Categorical Eligibility for Special Education: The Enshrinement of the Medical Model in Disability Policy

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> Sarah L. Triano
> University of Illinois at Chicago

Abstract: To qualify for the right to a free and appropriate public education, disabled students in most states must meet the categorical eligibility requirements outlined in Section 300.7 of IDEA. The fundamental question posed in this article is: do students with disabilities really have a right to equal educational opportunity when that right is tied to a stigmatizing label based on a medical model of disability? This article attempts to answer that question through an analysis of (a) the history of categorical eligibility for special education (b) its purpose and (c) its problems. It then examines some of the changes that have been proposed to current eligibility policies and practices. The article concludes with a rejection of both categorical and non-categorical eligibility and calls for a fundamental restructuring of the educational system and a reconceptualization of the right to equal educational opportunity for students with disabilities.

On December 2, 1975, President Gerald Ford signed into law Public Law (P.L.) 94-142, the Education for All Handicapped Children Act, which guaranteed the right to a free and appropriate public education for the nation's 8 million children with disabilities. Prior to the passage of this Act, disabled children were routinely excluded from the public school system on the basis of their disability (Zettel, 1977). A 1919 Wisconsin Supreme Court ruling, in fact, held that "a mentally normal, blind child could be barred from school since his/her handicap had a depressing and nauseating effect on teachers and children" (Hensley, 1973). With the passage of P.L. 94-142, this type of discrimination and exclusion was declared unconstitutional and the Federal government took direct responsibility for ensuring that all children with disabilities were afforded their right to equal educational opportunity. In spite of this sweeping civil rights mandate, however, in his statement on the signing of P.L. 94-142, President Ford expressed several concerns regarding the Act's overall effectiveness:

> I have approved S. 6, the Education for All Handicapped Children Act of 1975. Unfortunately, this bill promises more than the Federal Government can deliver, and its good intentions could be thwarted by the many unwise provisions it contains. Everyone can agree with the objective stated in the title of this bill - educating all handicapped children in our Nation. The key question is whether the bill will really accomplish that objective. (Ford, 1975)

Twenty-four years after the enactment of P.L. 94-142, now renamed the Individuals with Disabilities Education Act (IDEA), contrary to President Ford's concerns, it appears as if the main objective of the Act has been realized. As of 1984 the number of disabled children served by schools increased by approximately 500,000 over the number served in 1976-1977 (Sixth Annual Report, 1984) and as of 1998 the number of school-age students with disabilities increased at a higher rate than the general school enrollment (To Assure the Free, 1998).

Based on these numbers, it seems clear that the legislative objective of "educating all handicapped children in our Nation" has been achieved. What is less clear, however, is the extent to which disabled children have been negatively affected by the eligibility provisions designed to implement this legislative objective. In order for children with disabilities in most states to receive their "right" to a publicly funded education appropriate to their needs, they first have to be "diagnosed" as fitting into one of several predetermined medical categories. It also has to be shown that their medical label, or impairment, is the "cause" of their educational difficulties and that special education and related services are the "cure." The harm in this arrangement is self-evident when one considers the cost involved in attributing the problems experienced by disabled children in the educational system to a fundamental part of their identity - their disability.

Children with disabilities in the U.S. have a right to a free and appropriate public education, but at what cost? Is the price of receiving that right the acceptance of a stigmatizing label based on a medical model of disability? As the 25th anniversary of this historic Act approaches, questions need to be raised regarding the efficacy of a system that requires children with disabilities to be branded with a medical label that is contrary to their identity and culture in order to receive the educational services they need. Have the "good intentions" of IDEA been "thwarted," as Ford claimed, "by the many unwise provisions it contains," such as a system of categorical eligibility?

An in-depth examination of the history of categorical eligibility for special education and its purpose and problems will attempt to answer this question followed by an analysis of proposed changes to current policy and practice in the area of eligibility for special education.

History of Categorical Eligibility for Special Education

The medical classification of children with disabilities for educational purposes has been the historical norm for centuries. According to Safford and Safford (1996), the idea of public instruction for certain categories of children with disabilities was developed in Pre-Revolutionary Paris. In 1760, the Abbe Charles Michel de l'Epee established the first public school for the deaf in Paris, the Institution Nationale des Sourds-Muets (Safford et al. 1996). The concept of public education for the deaf was soon extended to blind children by Valentin Hany with the creation of the Institution Nationale des Jeunes Aveugles in 1784 (Safford et al. 1996). The model of providing segregated "education and training" for deaf and blind students was applied to children in other disability categories as well, including children with physical and developmental disabilities and deaf children with mental retardation who were ineligible for admission to the deaf residential schools (Safford et al. 1996). During the 19th century, this trend caught on in the United States with the opening of the Connecticut Asylum for the Education and Instruction of Deaf and Dumb Persons in Hartford on April 15, 1816 ("Significant Dates," 1999).

