of the suitability of assignment, and the right to appeal.

An additional principle, which has yet to be fully recognized but may be anticipated, is entitlement to compensatory education for older children and adults for educational opportunity delited as a result of exclusion or inappropriate placement.

Despite the strong affirmation of these principles by the courts, their application to deaf-blind persons deserves special attention. We know from some monitoring of the implementation of right to education that those with the greatest need are likely to be the least served. This situation has led to a new round of education cases in some states—cases which specifically address the adequacy of programs for severely handicapped children in institutions.

One of the most important consequences of the continuing pressure of the right-to-education cases is the reformation of state and federal law governing and supporting education of the handicapped. While some state laws still reflect outmoded and unconstitutional notions of education for handicapped individuals, states such as Massachusetts, Tennessee, Michigan, and Wisconsin have adopted comprehensive special education laws which codify the equal protection and due process guarantees of PARC and Mills.

The influence of right-to-education litigation in reforming federal legislation and policy is reflected in the 1974 Amendments to the Education of the Handicapped Act.<sup>3</sup> The House Committee on Education and Labor, in reporting the amendments to the Elementary and Secondary Education Act, noted that:

In recent years federal and state courts . . . have been increasingly upholding the principle that these [handicapped] children are legally and morally entitled to a free, appropriate public education. It is to this end that this amendment is addressed. For it establishes for the first time in federal policy that handicapped children are entitled to a free public education.



<sup>&</sup>lt;sup>3</sup>Public Law 93-380; 88 Stat. 484 (H.R. 69). "Education Amendments of 1974" (Title VI, Part B, "Education of the Handicapped").

The amendment incorporated the major principles of the right-to-education cases. Through new state plan requirements, it tied federal funding for special education to state compliance with due process, zero rejection in the state plan requirements and nondiscriminatory testing principles. Specification, Section 613 (a) of the Education of the Handicapped Act requires states to:

establish a goal of providing full educational  $\mathrm{op}_{P}$ children,... provide procedures for ensuring that handicapped children and their parents or guardians are guaranteed procedural safeguards in decisions regarding identification, evaluation, and educational placement of handicapped children, ... procedures to ensure that, to the maximum extent appropriate, handicapped children, includir institutions or other care facilities, are ed ren in public or private handicapped, and that special classes, and trate hildren who are not handicapped children from the regula , or other removal of when the nature of severity of the handle, ¹!!cati ronment occurs only classes with the use of supplementary aids and services cannot be achieved satisfactorily; and ... procedures to ensure that testing and evaluation materials and procedures utilized for the purposes of classification and placement of handicapped children will be selected and administered so as not to be racially or culturally discriminatory.

The court cases and legislation enacted in response to litigation clearly establish under law the right of a parent or child to claim education until age twenty-one. The existence of this right leads us into the issue of higher education for deaf-blind persons. However, prior to addressing rights to higher education should be emphasized education by the courts.

Invariably, courts have adopted broad, comprehensive definitions of education and have rejected the proposition that education is a purely academic process. They have done so in cases dealing with handicapped children as well as in other cases. For example, a widely cited Massachusetts Supreme Court opinion defined education as follows:

Education is a broad and comprehensive term. It has been defined as the process of developing and training the powers and capabilities of human beings. To educate "is to prepare and fit for any calling or business, or for activity and usefulness in life." Education may be particularly directed to either the mental, moral, or physical powers and faculties, but in its broadest and best sense it relates to them all.

Mt. Hermon Boys' School v. Town of Gill, 145 Mass. 139,13 N.E. 354 (1887) In the same vein, courts have shown little sympathy for some of the categorization and specialization that has grown around education for the handicapped. Distinctions between preschool and school programs, vocational education and vocational training, and other classifications which often serve to exclude persons from programs carry little weight when basic opportunities for individual development are concerned. A Maryland judge faced with the argument that certain areas were not the concern of state education agencies replied:

There is no distinction between the words training and education. A child may be trained to read and write, or may be educated to read and write. A child may be educated to the his shoes, or trained to the his shoes. Every type of training is at least a subcategory of education.

