

DORAN 1988
DECISION

FILED

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF THURSTON

NOV 29 1988

SUPERIOR COURT CLERK
THURSTON COUNTY CLERK

WASHINGTON STATE SPECIAL EDUCATION COALITION, Petitioner,
vs. STATE OF WASHINGTON, et al., Respondents.

CAUSE NO. 85-2-00543-8

DECLARATORY JUDGMENT

THIS MATTER having come on for trial on December 3, 1986, before the Court sitting without a jury; the trial having been completed on December 18, 1986, and the Court having reviewed the briefs and heard argument of counsel, having made an Oral Opinion dated October 29, 1987, and having entered Findings of Fact and Conclusions of Law, hereby declares as follows:

1. The handicap program funding allocation formula contained in LEAP Document 8 Revised, referred to in Engrossed Substitute Senate Bill 4762, Section 505, Chapter 312, Laws of 1986 and, in particular, the SLD "E" component thereof, distributes funds to school districts in a manner which reduces the per capita allocation based upon eligible student population which exceeds four percent of the district's total school population without making some provision for districts that can establish underfunding:

A. Fails to distribute funds to school districts in a manner which reflects the actual distribution by level of severity and number of all handicapped and, particularly, specific learning



disabled students eligible for the handicapped education:

B. Is inconsistent with the requirement of the State
Education for All Act, Chapter 28A.13 RCW, that funding for the
handicapped program be provided on an excess cost basis;

C. Fails to satisfy to some extent the full funding requirement of Article IX, Sections 1 and 2, as determined by this Court in School Funding II that fully sufficient funds be provided and distributed in a manner that is based as closely as reasonably practicable on the actual cost of the special educational needs identified in the properly formulated individualized educational programs of all handicapped students pursuant to state law and sufficient to ensure each school district's ability to comply with all of the rights, procedures, and substantive requirements contained in the special education laws.

2. The Legislature may, but is not constitutionally required to, include the total costs for the handicapped program in a single formula.

DATED this _____ day of _____, 1988.

ROBERT J. DORAN

JUDGE ROBERT J. DORAN
Thurston County Superior Court

DECLARATORY JUDGMENT -2-

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2 Declaratory Judgment approved for
3 presentation by:
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Volunteers May Cost More Than We Can Afford

JANET WARD TAGGART

Editorial Comment: Government budgets are extremely tight as the nation enters the 1980s. Our President and others assert that assistance in providing needed social services be derived from community volunteers. Certainly, volunteers serve a key, traditional function in many community support programs, a function which will be needed in the foreseeable future. This article raises issues surrounding the roles volunteers serve in these times of change. While we look for new modes of volunteerism, how do we distinguish reasonable roles for volunteers from those of professionals? How may we deploy our volunteer resources for maximum productivity and long term cost effectiveness? Can we replace professionals with volunteers? What are the consequences to the client? This article raises these issues and emphasizes the need for far-sighted planning in the changing role of volunteers. References to local events are not limited to these individual situations. Such budget cutting measures are occurring in similar manifestations across the country. The views presented are those of an articulate, concerned parent, who is recognized as an active, committed advocate for appropriate use of volunteer resources to supplement sound community programs run by professionals. Her views are shared by many.

Janet Taggart is the parent of a severely handicapped child, works at the Experimental Education Unit of the University of Washington, Seattle, and serves on several local and state boards and advisory councils in Washington state.

Recently, government officials in one of our western states conducted a hearing on the issue of the state's paying grants to children and adults who were physically or mentally disabled to a degree that they required support for their day-to-day living activities.

These funds would be used by the recipients to hire "chore service workers" or "aides" to help out in the home. Without these funds, many of the handicapped people would not be able to attend community schools or training programs and, indeed, some would be forced into more costly nursing homes or state institutions for the care they needed.

At the hearing a well-dressed woman spoke out authoritatively against such grants. "I am a Christian," she began, "and I object to paying tax dollars for such services. I feel it would be better, both fiscally and spiritually, if volunteers would help these people so they could stay in their own homes."