Medical Classification of Children with Disabilities in England

In 1851, the first English school for children with physical disabilities was established in Marylebone and in 1893 the Elementary Education (Blind and Deaf Children) Act was passed. This Act gave each local education authority in England and Wales responsibility to educate blind and deaf students (Safford et al. 1996). In 1899, the provisions of this Act were extended to children in other medical categories with the passage of the Elementary Education (Defective and Epileptic) Act.

In a 1911 essay entitled, "The Care of Invalid and Crippled Children in School," Elmslie attempted to provide a categorical definition of children with "physical defect" for the purposes of establishing eligibility under the Elementary Education (Defective and Epileptic) Act:

> The Elementary Education (Defective and Epileptic) Act of 1899 gave permission for the establishment of special schools for the education of "children who, by reason of physical defect, are incapable of receiving proper benefit from the instruction in an ordinary public elementary school." The question which at once presents itself is: To what children should this be taken to refer? (Elmslie, 1911, p. 6)

In answer to this question, Elmslie outlined a very broad definition of "physical defect":

> In the medical supervision of schools it is advisable to adopt a very wide definition of the term "Physical Defect." It should be made to include not only all deformities and diseases of the bones, joints, and spine which obviously cripple the child, but also all general defects of physique and chronic illnesses, anything which continuously interferes either with attendance at school or with the ability of the scholar to follow in full the ordinary school routine. (Elmslie, 1911, p. 5)

Later in the essay, Elmslie provided a listing of eight categories of children with disabilities who fit this broad definition of "physical defect":

> Cripples with active disease, cripples with fixed deformity, phthisical [sic] children with active disease, phthisical [sic] children in the convalescent or quite stage, chronic invalids from such conditions as heart disease and recurrent chorea, delicate nervous children, severe cases of malnutrition, and children with combined defects (e.g. crippled and mentally defective). (Elmslie, 1911, p. 7)

In 1916, Newman also addressed the eligibility requirements for the Elementary Education (Defective and Epileptic) Act in his article, "Education and Care of the Crippled Child":

> Every child must be examined medically prior to admission to a Special School in order that the statutory certificate may be completed by a qualified medical practitioner approved by the Board of Education stating that the child is by reason of physical defect incapable of receiving proper benefit from the instruction in an ordinary Public Elementary School, but is not incapable by reason of such defect of receiving proper benefit from instruction in a Special School. (Newman, 1916, p. 86)

To anyone familiar with current special education law in the United States, the similarities between the eligibility requirements for the 1899 Elementary Education (Defective and Epileptic) Act and IDEA are striking. The Elementary Education Act called for the "establishment of special schools" to educate "children who, by reason of physical defect, are incapable of receiving proper benefit from the instruction in an ordinary public elementary school." IDEA calls for the provision of "special education and related services" for a "child with a disability" (as defined by Section 300.7) "who, by reason thereof, needs special education and related services."

Although IDEA does not specifically state that children with disabilities are incapable of benefiting from regular education because of their disability (as directly noted in the Elementary Education Act), the historical precedent and underlying assumption in the phrase, "who, by reason thereof, needs special education and related services," seems obvious. In 1978, in fact, Alabama special education policy defined children with disabilities as

> those [children] who have been certified by specialists as being unsuited for enrollment in regular classes of the public schools or who are unable to be educated or trained adequately in such regular programs, including but not limited to the mild and moderately retarded; the speech impaired; the crippled and those having other physical handicaps not otherwise specifically mentioned herein; the emotionally conflicted; the socially maladjusted; those with special learning disabilities; the multiply handicapped; and the intellectually gifted" (Newkirk et al., 1978).

The fact that IDEA's eligibility requirements are very similar to those found in a law established in the 19th century that is based on a medical model of disability is worthy of note.

Both the Elementary Education Act of 1899 and IDEA require medical categorization for eligibility purposes and attribute the educational problems experienced by children with disabilities to the child's disability and not to the failure of the regular education system.

Medical Classification of Children with Disabilities in the U.S.

