

## NASTY COOPERATIVE PRESENTATION, JUNE 10, 2018

### SOCIAL JUSTICE, LAWS, ENFORCEMENT: THE SPECIAL EDUCATION ANALOGUE

#### DEFINITIONS:

Social Justice- the concept of fair and just relations between the individual and society. It involves the distribution of wealth, opportunities for personal activity, and social privileges. By assigning rights and duties through society's institutions to enable people to get the basic benefits and burdens of society: taxation, social insurance, public health, public education, public services, labor laws, fair distribution of wealth and equal opportunity. Concepts are filtered through the lens of religion, political structure, and philosophical perspective. Enforcement requires litigation or dispute resolution in some form.

#### Social Justice Lens

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\*Political philosophy \*Culture \*Education level \* Wealth \*English speaking \*Religion \*Geography

#### CONSTITUTIONAL RIGHTS

Life: Right not to be killed, injured, or abused

Liberty: To move freely, assemble peaceably, keep and bear arms, assemble in an independent, well-disciplined militia; communicate with the world, express or publish one's opinions or those of others; practice one's religion.

Private Property: To have a private residence from which others can be excluded; have the tools needed for one's livelihood, have personal property from which others can be denied use; have arms suitable for personal and community defense.

Rights created by social contract: Enter into a contract, enjoy rights and protections as established by law; petition for redress of grievances; petition a legislator for consideration; petition a court for redress of grievances; not have rights taken away except by due process of law.

#### CIVIL RIGHTS

These are a class of rights that protect individuals' freedom from infringement by government, social organization and private individuals. They ensure one's ability to participate in the civil and political life of the society and state without discrimination or repression. They include freedoms of religion, speech and press, to petition and assemble, to bear arms, vote, and the right to due process.

#### FEDERAL ENTITLEMENT PROGRAMS

A federal entitlement program is one in which all eligible applicants must receive all the benefits for which they are eligible. These cannot be reduced or denied because of budget problems. The only way to reduce these expenditures is to change the eligibility rules. Examples are-

Student loans, child and dependent care tax credit, earned income tax credit, Social Security-retirement and survivors; Pell grants, unemployment insurance, veterans benefits, GI Bill, Head Start, SSI- Supplemental Security Income; government subsidized housing; food stamps.

#### THE SPECIAL EDUCATION ANALOGUE: AN ENTITLEMENT PROGRAM

The Individuals with Disabilities Education Act, passed in 1975, provides the process giving access to the 14<sup>th</sup> Amendment for a specific class of disabled children and their parents. Its goal is to equalize opportunity for independence and self-sufficiency by leveling the playing field through individualized instruction for each eligible student. Among its components:

1. It entitles the disabled child to a free and appropriate public school education.
2. It provides comprehensive, multidisciplinary evaluations to students, ages 3-21, suspected of having a disability.
3. Eligibility requires that the testing data reflect one of 13 categories of disability: autism, deaf-blindness, deafness, emotionally disturbed, hearing impairment, intellectual disability, multiple disabilities, orthopedic impairment, other health impairment, specific learning disability, speech or language impairment, traumatic brain injury, visual impairments, preschool disabled.
4. Receiving eligibility for FAPE is viewed as a property right.
5. Parents are joint and equal participants with school staff.
6. An individualized education program (IEP) is developed in accordance to law that provides specialized instruction emphasizing special education.
7. Placement is determined according to the ability to implement the IEP and includes a range of environments, ranging from regular class placement to residential treatment centers.
8. Special education services are not subject to budgetary restrictions. IDEA has not been reauthorized since 2004, with changes made through references in other education statutes.
9. Eligibility rules changed over time to limit eligibility, particularly for those with specific learning disabilities.
10. Inclusion is a philosophy and not a part of IDEA.
11. Dispute resolution:
  - A. Independent testing at no cost to the parent;
  - B. Mediation
  - C. Due process.

QUESTION: WHAT REPRESENTATION IS AVAILABLE TO PARENTS WHEN DISPUTES WITH SCHOOL DISTRICTS ARISE? ADVOCATES? LAWYERS?

ENTER THE NONLAWYER LADY.