After elaborating on the good intentions of the group she represented, she made a recommendation that a volunteer center be established by the governmental agency conducting the hearing.

"Can you find a volunteer to provide the twenty-four-hour-a-day help I need?" came a challenging voice from a wheelchair-bound man.

"We'll try," the woman promised in a reassuring tone. "We'll do our best."

Today, with social service programs on the chopping block, many of our political leaders are singing the same hymn. "Replace chore service workers with volunteers," they urge at hearings and in memos presented with their budget recommendations.

Is this a practical solution? Will volunteers, with good intentions, take on all the myriad tasks performed by chore workers and home aides in order that severely disabled people can survive in a private home environment?

Perhaps some volunteers could, when the need involves only a few hours a week of doing optional chores or providing companionship to a lonely shut-in. But what about the live-in situation where someone is required for twenty-four-hour responsibility for the health and safety of an individual?

Specifically, this would mean intensely personal care and life-saving chores such as bathing, catheterization, feeding, meal preparation, shopping, overseeing the taking of medication, transportation to appointments and programs, and the day-to-day activities that make up daily living.

One person at the hearing who identified herself as "an advocate" took strong exception to the volunteer solution proposed by the Christian woman. "A system of service delivery which encourages agencies to substitute volunteers for paid staff deteriorates the quality of care for our citizens with disabilities," she said. "Paid staff can be held accountable for their work and their attitudes. Volunteers cannot!" This view was shared and expanded by another advocate, Cecile Lindquist, who has served disabled children as a trainer at the University of Washington's Experimental Education Unit as an active lobbyist and as a volunteer. "Understaffing occurs in many agencies and schools that rely on volunteers to serve the needs of children entrusted to their care," she stated. "Traditionally, when agencies and schools are underfunded, they turn to volunteers to fill in the gaps. However, volunteers should not replace professionally trained staff, but should work only under the supervision of professionals. Budgets should reflect this philosophy."

Increasingly, there is a demand from budget-conscious public school administrators to replace professional staff with volunteers.

Decertification of these and other support staff is recommended in a report to the Washington State Legislature.

"The opportunity for damage to a child receiving therapy from any person not well-trained or schooled in neuro-physiological theories and without knowledge of motor development is greatly increased," says a physical therapist at the University of Washington. "Damage could result from using wrong patterns to perform certain skills."

She described how a child with cerebral palsy could become limited in his or her ability to walk by utilizing abnormal patterns of movement, whereas skilled therapy would emphasize the teaching of normal patterns of movement and the inhibition of abnormal patterns. She further explained that broken bones and other traumas can be expected from the application of inappropriate therapies.

A skilled therapist can adapt equipment or positioning so that the child can take part in more of the classroom activities, which a volunteer might not be able to do. Again, a skilled therapist is sometimes able to detect other medical problems which might be overlooked by a volunteer who would not be aware of the problems or a referral system for dealing with them.

Supporting this view is a local judge who is on record as admonishing an audience of university women not to volunteer their services, time, and talents to various hospitals, children's agencies, and centers for the disadvantaged and disabled. "Those who do are taking jobs away from people who need them," she said. "More important, the volunteer continues to perpetuate the underfunding of the agencies she serves."

The judge spoke from experience. She has a long and impressive history of active participation in numerous community causes and services as a non-paid member on boards of various non-profit agencies. While her remarks drew gasps of astonishment and vocal disapproval from many who had devoted years to charitable causes, there were shouts of "Right on!" from others.

One of those voicing support for the judge's opinion is the chairperson of a governing board of a local developmental center. "We are forced into a corner by the well-intentioned people who insist on volunteer service in place of paid staff," she claims. "As a result many parents of disabled children are extending themselves far beyond the role of volunteer."

Her board membership includes many busy parents who have an emotional investment in programs serving disabled people. Members of this plan-

ning body have developed a system wherein each actively participates in the operation of the center. Report and letter writing is shared by board members. They take surveys, plan budgets, and plan, monitor, and evaluate program effectiveness. Fortunately, the parents and others who compose this board have the professional expertise to do the job. They not only develop policies but also personally find and develop grants, type reports, and perform public relations and education tasks.