Sixty-six years after the passage of the 1899 Elementary Education (Defective and Epileptic) Act in England, the U.S. Congress passed the first federal law to assist in the education of children with disabilities in 1965, P.L. 89-313. This law amended Title I of the Elementary and Secondary Education Act (ESEA) to include the provision of financial assistance to State operated or supported schools for "handicapped children" (Zettel, 1977). For the purposes of eligibility, P.L. 89-313 continued the historical tradition of medically classifying children with disabilities in education established under English law by providing the following definition of "handicapped children":

> The term "handicapped children" means mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled or other health impaired.... The term also includes children with specific learning disabilities to the extent that such children are health impaired. (Education Policy Research Institute, 1976)

These medically-based eligibility categories were maintained when P.L. 91-230 was passed in 1970, which created the Education of the Handicapped Act. Five years later, they were incorporated into P.L. 94-142, the Education for All Handicapped Children Act of 1975 (Zettel, 1977). The only change made to the eligibility categories by P.L. 94-142 was the removal of the word "crippled" and the separation of the category of children with "specific learning disabilities" from the category of children who were "health impaired" (Education for All Handicapped Children Act (EAHCA), 1975).

To be eligible for special education under P.L. 94-142, therefore, children had to be defined "as being mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired or as having specific learning disabilities, and who because of those impairments need special education and related services" (EAHCA, Sec. 121a.5(a)). According to Hocutt and Alberg (1994), these traditional categories of disability were retained in the legislation for three reasons:

> (a) Use of categories helped generate advocacy and consequently Congressional support for the legislation, (b) use of the categories helped Congress and the public understand who was meant to benefit from the legislation (i.e. children with disabilities) and who was not to benefit (i.e. poor or underachieving children), and (c) proponents of the law feared that if a noncategorical approach were employed, the resulting debate would detract from the primary mission of ensuring a free, appropriate public education for all handicapped students. (Hocutt and Alberg, 1994, p. 200)

In spite of the evolving etiology of disability in the past decade, for the most part, these categories have undergone little change since 1975 and still provide the basis for special education eligibility in the United States. The current categories of "autism" and "other health impaired" were included in P.L. 94-142 under the classifications of "seriously emotionally disturbed" and "orthopedically impaired," respectively. In the 1990 Amendments to IDEA, a separate category for "autism," independent of "seriously emotionally disturbed," was created and a new category of "traumatic brain injury" was added. Finally, in the 1997 Amendments to IDEA (P.L. 105-17), the word "seriously" was removed from the category of "seriously emotionally disturbed." In addition, the revised regulations added "attention deficit disorder" and "attention deficit hyperactivity disorder" to the list of conditions that could render a child eligible under the "other health impaired" category (Silverstein, 1999), while stopping short of creating a whole new category for ADD/ADHD.

Eligibility for special education and related services under current Federal law, therefore, requires that the following conditions be met: (a) the child in consideration must be a "child with a disability" as defined by Section 300.7 (i.e. a child with mental retardation, hearing impairments, speech or language impairments, visual impairments, emotional disturbance, an orthopedic impairment, autism, traumatic brain injury, deaf-blindness, multiple disabilities, other health impairments, or specific learning disabilities); and (b) it must be demonstrated that the child, by reason of one of these 12 disabilities, "needs special education and related services" because their disability "adversely affects their educational performance" (IDEA, 1997).

To receive their "right" to a free and appropriate public education, therefore, children with disabilities in most states in the U.S. must first be branded by a medical label and then must show that their disability, a fundamental and often positive part of their identity, is the cause of their poor educational performance (Ahearn, 1993). Labeling people with disabilities by medical categories and attributing the problems they experience to their disabilities is antithetical to the philosophy and goals of the disability civil rights movement. Therefore, it is prudent to explore the purpose behind the system of categorical eligibility for special education and to ask why such a system was established in the U.S. during a time of expanding rights for people with disabilities.

Purpose of Categorical Eligibility for Special Education

In the literature on the topic of categorical eligibility for special education, the argument is frequently made that the "focus on categorical eligibility in IDEA is understandable in view of the state of knowledge and technology when the law was formulated in the mid-1970s" (Assessment and Eligibility, 1994). What this argument fails to recognize, however, is the true nature of the historical context within which P.L. 94-142 was developed. As shown in the section above, the establishment of a categorical system of eligibility for special education was largely driven by a historical legacy and centuries-old practice of medically classifying children with disabilities for educational purposes.

