

MINNESOTA'S LAWS AFFECTING THE TRAINING AND EDUCATION  
OF MODERATELY TO SEVERELY MENTALLY RETARDED CHILDREN

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## F O R E W O R D

This paper is intended **as a brief historical overview** of the Minnesota statutes which undergird those training and education services for trainable mentally retarded children and youth which are operated wholly or in part with public funds. An appendix is attached which gives, in summary or memorandum form, the current laws and regulations which affect the training and education of children whose mental retardation ranges from moderate to severe.

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The State of Minnesota has a distinguished history of concern for its handicapped children. Although the mandatory special education law was not passed by the State Legislature until 1957, special classes for handicapped children existed in public schools as early as 1915, when Minneapolis and Hibbing opened classes for educable mentally retarded children.

The first program in the state for trainable children was organized in St. Paul as one of the work projects of the WPA, the Great Depression sustainer of the professions and the arts. Strong parent intervention prevented its termination in 1938 when federal funds were no longer available, and it became the administrative and financial responsibility of the school district.

Although the education of handicapped children was not mandated, there were special aids paid to school districts to help with the higher costs of educating handicapped children. The aids were tied to the individual handicapped child. There were serious drawbacks to this system. School districts had to have enough children to earn sufficient aid dollars to pay for a teacher. The temptation to crowd as many handicapped children as possible into a classroom in order to earn the maximum in state aids was hard to resist. Under this formula, an additional sum was paid besides the foundation aid for each child. School districts with less than a full classroom of handicapped children could not afford a teacher. The system also militated against the addition of advisory and other essential personnel - speech therapists, school psychologists, classroom aides and other support staff. The limitations imposed by the funding pattern kept the program, in spite of its early start, so moribund that only one part-time staff person in the State Department of Education was needed to keep track of the program. Teacher training was accomplished through summer courses conducted at Faribault State School and Colony, (now Faribault State Hospital.)

During the early 1950's, the emergence of the associations for retarded children, a national movement founded in Minnesota, turned the attention of educators and other interested citizens to the inequities of the system. The Minnesota Council on Special Education, a coalition of organizations and individuals concerned with the education of handicapped children, was formed to lobby for a mandatory special education law drawn up by the 1955 Interim Commission on Handicapped, Gifted and Exceptional Children. This commission, under the chairmanship of Senator Elmer L. Andersen, recognized the right of handicapped children to educational services and devised a reimbursement formula which would be tied to essential personnel, not to individual children. Two young men who were to become nationally known for their advocacy of programs and services for handicapped children and youth were involved in that effort, Representative Albert Quie and Dr. Maynard Reynolds.

Although the special education bill was drawn to mandate the local education agency's responsibility to educate all handicapped children with I.Q.'s over 50, it was mental retardation, then the handicap with the highest incidence, that carried the bill. Ironically, the larger number of the parents who lobbied so effectively for the special education law were parents of trainable retarded children whose education was not mandated. A separate law permitted school districts to receive the same special aids for personnel, program materials and transportation for trainable classes as they received for educable classes.

The new laws had an immediate effect. Classes for educable retarded children were organized all over the state, the University of Minnesota organized a full scale teacher training effort, with late afternoon and Saturday classes for metropolitan area teachers and double summer sessions for both outstate and Twin Cities teachers. The early efforts were largely focused on retraining

of elementary teachers. Gradually, as some of the initial demand was satisfied, the University began to recruit and train young students and the face of special education began to change. St. Cloud and Mankato state Colleges developed strong special education programs.

In the meantime, trainable classes were organized here and there throughout the state, at the behest of organized parent groups. The growth was slow but steady. Poor reporting practices which lumped educable and trainable children together until the 1960-1961 school year made it impossible to judge precisely how many trainable children were being served. During the 1970-1971 school year, there were about 1,900 children in public school trainable classes, out of an estimated population of approximately 5,400.