The chairperson concedes that the board members probably do not conform to a true definition of a volunteer worker. "However, the motivation is intense since the services have a direct effect upon their own lives as well as the lives of their children."

"The reason for all of this frantic activity, of course, is the reluctance of the local government to pay to staff the developmental center fully," she adds.

Another example of successful volunteerism is the well-established Alcoholics Anonymous organization. Here, persons with the problem of alcohol dependency aid a fellow sufferer and provide their "brothers and sisters" with the support needed to survive the cravings and traumas associated with that disease.

There probably is not enough money in the world to buy this kind of empathy, patience, and time. Only money, however, can buy the skills of certified teachers and trained therapists who can turn underdeveloped muscles and unstable minds into functioning and useful parts of the body.

There are countless cases of children and young people with severe disabilities who demonstrate the reasons for disenchantment with the volunteer approach.

For example, two young men became de-institutionalized under a new state program which allowed them to leave a state institution and live in the community in an apartment of their own choosing. These two capable young men found employment with a janitorial firm. Their skills, however,

did not include cooking or light housekeeping—both are junk food addicts. There was no staff at the institution for teaching these skills nor was it seen as an appropriate volunteer activity. Both men are punctual and well-trained in their work habits—nevertheless, the essence of housekeeping eludes them and the delights of junk food posed a serious threat to their health.

A volunteer was sought from a service organization. A person came forward and promised to provide light

many excuses for not being able to help.

Once Robert became eligible for chore services, his parents advertised in the paper and interviewed several young men to find the most qualified to assume the responsibilities and level of care necessary for Robert. Once they made their selection, they congratulated themselves for achieving much needed relief from the continual care they had performed without break for nearly two decades.

Robert's first behavior episode,

required in feeding her. This task sometimes requires more than six hours a day.

To meet the needs of Judy, the family sought the aid of volunteers mostly through their church. The occasional respite, though erratic and not entirely satisfactory because of the undependability of the volunteers' own schedules, was nonetheless appreciated. Many years of this demanding schedule have left a mark on family members who have not left home for any occasion lasting more than a few

"Probably the most important role a volunteer can play is that of innovator and originator of services and programs. The development of some of our most illustrious organizations began with an idea from a volunteer who convinced others that there was a way to meet a pressing need."

housekeeping and meal chores for the two young men for two weeks. This person was then replaced with another from the organization, but unfortunately, that person failed to show up at the young men's apartment for two weeks. Another volunteer was sought and this one proved satisfactory for two months. After this period of time, a series of volunteers followed, some of whom performed adequately and others who were undependable. The threat of being re-institutionalized is ever present without the support these young men need to survive the demands of day-to-day living.

Another example is Robert, a young man who suffers from autism—a severe behavioral disability. This handsome young man appears to be the most "normal" of persons, but restaurants, social occasions, meetings, and many recreational events are frequently off-limits to him. Periodically he suffers from episodes of self-destructive behavior which include compulsive jumping, running, and biting and hitting himself.

For many years while Robert was growing up, his beleaguered parents sought help from family members and friends to help as "sitters" during times of sheer exhaustion. But there was always a dearth of volunteers and

however, frightened away the newly employed young man. Another chore worker was sought and this time more care was given to outline the specific duties and describe, in detail, the nature of Robert's disability.

After two weeks with the family, the second employee left. A third was found drunk on occasions and was subsequently dismissed. A fourth employee was directed to a training program conducted by a group of people who had acquired a grant and were able to give some training for this position. This employee has remained for two years and will continue his employment until he completes his college training.

Without reservation, this family will testify that the home care that Robert needs is not a job for a volunteer, although many well-meaning people would still insist that volunteerism is the answer. Sometimes even paid persons find the challenges of meeting the needs of people with various handicaps difficult to achieve.

When volunteer help is all that is available to a family, human misery is often the result. The story of Judy is a prime example. Her severe physical disabilities require lifting her from bed to wheelchair. Since she has difficulty swallowing, skill and patience are re-

quired in feeding her. This task sometimes requires more than six hours a day.