In addition, contrary to popular belief, the categorical system of eligibility was not simply the product of its time, an era ignorant of the social construction of disability. P.L. 94-142 was enacted two years after the passage of the first major piece of civil rights legislation in the United States for people with disabilities, Section 504 of the Rehabilitation Act of 1973. It was established during a time in our nation's history which marked the birth of the disability civil rights movement and a corresponding shift in the understanding of disability as a social rather than a medical phenomenon.

According to Gill (1998), the experience of disability has been historically viewed as a "tangible flaw located within an individual's physical or mental constitution." This view comprises what has been commonly referred to as the "medical model of disability." With the passage of Section 504, however, disability rights activists and others began articulating a "social model of disability" which "[de-emphasizes] the significance of individual impairments (such as, paralysis, blindness or learning limitations) in causing the problems persons with disabilities face" (Gill, 1998, p. 1). It "[focuses], instead, on such socially constructed barriers as exclusion, blocked access and disability prejudice as the 'real' problems of disability" (Gill, 1998, p. 1). According to a social model of disability, therefore, the educational difficulties experienced by disabled children in the regular education classroom are not necessarily caused by their individual impairments, but might rather be the result of a poorly-developed regular education system that is not equipped to meet the needs of a diverse student population. Rather than acknowledge this, however, the eligibility requirements for IDEA explicitly locate the problem within the individual disabled child. This line of thinking is completely contrary to the social understanding of disability that was prevalent in the 1970s and articulated in such policies as Section 504. How, then, did it become a part of one of our nation's most comprehensive civil rights laws guaranteeing all children with disabilities the right to equal educational opportunity? Berkowitz (1992) provides an explanation for this apparent contradiction.

In his article, "Disabled Policy: A Personal Postscript," Berkowitz outlines what he considers to be "a central conflict or tension in disability policy" between "the rhetoric of rights and the realities of economics":

> Put another way, the discovery or awarding of new rights rearranges the distribution of resources. The redistribution of resources leads to the disruption of existing routines and to political conflict that must be resolved in the policy process. (Berkowitz, 1992, p. 2)

According to Berkowitz, the policy process contains several means of muting this conflict, including the tactic of "portraying apparent expenditures as forms of long-range investments or cost-savings" (p. 4). This conflict between the rhetoric of rights and the realities of economics, and the corresponding rationale of investment and cost-savings, was apparent in the passage of P.L. 94-142.

As Zettel noted in 1977, "Although we often refer to Public Law 94-142 as being a single act, from a conceptual point of view, we can look upon this piece of Federal legislation as actually being two acts within one" (p.5). "First and unquestionable," Zettel writes, "P.L. 94-142 is a rights act ... a mandate that all handicapped children must be educated" (p. 5). Secondly, "it is a management and finance act ... this law provides for Federal funds to help assist State and local educational agencies in providing the special educational and related services needed to meet the unique needs of all of their handicapped students" (p. 6). P.L. 94-142, therefore, clearly embodies the conflict in disability policy between the rhetoric of rights and the realities of economics.

Also apparent in the passage of P.L. 94-142 was the corresponding rationale of investment and cost-savings. During the congressional hearings held prior to the introduction of P.L. 94-142 in April 1975, the Senate Subcommittee on the Handicapped concluded that "with proper educational services, many of these handicapped children would be able to become productive citizens contributing to society instead of being left to remain burdens on society" (Subcommittee on the Handicapped, 1976, p. 127).

In addition to employing a rationale of investment and cost-savings, another typical method used in disability policy to address the conflict between the rhetoric of rights and the realities of economics is limiting eligibility through categorical definitions of disability (that are often based on a medical model). In order to limit eligibility and cut costs for Social Security disability insurance, for example, a stringent definition of disability is applied: "the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment." To receive the income support and health care coverage needed, therefore, many people with disabilities have to conform to an individual-deficit model that assigns them the stigmatizing label of being unable to work.

A similar method of limiting eligibility and cutting costs through a categorical definition of disability is applied under IDEA. A 1994 report by Project Forum on assessment and eligibility in special education, in fact, states that "one of the intended functions of a categorical eligibility model is to regulate how services are provided so that services and resources are directed at those who are most in need of them and to prevent abuses" (Assessment and Eligibility, 1994, p. 10). In the past 24 years, however, the categorical system of eligibility for special education has done little to limit eligibility and cut costs.