[Marylan and for Retarded Children v. State of Maryland, Equity No. 100/1 576 (Circuit and Angles Cty., Md., May 3, 1974)]

The concept of education as a continuous process of developing life skills and socialization for participation in adult society has a great deal of significance for education of handicapped persons at all levels. It opens up the question of compensatory education as well as higher education for handicapped adults.

To address the question of legal entitlement or right to higher education of deaf-blind persons, we start essentially from the same premise as for the elementary school cases—equal protection. The principle is that where the state has undertaken to provide a certain level of education (i.e., vocational school, college, adult education, or professional education), that level of education must be made available to all on equal terms. Although the principles for higher education are the same as for elementary education, some of the legal aspects are different, and some of the theories are novel. For example, rather than state special education laws, we must look at state legal and constitutional provisions for state-supported higher education. At the federal level the entitlements and availability of programs under the Higher Education Amendments and the Vocational Rehabilitation Amendments are of paramount importance.<sup>4</sup>

These legislative entitlements have been dealt with elsewhere and will not be discussed here.<sup>5</sup> However, I would like to repeat a case



<sup>&</sup>lt;sup>4</sup>Public Law 92-318; 86 Stat. 235 (S. 659). "Education Amendments of 1972." (Title I, "Higher Education"); and Public Law 93-516; 88 Stat. 1617 (H.R. 17503). "Rehabilitation Act Amendments of 1974."

<sup>&</sup>lt;sup>5</sup>Laski, Frank. "Post-Secondary Education and Handicapped Students-Some Legal Considerations." An unpublished report prepared for the Sensory Disabilities Study Group, California Conference on Rehabilitation, Sacramento, California, October 8-10, 1974, sponsored by the California State Department of Rehabilitation. The section following is drawn largely from a portion of this paper, which deals with the legal arguments more fully.

for equal protection in postsecondary education for deaf-blind persons by building from the early precedents concerning racial discrimination in higher education. We can use the example of *Sweatt v. Painter*, in which the Supreme Court addressed the issue of "equal but separate" higher education.

In this case the plaintiff challenged the equality of facilities where the State of Texas had established a separate law school for blacks within the state. The court evaluated the two schools in terms of a number of academic criteria (number of faculty, library, law review, alumni, and so forth) and found no equality. Furthermore, the court noted another important factor by which the separate facility ran afoul of the equal protection clause. It reasoned:

The law school ... cannot be effective in isolation from the individuals and institutions with which the law interacts. ... The law school to which Texas is willing to admit petitioner excludes from its student body members of the racial groups which ... include most of the lawyers, witnesses, jurors, judges, and other officials with whom petitioner will inevitably be dealing when not becomes a member of the Texas Bar. With such a substantial and significant segment of society excluded, we cannot conclude that the education offered petitioner is substantially equal to that which he would receive if admitted to the University of Texas Law School.

[Sweatt v. Painter, 339 U.S. 629 (1950)]

We should note well that, in determining the equality of educational opportunity in these cases, the court gave as much weight to the value of the social experience of higher education as it did to the academic outcome. Furthermore, the removal of barriers to intellectual commingling and social interaction accrues not only to the previously excluded class; the reverse of this coin was well stated by Ray Jones in this conference when he observed that nonhandicapped persons benefit by associating with the handicapped individuals who are accepted into their classes by getting to know, to understand, and to appreciate the uniqueness and capabilities of handicapped friends.

Judicial decisions dealing with past racial discrimination in higher education do not, of course, settle the issue as to higher education for deaf-blind or other handicapped persons. However, it is not entirely a spurious undertaking to dwell on the possible parallels between state policies in education toward racial minorities and our own policies and attitudes today as they affect equal opportunity in higher education for handicapped students. We should seriously consider the following questions:

To what extent does substandard specialized educational programming at the primary and secondary levels contribute to the "low demand"—or need—for higher education for the handicapped?



To what extent is that "low demand" predetermined by the attitudes of educators and rehabilitation personnel concerning the potential of deaf-blind and other severely handicapped persons and by the resulting tracking practices?

How "equal" are existing specialized postsecondary educational facilities for the handicapped in terms of academic output? In terms of social interaction?

