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## Parc vs. commonwealth of pennsylvania

Pennsylvania Association for Retarded Citizens (PARC) v. Commonwealth of Pennsylvania Only a few decades ago, children with developmental disabilities were not entitled to a public education. In fact, Pennsylvania state law allowed public schools to deny services to children who did not reach the mental age of five at the beginning of the first year. In 1971, we filed the founding lawsuit Pennsylvania Association for Retarded Children (PARC) v. Commonwealth of Pennsylvania, the first right to education lawsuit in the country, to overturn this Pennsylvania law and ensure a quality education for all children. The case was quickly settled in the U.S. District Court for the Eastern District of Pa., resulting in a consent decree in which the state agreed to provide free public education to mentally retarded children. This decree and many of the procedural protections that were established there became the basis of the Education for All Children with Disabilities Act (PL 94-142) enacted in 1975. The following year, the Law Center filed Part II to enforce the law against the Philadelphia School District. Progress Case July 1982 The U.S. District Court for the Eastern District of Pennsylvania approved the settlement agreement. (Case documents: Settlement documents) June 1981 Trial (Case Documents: Applicants' Trial Memory) October 1976 PARC's application for contempt of the Philadelphia School District (case documents) May 1972 Court Orders Access to a free public education and training program tailored to its learning abilities. (Case documents: Order and injunction) January 1971 We filed a complaint against the Commonwealth of Pennsylvania. (Case documents: Complaint) Case documents In order to continue to enjoy our site, we ask you to confirm your identity as a human being. Thank you very much for your cooperation. How did we get to this point? How are we with the Disability Education Act (IDEA)? Our four-part series examines how IDEA came about and changed over the years. We begin with the first right to education case in the United States: Pennsylvania Commonwealth Park. Meet the children Come back to me for almost fifty years until January 7, 1971. There are six children I would like you to meet. They are: Nancy Bowman. At the age of 8, a school psychologist from the Abington School District told her parents that she was no longer qualified for public school. Her parents placed her at Pennhurst State School, where she received no education during the years later. Linda Taub. Linda, who was born blind and lingered in 1951, attended a special class in Philadelphia public schools for six weeks in the spring of 1960, until a district superintendent informed her parents that Linda could no longer attend public school because she had not answered and had problems with toilet training. Charles Charles Charles, born in 1953, attended a formable class in the Allegheny County School District from 1967 to September 1969, when a school psychologist informed his parents by letter that Charles should be expelled from school because he was ineducable and untrainable. Christopher John Kelly. Christopher, born in 1960, attended a kindergarten day camp run by the Berks County Association for Retarded Citizens, where he was a keen student, and learned to feed, use the toilet, and speak in sentences. In September 1969, he began attending a special class in the Berks County School District. In December, a school psychologist informed his parents by letter that the school was not good for him and excluded him from school as undusable and untrainable. Mark Moser. In September 1960, when Mark was five years old, his parents tried to enroll him in the Marple-Newton School District, but was told that there was no class available for him. Seven years later, Mark was allowed to start a special class in the school district where the other children were working below his own abilities. Two months later, the school district informed his parents that no other classes were available and encouraged them to remove him from school. Billy Reese. Billy attended a school in the Allegheny County School District full-time and then part-time over a four-year period from the age of 7. In September 1968, he began the full-time school year. Eight days later, the school district excluded him from school, deeming him unable to take advantage of school attendance. When his parents tried to re-enroll him in public school the following year, the school psychologist refused to accept him. His parents' requests for home schooling were denied. From time to time during this period, his parents were able to pay for private tutoring. As of January 7, 1971, Billy was not receiving any education. He could read at grade 2 level, spell, and make three numbers arithmetic. Why do these children matter? So why am I talking to you about these six kids? And why is the date of January 7, 1971 important? These children, other children, and the Pennsylvania Association for Retarded Children (PARC) were the plaintiffs in PARK v. Commonwealth of Pennsylvania. This landmark lawsuit, filed on January 7, 1971, and a second lawsuit that will be filed next week, helped pave the way for a federal law passed in 1975, now known as the Disability Education Act. All the children named in the pursuit of the PARC struggled with some form of what was called 'mental retardation', 'soft' to 'deep'. In some cases, these children have also experienced other disabilities, such as blindness or cerebral palsy. They represented a class of what was then estimated at more than 50,000,000 Pennsylvania, whose access to public schools would have been denied, delayed or reduced because of their disability. Excluding Children Delayed by Schools At the time THE PARC sued, the Pennsylvania Constitution provided for free public education for all the children of this Commonwealth over the age of six. The Pennsylvania Public School Code stated that every child between the ages of 6 and 21 can attend public schools in their district. The Public Schools Code also imposed an obligation on the Commonwealth to provide adequate education and training for all outstanding children. But state law also contained several gaps. It provided, for example, that if a school psychologist had certified that a child was inculcable and untrainable, the school district was relieved of its obligation to educate or train the child. In this case, it has become the responsibility of the State Department of Public Welfare (DPW) to care for, train and supervise the child in a manner that is not inconsistent with the laws governing persons with mental disabilities. State law also allowed school boards to refuse to accept or detain beginners who have not reached the mental age of five. For many children, relying on any of these exceptions to state law meant that they would not receive additional education. The Role of the 14th Amendment The 14th Amendment to the United States Constitution