According to Walker (1987), when P.L. 94-142 was passed Congress placed a 2 percent cap on the number of children eligible to be counted for funding purposes under the category of specific learning disability. Six years later, a 1981 report by the Comptroller General examining the impact of P.L. 94-142 found the following:

> Congressional fears that a disproportionate share of funds might be allocated to the learning disabilities category (the magnitude of which is not clearly known or understood) seem to have been realized with the lifting of the 2 percent cap on the number of learning disabled children who can be counted for Federal funding purposes. (Disparities Still Exist, 1981, p. v)

Today, more than 51 percent (2,676,299) of the school-age students served under IDEA are classified in the learning disabilities category (To Assure the Free..., 1998). This represents a

37.8 percent increase in the number of students with learning disabilities served over the past 10 years alone (To Assure the Free..., 1998). The attempt to restrict the eligibility and funding for students with learning disabilities, therefore, has proven futile.

An underlying assumption of the categorical system of eligibility is that it is more effective in limiting eligibility than the common alternative, a non-categorical system of eligibility. Experience with Part C of IDEA, which authorizes services for infants and toddlers with disabilities, has led some researchers to conclude that a non-categorical system of eligibility for special education may actually be more effective than a categorical system, or at least as effective, in restricting eligibility. According to McLean, Smith, McCormick, Schakel and McEvoy (1991),

> Concern has been expressed that adding a `non-categorical' option would greatly increase the number of children eligible for preschool special education services. However, available data on the percentage of preschool children being served in states using a non-categorical system does not support this conclusion" (p. 2).

In support of their argument, McLean et al. cited a 1991 Report to Congress by the Office of Special Education Programs which showed that the percentage of preschool children identified as having disabilities in states using a non-categorical system of eligibility did not differ appreciably from states using a categorical system (p. 3). They argued, in fact, that "a review of the percentage of children from three through five years of age identified as having disabilities in the 1991 Report to Congress shows that many of the states using a non-categorical system have percentages that are well below states using a categorical system" (p. 3). In another study conducted by the Research Triangle Institute comparing the implementation of categorical and non-categorical special education, Hocutt and Alberg (1994) found that "the noncategorical and categorical states served relatively the same percentages of students in the special education program" (p. 216).

It appears, therefore, that the main purpose of establishing a system of categorical eligibility for special education - restricting eligibility and cutting costs - has been largely ineffective. The failure to restrict eligibility and cut costs, however, is only one of many problems inherent in the system of categorical eligibility for special education in the United States. Some of the more notable problems are discussed in the section that follows.

Problems with a System of Categorical Eligibility for Special Education

The problems and concerns associated with a system of categorical eligibility for special education are well documented in the literature (Ahearn, 1993; Graden, Zins, Curtis, and Cobb, 1988; Reauthorization of the Individuals..., 1994; Reynolds and Lakin, 1987; and Ysseldyke, Algozzine, and Thurlow, 1992). In 1994, the National Association of School Psychologists (NASP) produced a report in cooperation with the National Association of State Directors of Special Education which highlighted some of the main problems and concerns.

One of the issues raised in the NASP report is the extent to which special education and the assessment process, in particular, are driven by the need to determine a disability label which is often irrelevant and completely unrelated to a child's instructional needs:

> Because current assessment practices are driven to a large extent by categorical eligibility, professionals must use assessment measures that demonstrate eligibility according to state criteria. Unfortunately, much of what is required to

> determine categorical eligibility does not relate directly to areas of student competence, nor does it provide information that is useful for developing appropriate interventions and supports. (Assessment and Eligibility, 1994, p. 11)

Ahearn (1993) concurred with this conclusion and further argued that an assessment process geared primarily toward establishing eligibility often serves to deflect limited resources from the more important task of determining a disabled student's educational needs.

According to Thomas Parrish (1993), Co-Director of the Center for Special Education Finance, "Concerns about the cost-effectiveness of assessment practices are raised by the number of studies finding that the tests and methods used to classify students for special education services do not provide information that resource specialists or regular teachers report to be of use in developing instructional programs for these students" (p. 2). Parrish cited two separate studies which showed "that only about 62 percent of the special education dollars at the local level went to direct special education instructional services," while 22 percent of the remaining funds for special education services was spent on assessment, and 15 percent on special education program administration (Parrish, 1993, p. 2).