The advice advanced at the hearing to supplant expensive staff with volunteers was countered by a knowledgeable community leader.

"Experience indicates a diminishing return law in volunteer gathering," she testified. "We are seeing a limit to the number of volunteers available in the community who are willing and able to assume the duties required of them. Training of paraprofessionals from the ranks of volunteers seems to result in the same depletion rule."

Government frequently uses volunteer citizens' committees to perform unpleasant tasks. One example is a committee created by a government official to distribute the remains of a newly cut budget for human services. "You have the responsibility to judge where these fewer dollars will go," the executive admonished the committee members. "You will advise me which services can stand a cut—services to retarded children, the program for alcoholics, the drug-treatment program, or mental health services. I will abide by your decision," he pledged.

Surprisingly, not one member protested or even questioned the cut budget. All accepted the challenge to decide the destiny of the people served by those programs. Later, one committee member brought up an after-the-fact question while carefully out of earshot of the executive. "Why is it that those who advocate lowering an agency's budget by use of volunteers do not extend the recommendation also to the roads and sewer department?" she asked. Simultaneously, she referred to a nuclear power plant under construction which had overrun its original budget by millions of dollars. "How about asking volunteers to complete the building of the power plants?" she inquired of those around her.

Volunteer groups, incidentally, are not the only ones to decide the destiny of people who receive human and school services. One example appeared in the form of a memo sent to government agencies by an official in a local budget office. "You should put available

funds into programs for the less severely handicapped people who can return a substantial amount of the money back to the community," the memo read.

Not all volunteers seek service in agencies making such life-threatening decisions. An example of timely and rewarding volunteering is a program in a local public school system where a carefully monitored program allows college students to earn academic credit for work they do with young children. Learning through experience is gained by the college students and increased attention and time given to various academic subjects benefit the young children involved in the project.

Docents who serve as interpreters for visitors to school and training programs as well as agencies and institutions also testify to valuable exchanges and benefits to both the volunteers and the people they serve.

"When it really comes down to it,"

explains a concerned volunteer leader, "volunteers should be frosting on the cake. After all of the necessary personnel are trained and performing adequately, volunteers could provide the luxuries and extra touches. Unfortunately, our society judges things by what they cost, and, therefore, low priority is placed on volunteer work."

Probably the most important role a volunteer can play is that of innovator and originator of services and programs. The development of some of our most illustrious organizations began with an idea from a volunteer who convinced others that there was a way to meet a pressing need. Perhaps the volunteer's purpose in our system is that of beginner of a program. Moreover, volunteers may become the leaders in this new era of decreased services by making it known that volunteerism is not the answer to human needs. Dependency upon a volunteer may weaken the very essence of that basic service.

Special education leads the way

By Janet Ward Taggart,
Seattle

visor in the Seattle system. "It forced us to consider what we wanted to accomplish in our programs and our department."

"Management by Objectives" is the name of the system used in most special education departments today. This method of training staff within the school system was encouraged in a workshop conducted approximately three years ago. There, personnel from the special education section of the state superintendent of public instruction's office demonstrated and discussed various techniques for measuring progress toward established goals.

Parts of the management system, however, (such as use of the six-cycle graph paper used for charting purposes) were abandoned as impractical. But the basic system and the philosophy behind it made deep inroads into the thinking of most special education administrators.

"Many of the students new to the school system were mentally retarded children," said Charlene Behrns, director of special education in Seattle. "They had been denied the opportunity to attend school because it was believed that they were unable to learn. Now, through this new method of accountability, we know that retarded children learn in much the same way as normal students do. If a student fails to learn, it is probably because we are not teaching effectively or well."

"To be effective," Bill Atteberry added, "it becomes necessary to establish a goal for each child. Then we must set down some methods of reaching that goal and, at the same time, estimate the length of time it will take to get there."

To a teacher this means specifically

particular student and a method of objectives or ways to reach that goal firmly adhered to. In the process of achieving that goal, a method of evaluating is used to see if the teacher and staff are successfully reaching their stated goals.