I will not attempt to detail the intricacies of an argument for legal protection which could be made to secure equal opportunity for higher education for the handicapped. The value of higher education as expressed in judicial decisions has been noted. The characteristics of the handicapped population which would meet "suspect class" criteria have been alluded to and could be documented, especially in regard to deaf-blind persons. It is sufficient to say that under either standard of equal protection review—"rational basis" or "compelling state interest"-classifications in education and rehabilitation which deprive deaf-blind persons of equal opportunity are vulnerable to constitutional attack. In reviewing discriminatory practices against aliens and women as well as minorities, courts have consistently found that the Fourteenth Amendment is applicable to postsecondary education. The importance of education has been recognized, and most commentators agree that Rodriguez left open the issue of the fundamental nature of education.<sup>6</sup> However, it is probably best to refrain from attempting to deal with questions of fundamental interests and suspect class in a vacuum. In equal protection analysis the standards of review do not in themselves determine the results of the case. Rather, the court weighs the interests at stake as well as the facts presented.

The facts are indeed central to the legal result. As Tom Gilhool and other advocates in the elementary school cases were quick to point out, the "facts" which may have supported the concept of uneducability 30 years ago were true no longer by 1972. Because of increasing knowledge concerning the potential of handicapped persons, the facts had changed; consequently, the law was changed.

The same process is essential in the context of higher education. Those laws, policies, and practices which now rest on assumptions concerning the limited educational and vocational potential of severely handicapped persons can best be overcome by marshalling the facts that demonstrate the ability of handicapped persons to succeed at all levels of education and in a variety of vocations. This is



<sup>&</sup>lt;sup>6</sup>Rodriguez v. San Antonio, Civ. Action 68-175SA (W.D. Tex. 1971); San Antonio Independent School District, et al., v. Demetrio P. Rodriguez, et al., 93S.CR. 1278 (1973).

a major task for those involved in the rehabilitation and education of deaf-blind persons and for handicapped persons who assume leader-ship positions.

It is the task central to negating the need for a special bill of educational rights for deaf-blind persons. For in its achievement we will be well on the way to the realization of the Bill of Rights for deaf-blind and other severely handicapped persons.

[In addition to his prepared paper, Mr. Laski also cited a list taken from "Bureaucratic Excuses for Inaction," which appears in *Children Out of School in America*.<sup>7</sup>]



<sup>&</sup>lt;sup>7</sup>Children Out of School in America. A Report by the Children's Defense Fund. Cambridge, Mass. (1746 Cambridge St.): Washington Research Project, Inc., 1974.

# Appendix to an Educational Bill of Rights for Deaf-Blind Persons Education-Filed Cases by State

#### California

Burnstein v. Kipp, No. R-19266 (Super. Ct. Cty. of Contra Costa, Calif., filed Dec. 31, 1970)

California Association for the Retarded v. State Board of Education, No. 237227 (Super. Ct. Cty. of Sacramento, Calif., filed July 27, 1973)

Uyeda v. Department of Education, Civ. No. 102 602 (Super. Ct. Riverside Cty., Calif., filed June 14, 1972)

West v. Secretary of Defense, No. 73-2589-DWW (C.D. Calif., preliminary injunction issued April 4, 1974)

#### Colorado

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#### idaho

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#### Illinois

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#### Louisiana

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#### Ohio

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#### Pennsylvania

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#### Texas

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Wisconsin

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State of Wisconsin v. Nusbaum, State No. 2 (Wisconsin Supreme Court, Decided June 28, 1974)



# Strategies for Increasing Educational Opportunities for Deaf-Blind Persons

Βv

Richard Kinney

President Hadley School for the Blind

Since the intent of this paper is to present ideas for discussion, the focus will be exactly where it should be—on ideas, not words; concision will be considered a merit second only to pertinacity.

The physical senses are merely channels through which the mind observes and communicates with the world. Our challenge in special education is to reach and teach the unhandicapped mind behind the handicapped senses. Since a profoundly deaf-blind person is limited in sensory input substantially to the sense of touch, and since this "contact" sense provides comprehensive information on the external environment only as inference is added to direct observation, the urgency of providing the mind behind the senses with as much "inference material" as possible is self-evident. The amount of inference material a deaf-blind person acquires through education will in large part determine the social and vocational effectiveness and the intellectual and emotional tone of the person's entire life. Justification of maximum feasible educational opportunity for deaf-blind persons is simply the totality of the need.