A second problem with categorical eligibility identified by the NASP report is the widespread practice of making placement and service delivery decisions on the basis of the eligibility categories: "Eligibility requirements not only determine how students are assessed, they also influence whether students receive services and supports, and how these services and supports are delivered" (Assessment and Eligibility, 1994, p. 12). According to Section 300.300(a)(3) of IDEA, the services and placement provided to a disabled child must be based on the child's identified needs and not on the child's disability category (Silverstein, 1999). As Judy Heumann, the Assistant Secretary for the Office of Special Education and Rehabilitative Services, acknowledged, however, in a 1994 policy memorandum, "While Part B does not permit public agencies to base the specific services provided to a student on the student's disability label, many individuals and groups have noted that - in practice - the current emphasis in some public agencies on categorizing students results in categorical program and placement decision-making" (Heumann, 1994). A system of categorical eligibility, therefore, tends to result in the placement of students "with their own kind" so to speak (i.e. with other children who have the same diagnostic label) even though numerous studies have shown that there is no direct relationship between disability category and instructional need (Assessment and Eligibility, 1994, p. 13).

A third problem with categorical eligibility for special education identified by the NASP report is the existence of financial incentives built into the Federal funding allocation system to categorize and label children with disabilities. In a 1994 report entitled, "ED Can Allocate Special Education Funds More Equitably," the Education Department's Office of Inspector General criticized the Department's policy of basing Federal funding allocations for special education on a State's "child count" data. According to section 300.125 of the regulations, all States have to submit annual data reports to the Department of Education which detail the number of children with disabilities within each disability category. $4.9 billion dollars of Federal special education funds are then distributed among the States on the basis of the child count data (Section 1411(d)(1)). "As a result of the reporting requirements," the Inspector General's report notes, "most states currently categorize disabled students in conjunction with the process of counting students for funding purposes" (ED Can Allocate, p. 14).

To address this concern, a construction clause, Section 300.125(d), was added to the "child find" provisions which states that, "Nothing in this Act requires that children be classified by their disability so long as each child who has a disability listed in Section 300.7 and who, by reason of that disability, needs special education and related services is regarded as a child with a disability under Part B of the Act." The logic in this clause seems internally contradictory and inconsistent. It states that children do not have to be classified by their disability as long as they fit into a disability category outlined in Section 300.7. Yet, the very act of placing a child into one of the disability categories is, in and of itself, an act of classification based on disability. This also places States using a non-categorical system of eligibility (such as Pennsylvania, Iowa, Ohio, and American Samoa) at a distinct disadvantage under the funding allocation formula because as the clause indicates, each child is still required to have "a disability listed in Section 300.7." As Parrish (1993) noted, furthermore, "because the IDEA allocation is a flat-grant formula based on the number of students identified for special education services (up to 12%), states that are finding ways to serve certain special need students outside of the formal special education system are losing federal funds" (p. 2).

The conclusion reached by the Inspector General's Office (1994) was that "these funding practices have contributed to the segregation of students into isolated programs and have served as an incentive for over-identification of disabled students. In effect, LEAs [local education agencies] are punished for trying to educate students without labeling them as disabled, because they then lose Special Education funding" (Ed Can Allocate, 1994, p. 9).

Perhaps the most important problem with a system of categorical eligibility for special education identified by the NASP report is the fact that it is driven by a medical model of disability which places the blame for the educational difficulties experienced by disabled children within the children themselves: "Categorical eligibility requirements lead to an emphasis in assessment on child-related deficits, often restricting a more thorough examination of the environmental contexts that influence learning" (Assessment and Eligibility, 1994, p. 11).

This problem was brought to the attention of the Department of Education as early as 1978. In a report written for the Bureau of Education for the Handicapped (BEH), Newkirk, Bloch, and Shrybman (1978) noted that some of the disability categories in the law "exhibit characteristics of the pathological model.... The definition[s] [are] basically oriented toward defects of deficits in the person, rather than toward his social role or status, or toward characteristics of the environment with which he must cope" (p. 56). In spite of this warning, a system of categorical eligibility was maintained which holds that eligible students for special education are those who "by reason of" their disability "need special education and related services," because the disability "adversely affects their educational performance."

According to Nevin (1992), this has led to the establishment of a "fix-it paradigm or framework" within special education. In this framework, "fixing it typically means fixing the child.... and the `it' relates to what is wrong (e.g., mental retardation, emotional disturbance, learning disability) which are purportedly separate and distinct categories of differences that are related to separate and distinct methods of fixing or ameliorating the `it'" (Nevin, 1992, p. 14).

The existence of this "fix-it" system in special education was acknowledged in the 1978 Newkirk et al. report to the Bureau of Education for the Handicapped: "The educational assessment and diagnosis ... has been broadly divided into two types of procedures: (1) those for determining if a specific disability exists ..., and (2) those for planning intervention or remedial strategies to aid the child in overcoming the disability" (p. 124). The medical model nature of this "fix-it" framework is evident, as indicated by Ahearn (1993): "A student is `diagnosed' through the use of tests, and a `prescription' is written in the form of an IEP" (p. 4).