One example of this new philosophy is in operation at the Apollo School in Issaquah where a list of objectives for each child is taped to a wall of the classroom. For example, on the page of objectives for one of the multiply handicapped students named Sherrie are the words, "Will walk 25 steps without aid." Beneath this sentence is a list of duties used by each staff person to help Sherrie reach the goal set for her.

Parents are given a copy of the paper listing the goals and frequent reports of the child's progress in attaining the goal. Once Sherrie walked the 25 steps unaided, it was obvious that she was well on her way to success. This goal then disappeared, and a new one replaced it.

Nor is it difficult for an evaluation team to determine the most desirable goal for the pre-school child who is not yet toilet-trained. Teachers and aides in an Edmonds classroom developed a dignified method of objectives by means of a color-coded chart. It showed in a subtle way the time of day when each untrained child normally had a movement.

After three weeks of observation, the teacher was then able to set the ideal time for this daily objective. Such a method of toilet training is the same used by most mothers with normal children. However, most young mothers would probably not use the word "goal" to describe such efforts. In this same Edmonds classroom of

youngsters, a teacher-intern was helping a child to scoop up food. The goal, he explained, was to teach scoping; the objective, to train the arm in this movement. Careful data was taken to determine what would or would not work. After a specific period of time elapsed and the child did not learn to scoop, a new list of objectives was created.

In one of the state's larger districts, top administrators neglected to set goals and objectives for themselves. Thus, they handicapped the system of goal-setting. Both in theory and good practice, it is necessary that all administrators be involved in the goal-setting process. Otherwise, the system has gaps of understanding. What further develops is loss of direction by department heads and individuals who are then not aware of where the rest of the system is planning to go with its curriculum, methods of discipline and plans of implementing its policies.

This failure to set goals resulted in total frustration for all lower-level administrators. The top administrator then asked for pledges of support from "his team" and urged department heads to be "team players." Such an admonition led only to further confusion for those who most earnestly wanted to understand where the team was headed.

As Bill Atteberry pointed out, "Special education is just one part of education. It cannot successfully set goals unless the whole district participates and shares its goals. For perfect understanding, it is important that every department and each individual use the same forms and vocabulary. The purpose of doing the latter is to build confidence and trust through communica-

***** ARC MILESTONES *****

ARC in Washington state has a rich tradition of leadership on behalf of persons with mental retardation and other developmental disabilities and their families. We are proud of our six decades of service and look forward -- with your support -- to the challenges presented by the 1990s.

-- WHERE THE NEED IS, THE ARC IS THERE

THE 1930S: OUR FIRST DECADE

- 1936 Founded as the Children's Benevolent League, Washington ARC is the world's oldest continuous organization of parents and advocates for persons with mental retardation.
- 1936 We engaged in the first political campaign for the election of candidates who recognized the interests of persons with mental retardation.
- 1939 We successfully lobbied for the first mental retardation facility on the populous west side of the state.

THE 1940S: OUR SECOND DECADE

- 1940s ARC began to contact people in other states to promote similar organizations across the country.
- 1947 We defeated the legislature's first attempt to impose "parent pay" for mental retardation services.
- 1948 ARC produced the first widely distributed information brochure, One Out of Fifty, and mailed it to legislators and opinion leaders across the state.

THE 1950S: OUR THIRD DECADE

- 1950 The ARC produced the world's first newspaper in mental retardation, Children Limited.
- 1950 We helped found and supplied the first president for a national ARC organization.
- 1950 ARC organizes the world's first trust fund for research into mental retardation.
- 1951 ARC produced the world's first public information movie on mental retardation, Children Limited, distributed worldwide by the U. S. Information Agency.



1951 ARC won legislation to allow every school district to include mentally retarded children as students.

1955 ARC established a retarded children's diagnostic clinic at Children's Orthopedic Hospital in Seattle.

1959 ARC Research Trust Fund provided funding for early research into the genetic basis of Down syndrome.

1959 ARC lobbied for the first state funding for sheltered workshops.

THE 1960S: OUR FOURTH DECADE

1961 We lobbied through the first state funds for group homes.

1967 ARC obtained state funding for prevention of rubella, then a major cause of mental retardation.

1967 ARC organized the first statewide Ellensburg conference on special education.

1967 ARC won county-level funding for mental retardation services.

1969 ARC lobbied through an expanded group home funding law.

THE 1970S: OUR FIFTH DECADE

1971 ARC adopted Special Olympics as one of its projects and organized the first statewide meet for Special Olympics athletes.