## Individual Needs, Alternative Methods

Because of numerous variables in extent and timing of hearing and sight loss, plus other factors such as additional handicaps and personal aptitudes, each deaf-blind person must be considered an inusually complex individual. Methods of education should be electic, the best method or methods for each individual being the 'right" aproach for him.

Direct, face-to-face tutoring can enhance the education of almost my deaf-blind person, and such tutoring is especially effective in milding communication skills, teaching recreational activities, emedying specific academic deficiencies, and preparing the deaf-blind person for more formal study. On a broader front, the same oals may be achieved through correspondence study with the ladley School for the Blind, which offers a wide range of secondary adult education courses by mail in Braille. Experienced Hadley stors work with the student, who studies on his own time in his wn home, with a liberating sense of independence.

Accompanied by an interpreter and utilizing volunteer Braille transcribing service and the regional Braille library, a deaf-blind person can enhance his education through local resources—night school and community classes—used by other citizens of the community. The range of opportunities varies from town to town, but the choice is increasingly extensive almost everywhere.

The deaf-blind young person with the requisite ability will presumably receive the opportunity to earn a high school diploma as part of his public or specialized school program. In addition, a nationally recognized high school diploma can be earned through correspondence study with the Hadley School for the Blind, or a deaf-blind person can prepare himself to pass the G.E.D. (General Education Development) examinations that qualify him for a high school equivalency certificate.

At least a dozen deaf-blind persons have earned college degrees or are in the process of doing so. Though expensive, the four-year degree has proved vocationally invaluable to a high percentage of recipients and culturally advantageous to all. The two-year junior college program deserves intensive exploration because of the reduced expense factor and the optional possibility of further study if indicated.

College credits can be earned through the Hadley School for the Blind, which works in collaboration with a number of leading universities having correspondence divisions. The College Level Examination Program also deserves consideration for contributing credits toward a degree, some portion of which must be earned on campus.

Tutoring, local adult education classes, and correspondence study with the Hadley School for the Blind constitute lifetime learning opportunities for deaf-blind persons. It should be noted that the awards for the Hadley School's Student of the Year in 1971 and 1973 went to deaf-blind persons—once to a girl of sixteen, once to a man in his sixties.

For means of financing their education, deaf-blind students may look to federal and state government grants, scholarships of many kinds, specialized agencies, and service groups as potential funding sources. Some students may find employment. Accredited correspondence courses of the Hadley School for the Blind are tuition-free and include "Independent Living Without Sight and Hearing," a "how-to-live" course especially designed for deaf-blind persons.

In conclusion, maximum "inference" and background material acquired through advanced education enable a deaf-blind person to live and function more effectively as a contributing member of the community.

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### Monday, April 21 Evening Session

## Personal Experiences of Deaf-Blind Persons

### Statement of Richard Joy, Jr.

I was born June 26, 1941, and had fluent speech by my second birthday. At the age of 32 months, I contracted meningitis and lost my sight and hearing completely. The sight returned in one eye to a small degree. Within a few months my speech disappeared completely.

When I was four I attended the John Tracy Clinic in Los Angeles with my mother, who was taught the rudiments of teaching the deaf at home. For two years I went to the Mary Bennett School for Deaf and Hard of Hearing. Then my vision was considered too poor for me to continue.

During the next five years at home with my father, mother, and younger brother (almost four years younger), I learned to do many useful things by watching them. We communicated by natural signing. My father taught me to work with tools. I could use a saw, hammer, screws, and pliers, and I made model boats, airplanes, and cars. I learned many things about taking care of a house from my mother. She also taught me to swim and took me to the playground and the beach. My brother taught me to share and played games with me. He would show me things he had done in school.

When I was ten I had a tutor—a teacher for the deaf. She devised a book with pictures and large printing of the names of the objects, and she taught me the sounds of the letters. Finally I learned my first word—"marbles." She became very excited and convinced that I should be in school. We were traveling to Canada that summer and stopped in Berkeley to visit the California School for the Blind and talk to Dr. Lowenfeld. He said I could start in September, 1952.