According to Nevin (1992), there are very specific reasons for maintaining this medically-based "fix-it" system including the distraction it creates "from focusing on more comprehensive political and sociological issues that plague the education community" (p. 14). As Nevin notes, locating the problem within the disabled child draws attention away from the socially-constructed barriers that children with and without disabilities face in regular education such as the failure of the regular education system to meet the needs of a diverse student population. In his discussion on the implications of non-categorical special education, Lieberman (1980) points out that special education has actually become the dumping ground for the problems of regular education:

> The BEH was originated with a very clear mandate for the handicapped. When this mandate was given, a handicapped child was not handicapped because he was failing in school; he was failing in school because he was handicapped.... Not every child failing in school is handicapped, but in many places every child failing in school becomes a candidate for special education services and consequently is considered handicapped.... Lumping together children who fail in school with truly handicapped children does an obvious disservice to both.... Many parents want extra help for their child and rightfully so. This is a commentary on regular education practices.... This is the classic case of school failure being translated into a disorder of the central nervous system.... Special education has been confused with being an answer to the problems of regular education." (Lieberman, 1980, pp. 15-17)

Walker (1987) concurred with this indictment of the regular education system when she posed the question, "Does special education serve as a convenient institutional mechanism to sort unwanted students from the mainstream of education?" (p. 106). As this analysis indicates, children placed in special education are not necessarily "children with special needs" (as they are commonly referred to), but are rather children whose needs are not being met by the regular education system. In many cases, it is not the child's disability that adversely affects educational performance. It is the inflexibility of an educational system that would rather segregate and separate than address the problems inherent in the system. Regular education is unequipped to deal with children who have diverse educational needs - such as children with disabilities, children from racial/ethnic minority communities, and children who speak English as a second language. Unfortunately, in the current system it is the children themselves who are blamed for the existence of this problem.

There are several additional problems with a system of categorical eligibility for special education, far too many to examine in this brief analysis. Some of those additional problems include: the link between teacher training programs and categorical labels; the tremendous variability in categorical eligibility among and within States; the automatic assumption that if a child fits into one of the disability categories then placement in special education is the appropriate action; the large number of students who may have very significant academic and behavioral issues but who cannot receive the support they need because they do not fit into any of the disability categories; the mislabeling and corresponding over representation of children from racial and ethnic minority groups in some disability categories; and the stigmatizing and dehumanizing effect of labeling children with disabilities by a medical category (which often leads to lowered teacher, peer, and personal expectations). Given the multiple problems inherent in a system of categorical eligibility for special education, one has to wonder why this system has been maintained for 24 years? A brief overview of some of the current efforts to reform the system will provide some answers to this question.

Efforts to Reform the System of Categorical Eligibility for Special Education

Over the years, there have been several attempts to change the eligibility requirements for special education and related services. The most significant reform effort to date occurred in February 1995, when the U.S. Department of Education circulated a copy of its IDEA reauthorization proposal which called for the replacement of the 12 disability categories in IDEA with a disability definition similar to the one in Section 504 and the ADA.

According to the reauthorization proposal, a "child with a disability" was defined as a child "who has a physical or mental impairment which substantially limits the major life activity of learning, and who by reason thereof requires special education" (Feds Eye Major Changes, 1995). In the draft, the Department agreed with the assertion that a categorical system of eligibility can "unfairly label students by medical definitions of a disability, and can consign them to a program for their particular disability that does not take individual abilities and needs into account" (Debated issues, 1995). This proposal was met with substantial resistance by some parents of children with disabilities and by organizations such as the Learning Disabilities Association of America. In spite of this opposition, at the beginning of August 1995, the proposal was included in the Clinton administration's IDEA reauthorization bill, H.R. 1986 (Are you ready, 1995). Within a matter of weeks, however, the proposal to eliminate the disability categories and develop a non-categorical system of eligibility was gutted by the House Committee on Economic and Educational Opportunities (U.S. House Committee, 1995).