1971 ARC lobbied the first mandatory education law for all handicapped children in the nation.

1975 ARC worked with other states to win the federal Education for All Handicapped Children Act (94-172).

1976 ARC operated a major statewide informational project for parents, called "Where to Turn."

1976 ARC lobbied through a bill mandating that all newborns be screened for PKU, a metabolic error that, if untreated, leads to severe mental retardation.

1977 We opposed state-operated "mini-institutions" as residences for persons with mental retardation.

1977 ARC conducted the first survey of the number of persons with mental retardation in state prisons.

1978 We filed suit to obtain comprehensive community services as a legal right for every person with mental retardation -- unsuccessfully.

1979 ARC began to lobby for mandatory preschool services through the Preschool Planning Board.

THE 1980S: OUR SIXTH DECADE

1980 ARC filed civil rights complaints against school districts which served children with mental retardation in segregated and inferior facilities.

1980 ARC published a manual on "How to Make the Law and Justice Work for the Retarded Citizens of Washington."

1980s We strongly supported the development of tenant support and independent living projects.

1980s ARC fought off attempts to repeal and cutback on federal special education laws and other rights.

1980s ARC promoted the development of People First self-advocacy groups of persons with disabilities

1982 ARC worked with the state of Washington to obtain Medicaid funds for people living in the community.

1982 We drafted and passed the Program Options Act to empower families and persons with mental retardation to design their own service packages.

1984 ARC began to work for Medicaid reform to allow all persons with mental retardation to live in homes, not facilities.

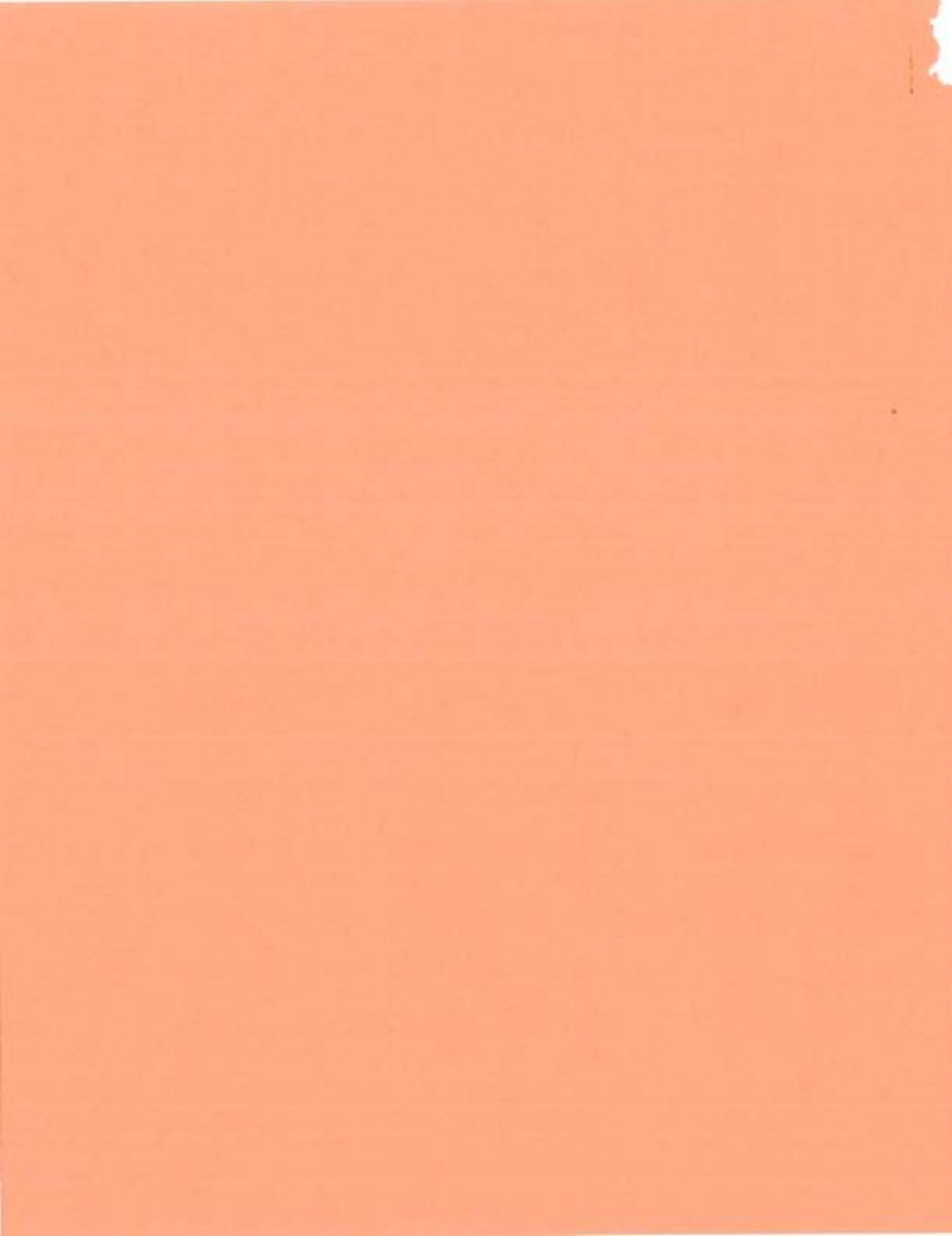
1988 ARC raised public awareness of unserved adults on waiting lists for mental retardation programs.