At the end of the first year, I had a vocabulary of about 200 words and a number concept to 50. My teachers were Inez Hall, for one year, and then Jean Pollard. I became a member of the scout roop at the school and learned much basic knowledge in going hrough the ranks and then working on the merit badges. I earned 36 nerit badges in all and attained the rank of Eagle Scout in 1960.

When I was 19 I had a retinal hemorrhage and lost the little sight I ad. Now I had to depend more than ever on fingerspelling.

The merit badges that meant the most to me were the ones in pookbinding, radio, and electricity. I got a job as an inserter on a newspaper one summer, and then a job was offered to me by an



electronics firm. I found I enjoyed this work very much, but I needed more education. I received a certificate of dismissal in 1964 from the California School for the Blind. I had no certification of grade completion whatever, always being nongraded.

My mother realized I should not remain at home, but I was not prepared to enter the business world. So she asked my science teacher, Ross Huckins, to see if he could find a place for me at a school in the East. Bob Gunderson, a blind teacher of radio theory at the New York Institute for the Education of the Blind, became interested in me. I was accepted for enrollment, but the tuition was \$5,000. Fortunately, the cost was paid by the Department of Rehabilitation of the State of California, and I spent two years in the New York school.

Then it was found that the school could use a bookbinder for its library, and I was hired and remained there for seven years. In 1967 I received my amateur radio license and communicated all over the world, using Morse code and vibrating diaphragm.

During the summer of 1973, my mother approached Hewlett-Packard Company in Santa Rosa about employment for me. I started working there in October and have now been employed as an electronic assembler for over one and one-half years.

I am also a part-time student at Santa Rosa Junior College, which has a special program for the handicapped. I am taking a course in English from a blind teacher. I go to school from noon to 2 p.m. on Wednesdays.

I have also contacted Hadley School for the Blind in Winnetka, Illinois, for the G.E.D. (General Education Development) tests. I have finished the practice test.

### Communication Capabilities

I was taught to speak by the Tadoma Method and can understand very well by putting my hand on the mouth and throat of a person who will speak slowly and distinctly. However, some people are afraid to try this method, and some of the words are hard for me to understand because of the letters. I cannot understand letters such as R and L, A and I, which sound the same to me by vibrations. I prefer fingerspelling and sign language, which would be easier and faster for me if I had more practice and if other people knew them too.

I can use the Tell-a-Touch with anyone who can use the typewriter keyboard or use the Braille typewriter. I can write on a Braille slate or typewriter and can also communicate in Morse code at the rate of 25 words a minute. I have a Morse keyboard which is like a typewriter but emits Morse code, which I can pick up on a tactile vibrator.



I use an electric typewriter and can read print with the aid of the Optacon which was purchased for me by Hewlett-Packard Company. I can also use the Optacon to read digital readouts on test equipment.

#### My Hopes and Ideas

I hope to be able to become a technician for the Hewlett-Packard Company. That company is working on equipment that will enable me to interpret test meters. My Morse keyboard has been adapted to connect to test equipment with the readout in Morse code, which is very easy for me to read.

I need more education in mathematics, but no one has known how to teach me algebra and geometry. I can handle only formulas that I need in radio work. These were taught to me by Bob Gunderson. I would like to learn to use the metric system and also to be able to use the HP-35 calculator with an Optacon.

My education would have been easier if I had used sign language or fingerspelling. I would have been able to learn faster. Even now I could talk better if more people would talk to me. In school a lot of other teachers did not talk to me. In New York my housemother did not try to talk to me for three months. Many of my mother's friends who have known me all my life do not try to talk to me.

I think a deaf-blind person could learn faster if he studied only

one subject at a time.

Every deaf-blind person should have a tactile device for a telephone, doorbell, and alarm clock. I can talk to my friends or call them for help by using Morse code on the telephone.

# Discussion and Question Period Following Mr. Joy's Presentation

It was noted that Mr. Joy was the first deaf-blind person in the United States to become an Eagle Scout. At this time he does not have a high school diploma. He is taking classes at a junior college in northern California. When he wanted to become a "ham" (amateur radio operator), the necessary tests were not available in Braille, but when Ricky and his family persisted, a test for him was constructed in Braille.