In 1996, the proposal was reintroduced through Senate bill S. 216, which encouraged "states to abandon all disability labels under IDEA and use a single, broad definition of eligibility based on a student's need for special education" (Congress May Extend Option, 1997). However, this effort at reform also failed to make it out of committee largely due to the tremendous opposition on the part of many parents and professionals involved in special education who felt that any reform efforts directed toward the permanently authorized Part B (which guarantees FAPE, a free appropriate public education) might jeopardize the hard-won educational opportunities and rights for children with disabilities. As Ahearn (1993) notes, any successful proposal for change must continue to guarantee children with disabilities their right to a free and appropriate public education and maintain the procedural safeguards needed to protect that right:

> The challenge of eliminating the disadvantages of current procedures for establishing eligibility while maintaining the protections of the IDEA and Section 504 of the Rehabilitation Act of 1973 is complex. Many of the issues involved are legal/and or fiscal in nature. For example: Can due process rights be protected under a system that does not label each individual student as eligible for special protections? Or, can there be a system in which individual children's rights are protected without categorical identification? (Ahearn, 1993, p. 6)

According to an increasing number of advocates and professionals in special education, the answer to this question is not a system of non-categorical eligibility (as proposed by the Department of Education). The replacement of one medical label with a supposedly "less benign" one (such as "developmental delay") does little to remove the stigmatizing and dehumanizing labeling process.

Basing eligibility on a definition of disability similar to the one found in Section 504, furthermore, still reinforces a medical model of disability by locating the problem within the disabled child and not within the educational environment: a "child with a disability" is one "who has a physical or mental impairment which substantially limits the major life activity of learning, and who by reason thereof requires special education". The complete removal of the medical model of disability from a disabled student's right to equal educational opportunity requires much more than a switch from a categorical to a non-categorical system. It requires a fundamental restructuring of the entire educational system and a dramatic reconceptualization of that right.

A Fundamental Restructuring of the Educational System, and a Dramatic Reconceptualization of the Right to Equal Educational Opportunity for Students with Disabilities

After a thorough analysis of the main problems inherent in a system of categorical eligibility, the 1994 report by the National Association of School Psychologists came to the conclusion that student need rather than medically-based eligibility criteria must be the basis for the delivery of supports and services (Assessment and Eligibility, 1994). NASP called for the development of a "comprehensive, integrated service delivery system" that is based on the premise that "all children can learn, and all children have a right to a free and appropriate education without having a categorical label. The education system must be designed to be responsive to the needs of all children, with and without disabilities" (Assessment and Eligibility, 1994, p. 2). According to Ahearn (1993), a system meeting these requirements is currently in place in Pennsylvania:

> The focus of the new process in Pennsylvania is a revised approach to dealing with students who are experiencing difficulty in the regular class program. Rather than immediately assuming that the failure to learn is due to some defect within the student, new procedures call for a focus on determining the student's functional ability in the classroom and the ability of that program to maintain the student as successful. This approach reverses the order of answering the two questions that are involved in establishing eligibility. What is usually the first question - Is the student disabled? - is no longer asked first. Rather, the attention is initially focused on the second question - Does the student need special education? If interventions can be devised and implemented by regular teachers in regular classes so that the student can be successful in the regular classroom, the question of disability does not need to be raised. Regardless of whether it could be established that the student qualifies as a student with a disability, a positive response to the question now posed first obviates the need to consider the existence of a disability. (Ahearn, 1993, p. 8)

In Pennsylvania, therefore, the practice of labeling children with disabilities and blaming them for their educational problems has largely been eliminated. Pennsylvania has focused, instead, on reforming the educational system in order to equip teachers and administrators with the tools they need to meet the challenge of educating a diverse student population. Children with disabilities in Pennsylvania are not treated as "different" and "special" simply by virtue of their disabilities, but rather as equal partners entitled to an equal educational experience. The system in Pennsylvania should serve as an example for the rest of the nation that the medical model of disability, as embodied in the categorical system of eligibility, is not compatible with a disabled student's legal and moral right to a free and appropriate public education.

We return, then, to the question posed at the beginning of this discussion: Do children with disabilities in the U.S. truly have a right to a free and appropriate public education when that right is tied to the acceptance of a stigmatizing label based on a medical model of disability? For many children with disabilities today, IDEA represents little more than the enshrinement and reinforcement of the medical model of disability in their lives. These children might, in fact, agree with President Ford's prediction that IDEA's "good intentions" were "thwarted by the many unwise provisions it contains," such as a system of categorical eligibility. Until the medical model of disability is divorced from a disabled child's right to equal educational opportunity, children with disabilities will continue to be relegated to a system of separate and unequal education where they are defined by their medical labels. This situation must be changed - the identity and self-worth of children with disabilities can no longer be sacrificed in the name of curtailing costs.

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