Before 1957, the education of the handicapped was perceived as a State Department of Public Welfare charge. Crippled children, children with severe vision and hearing defects and mentally retarded children travelled to distant, usually rural institution campuses to receive care, treatment and education. In the case of/mentally retarded, this was often a one-way trip, even for mildly retarded individuals. With the passage of the special education laws, it was no longer necessary for children to leave their home communities in order to get an education. As more children were enrolled in school programs, fewer of them were referred for institution placement. Regulations which demanded that a trainable child must be able to communicate and be toilet trained excluded many children from school. In 1961, the Minnesota State Legislature passed the Daytime Activity center Pilot Project Bill which provided a small appropriation which was to be used on a matching grant basis to local communities to help them to provide programs for mentally retarded children and adults who, by reason of age or disability, were ineligible for public school services. Two years later, the Daytime Activity center Law was adopted. The program has been a kind of pet of the legislature. While other programs, notably state insti-

tutions, were suffering cutbacks, the daytime activity centers received increasingly larger appropriations. While the original law stipulated that neither trainable nor educable children of school age could be enrolled in daytime activity centers, the lack of a mandatory trainable law made this rule difficult to enforce. Daytime activity centers demonstrated that communication and self-help skills, including toilet training, could be taught and raised questions as to the validity of regulations which excluded children from school for lack of I those skills.

In 1969, the State Legislature passed two laws which were aimed at preventing school districts from excusing, expelling or excluding children from school without due process. It took two years to get the guidelines written, in part because the permissive trainable law raised some thorny questions. How could a school district be required to report the exclusion of children for whom they were not required by law to provide service? Since the intent of the law was that no child would be categorically excluded from school, it was obvious that a renewed effort must be made to make the education of trainable children mandatory.

Repeated efforts to change the law had been met with defeat. Minnesota's special educators, many of whom had been active in the passage of the permissive law back in 1957, cursed the day when they had permitted the trainable/educable dichotomy to come into existence. The magic of the 50 I.Q. as the child's passport to an education seemed virtually impossible to fight. Legislators/ superintendents and school boards remained firmly convinced that moderately to severely retarded children belonged in institutions and that school districts should not be involved in "babysitting". The daytime activity centers helped to change the image of the trainable child. School administrators and legislators had an opportunity to observe children in groups who, out of sight in their own homes, or living the self-fulfilling prophecy in crowded institution wards, could be

assumed to be "hopeless".

The Minnesota Committee for the Handicapped, a coalition of thirteen lay and professional organizations, with the strong support of one of its constituent groups, the Minnesota Association for Retarded Children, determined that 1971 was the year that mandatory trainable legislation would be passed. As the session wore on. House education committee hearings on the bill were scheduled for 7:00 a.m. on weekdays and Saturday mornings in an apparent effort to discourage the staunch supporters from attending. Unflagging zeal and a handful of very determined House education committee members won the battle. Another distinct asset was the support of the Commissioner of Education and his staff.

During the 1971 session, a change was made in the daytime activity center law which would permit school-age children to be enrolled in centers. A line in the trainable law specified that school districts could purchase service for a trainable child from an appropriate community agency if that service could better meet the child's needs at that particular time. The way was opened for cross-agency cooperation, a concept generally approved but difficult to implement. Regulations for contracting for services on the part of school districts were written by the Department of Education and sent to school superintendents.

The net result of this legislative activity in behalf of trainable mentally retarded children was a package of laws, with supporting regulations, which could, in the first few years of the 1970's, provide a smoothly articulated continuum of services to children with moderate to severe mental retardation. For the first time, school-age children in state institutions for the mentally retarded will become the financial responsibility of their home school districts with the school district in which the institution is located providing the school program, either in its own classrooms or, where necessary, in classrooms in the institution. With enlightened administration of the laws, Minnesota should soon approach the "zero reject" concept which guarantees to every child his rightful

share of the tax-supported services which will help him to become as independent and productive an individual as possible. The public school, our society's largest child-serving agency, appears to be the most likely vehicle for providing these services.

A P P E N D I X

Digest of Minnesota's Special Education Laws

Summaries of Mandatory Trainable and Mandatory School Demission  
Laws

Memorandum on Reporting Demissions as Related to Daytime Activity  
Centers

Memoranda on Implementation of Mandatory Education for Trainable  
Mentally Retarded Children

Guidelines on Contracting for *Services* for Handicapped Children