He is successfully employed at the Hewlett-Packard Company, is paid at the same level as any other employee on the same job, and experiences no discrimination on his job.

## Summary of Statement of Steven Ehrlich

Steven Ehrlich, a deaf-blind student at California State University, Northridge, told of some of his life experiences in this session and



continued on Tuesday morning. Mr. Ehrlich was born deaf from an unknown cause on March 29, 1948, in New York City. He is legally blind with retinitis pigmentosa (Usher's Syndrome).

He holds a bachelor's degree from Gallaudet College in Washington, D.C., and is in the final days of a master's program at California State University, Northridge. He has been trained to become a teacher of the deaf and has a special interest in teaching multihandicapped children, particularly deaf-blind children.

Speaking at some length about the many problems he has had as a deaf-blind person, he concluded by noting that he was once mistakenly sent to a hospital for the mentally ill. In spite of his handicaps, Mr. Ehrlich is a fine example of a capable deaf-blind person who is competing successfully in a regular university with the aid of support services.

For further information about Mr. Ehrlich and his life, the reader is referred to "Words from a Deaf-Blind Student at CSUN," by Harold C. Deuel, National Leadership Training Program in the Area of the Deaf, California State University, Northridge, July, 1974.

# Tuesday, April 22 Morning and Afternoon Sessions

## **Group Discussions**

The entire day was given to group discussion and problem solving. Two group leaders were selected: Jerome Schein, Director, Deafness Research and Training Center, New York University; and Norman Tully, Associate Professor, Department of Counseling, Gallaudet College, Washington, D.C. The groups were asked to follow a proposed guideline suggested by Dr. Johns, the workshop director, entitled "Problem Solving Using the Force-Field Analysis Technique." In essence, forced-field analysis deals with three variables:

- 1. Rationale/statement of the problem
- 2. Forces dealing with positive change
- 3. Restraining forces

### Group A

Group Leader: Jerome Schein

Participants: Steven Ehrlich, Richard Kinney, Frank J. Laski, John Millan, Bob Miller, and Earl Sanders





#### Rationale

Deaf-blind persons have the same political, educational, and economic rights as other citizens.

Deaf-blind persons have a right to the education, training, rehabilitation, and guidance that will enable them to develop their abilities and maximum potentials.

In practice, deaf-blind persons are not enjoying full rights in the following areas:

- 1. In the social realm
- 2. In the political realm
- 3. In the economic realm
- 4. In the education realm

### Forces Driving Toward Positive Change (Nonprioritized)

White House Conference on the Physically Handicapped (summer, 1975) Rehabilitation Act of 1973; Rehabilitation Act Amendments of 1974

Education Amendments of 1974

Various grant programs

National Center for Deaf-Blind Youth and Adults

Regional centers for the deaf-blind

Agencies such as Hadley School, American Society for the Blind, and National Association of the Deaf

The example set by prominent and successful deaf-blind persons such as those in attendance at this conference

#### Restraining Forces (Nonprioritized)

Lack of positive assistance from state and local levels

Current state of our economy

Movement on the part of the federal government to place distribution of funds in the hands of the states

General lack of public support for low-incidence handicaps

Policies of the present administration

Attitudes of professional persons regarding capabilities of severely handicapped individuals

#### Group B

Group Leader: Norman Tully

Participants: Mrs. Richard Joy, Rick Joy, Hugh Moore, Joseph Pernick, Robert Smithdas, and Larry Stewart

#### Rationale

Deaf-blind persons shall have the opportunity to maximize their personal, educational, and vocational potential as guaranteed to all citizens.