states in part: no state shall deprive a person of life, liberty or property without due process; or deny any person in his jurisdiction equal protection of the laws. By due process of law, the 14th Amendment means, among other things, that no state should deprive a citizen of a right without first giving that person written notice of why the state is taking this action, and by giving him the opportunity to challenge that action at a hearing conducted by an impartial decision-maker. By equal protection it means that no state should grant a class of persons the fundamental right to engage in a particular activity, but deny that right to others, unless there is at least a rational basis for discrimination that is reasonably related to a legitimate state purpose. These two constitutional principles are rooted, in part, in the concept of fundamental fairness. A state should be fundamentally fair by using its authority and spending the funds it collects in taxes from its citizens. How the exclusion of delayed children in Pennsylvania violated the 14th Amendment In its complaint, PARC alleged that out of 1,000 people, about 30 will experience form of delay. Of these 30 people, 29 are able to move towards self-sufficiency, 25 can acquire skills sufficient to jobs, 4 can get a job in a protected environment, and even a deeply retarded person can achieve some degree of self-care. For those who are late, according to PARC, education is even more important than for typical citizens, because they cannot develop the necessary skills without sustained educational intervention. Violations of the child's rights equal protection PARC alleged in its complaint that the Commonwealth, its school districts, and other defendants state deprived Nancy, Mark, Billy and the other children of their right to education under the 14th Amendment. PARC alleged that the defendants violated the 14th Amendment's right of children to equal protection because, without a rational basis, they arbitrarily discriminated between children who are educable and formable and those who would be uncultivated and untrained. That is, they refused to educate or limited the education offered to retarded children whom they arbitrarily considered uncultivated, while offering all the benefits of education to the retarded children whom they considered educable. They have discriminated in this way despite the evidence that virtually all retarded children are educable or trained to some extent if they receive appropriate education and support. PARC also alleged that the defendants violated the right to equal protection for children and their parents because they unfairly discriminated awareness of parents who could afford to educate their retarded child in private and poor parents who could not afford their child's private education services. The defendants also unfairly discriminated against the parents of retarded children, according to the complaint, because they required them to pay taxes to support the public education system that excluded their child or unfairly restricted their child's access to the benefits of public education funded by those taxes. Violations of the rights of the due process PARC further alleged in its complaint that the Commonwealth and other defendants violated the due process rights of the retarded children and their parents. Parc alleged these violations of due process in two ways. First, the defendants violated the plaintiffs' due process rights by denying or restricting access to public schools without giving appropriate written advice of their reasons and without giving children and their parents the opportunity to challenge the decision in a fair hearing before an impartial decision-maker. Parc also stated in its complaint that, because an education is so essential for individuals develop and function in society, the exclusion and limitation by defendants of children's access to education have effectively deprived them of life, liberty and property within the of these terms as used in the 14th Amendment's due process clause. District Court Order After the first day of hearing before a three-judge panel, the defendants sought to settle the matter by settlement, and a settlement was finally reached. On October 8, 1971, the court issued an order, order, injunction and consent order. The court: concluded, in fact, based on expert testimony, that all persons with mental retardation are capable of benefiting from an education and training program; that the largest number of people lingered . . . are capable of achieving self-sufficiency, and the few others, with such education and training, are capable of achieving a certain degree of self-care . . . affirmed the right of children referred to a free public education and training programme; prohibits defendants from excluding or restricting access to public school for children; required reassessments of delayed children and the development of education and training tailored to their learning abilities; recognized the presumption that, among other education and training programs, placement in an ordinary public school class is preferable to placement in a special public school class and placement in a special public school class is preferable to placement in any other type of education and training program, and required that home schooling, the least preferable of education and training programs, not be used for a retarded child unless it was deemed most appropriate for the child's abilities, that it be offered for at least five hours per week, and that a retarded child receiving home instructions be reassessed no less than every three months. More information on PARC v. Commonwealth Here's a 5-minute summary of PARC's Powerpoint slide: Want to know more about the PARC case? More information is available on the Public Interest Law Center website, including the complaint, the discovery in the case, the plaintiffs' trial brief and other documents. On the same site, you will find a video interview with Tom Gilhool, the lawyer representing the Pennsylvania Association for Retarded Citizens in Park v. Commonwealth of Pennsylvania. Tom discusses how the case came about, the historical context of the exclusion of children with developmental disabilities from public schools, the case strategy, judges, and more. Final Reflections THE PARC decision was the first right-to-education lawsuit in the country. It opened public schools Pennsylvania to all the retarded children and, in doing so, has changed for the better the lives of several thousand retarded children who have been unfairly excluded from the benefits of public education. As we will see later, the wording of the PARC ordinance was reflected in the legislation passed by Congress four years later, Education for Persons with Disabilities Act. But before we get to federal law, we need to consider another groundbreaking federal lawsuit, Mills v. District of Columbia Board of Education, decided a year after PARC. We're taking Mills next week. Comments? Questions? See below. Below.