### Forces Driving Toward Positive Change (Prioritized)

#### **Priority** rank More examples of successful deaf-blind adults 5 Growing number of identified deaf-blind persons 5 Rehabilitation Act of 1973; Rehabilitation Act Amend-5 ments of 1974 New training programs for qualified professionals 5 Sympathetic state and federal legislators and congressmen 5 Increasing job opportunities 5 Consumer involvement in decision making (deaf-blind 5 doing it themselves) Development of preschools through postsecondary sys-5 tem for increasing educational opportunities National and regional centers for the deaf-blind 5 Professional commitment 4 Litigation favoring rights of the handicapped and ad-4 vocacy of lawyers and law students Public and private agencies' resources available 4 Available funding Increasing interaction between professionals for deaf, 4 blind, and deaf-blind Right to Education for the Handicapped law 3 National Center for the Law and the Handicapped 3 Further conferences to evaluate and improve existing 3 conditions of deaf-blind and severely handicapped 3 Community attitude Restraining Forces Attitudes of experts 5 Expertise (available knowledge of field) 5 Legislation Improper forum (passing buck-"not my problem") Discrimination **Funding** Agency denial (vocational rehabilitation, education, and so forth) Community resistance (based on community ignorance) Unranked Restraining Forces Present system of vocational rehabilitation and education services closed (little knowledge by public about what is happening) No programmatic efforts to meet the need of the deaf-blind Employer's view of the assets of deaf-blind very limited Higher educational opportunities for the deaf-blind Community agencies not meeting needs Qualified personnel to serve the deaf-blind limited



### Closing Remarks

#### Richard Kinney

First of all, I want to thank the interpreters for their help as well as all others involved in making possible this conference. I consider it historical. We are now mobilized. We are concentrating our efforts on all levels.

I think that we have taken a dark cloud and turned it into one with a silver lining. Now let's turn the silver into gold.

### Roster of Those Attending the Conference

#### Interpreters

Robert Anderson Kathleen Potestio
Sandra Bartiromo Barbara Robertson
Jan Bolin Roberta Rodwancy
Christine Buccholz Jack Rose
Richard Goldstein Sharon Neumann Solow
Virginia Hughes Faye Wilkie

(All interpreters were from California State University, Northridge, except Jan Bolin, interpreter for Dr. Kinney, and Richard Goldstein,

Rose Zucker

#### **Participants**

Maree Jo Keller

interpreter for Dr. Smithdas.)

William A. Blea, Director, Southwestern Region Deaf-Blind Center David Columpus, Librarian, Center on Deafness

Steven Ehrlich (deaf-blind), graduate student

L. Ronald Jacobs, Head, Student Personnel Services, Center on Deafness

W. Lloyd Johns, Workshop Director, Associate Vice-President for Business Affairs, California State University, Northridge

Ray L. Jones, Director, Center on Deafness

Rick Joy (deaf-blind), electronic assembler, Hewlett-Packard Company

Mrs. Richard Joy (Sally), mother of Rick Joy

Richard Kinney, President, Hadley School for the Blind

Frank J. Laski, General Counsel, Massachusetts Department of Mental Health John Millen, Regional Coordinator, Services for the Deaf, California Department of Rehabilitation

Robert L. Miller, Production Manager, Lighthouse for the Blind, San Francisco

Hugh L. Moore, Assistant Dean of Instruction, Vocational Education, Los Angeles Valley College

Harry J. Murphy, Assistant Director, Center on Deafness



Joseph J. Pernick, Presiding Judge, Wayne County Probate Court, Detroit

G. Earl Sanders, Assistant Administrator, National Leadership Training Program, Center on Deafness

Jerome D. Schein, Director and Professor, Deafness Research and Training Center, New York University

Mrs. Eileen Simpson, Student Personnel Specialist, Campus Services for the Deaf, California State University, Northridge

Robert J. Smithdas, Director of Community Education, National Center for Deaf-Blind Youths and Adults, New Hyde Park, New York

Larry G. Stewart, Associate Professor, The Rehabilitation Center, University of Arizona

Norman Tully, Associate Professor, Gallaudet College

Observers (Members of the National Leadership Training Program in the Area of the Deaf, Class of 1975, California State University, Northridge)

Dominick Bonura
Wallace Lee Bowling
Melvin Carter, Jr.
Sharon Carter
Richard Clark
Albert Couthen
Elmer Dillingham, Jr.
Dorothy Dreger

Elizabeth Fetter Marcia Fankhauser Joyce Groode Dennis Hoffmeyer Frederick Koch Robert LeMieux Eloise Morris Mary K. Rapier