1988 ARC worked for equity in salaries paid to staff in community non-profits and in state-run programs.

THE 1990S: OUR SEVENTH DECADE

The 1990s are a decade of opportunity: if we work together, we can turn promises and hopes into reality for the residents of Washington state who are disabled by mental retardation and other developmental disabilities.

Join with us -- join ARC.





arc

Association for Retarded Citizens

Milestones
Milestones
Milestones
Milestones
Milestones

The Association for Retarded Citizens of the United States has a rich history of improving the lives of people with mental retardation and their families. The ARC also has led the way in research and has educated millions regarding prevention of one-half of the known causes of mental retardation. Leading to ARC's strong leadership role in the field of mental retardation today are the following major events and accomplishments.



1950 The first convention of the 'National Association of Mentally Retarded Children' was held Sept. 28-Oct. 1 at the Radisson Hotel in Minneapolis, Minn.

1952 The organization became the National Association for Retarded Children and produced a national newspaper, *Children Limited*.

1954 The first National Headquarters opened in New York City. President Dwight Eisenhower declared the first National Retarded Children's Week.

1955 The Association's first film, 'Tuesday's Child,' was produced. Membership rose to 29,000 with 412 local chapters.

1956 'Federal Program of Action for America's Retarded Children and Adults' was presented to Congress. Testimony was provided on bills to expand teaching and research in the education of children with mental retardation.

1957 The Association supported Social Security coverage for adults disabled in childhood, funding for medical facilities for people with mental retardation through the Hill-Burton Act and increased appropriations for vocational rehabilitation programs.

1958 *Mental Subnormality*, an important cornerstone in research literature in the field of mental retardation, reported findings of a three-year association survey.

Concurrently, support began for research projects and policies formulated for comprehensive programming and institutions.

1959 The ARC published a landmark report, *Decade of Decision*, describing the association's accomplishments and prospects for meeting service needs of people with mental retardation.

1960 *Decade of Decision* was presented to The White House Conference on Children and Youth. Membership totalled 62,000. The association was approved as one of 10



voluntary health organizations by the President's Committee on Fundraising in the Federal Service.

1961 Under an association grant, a new screening test for phenylketonuria (PKU) was discovered by Robert Guthrie.

1956-61 Federal support for mental retardation services and research increased from \$14 million to \$94 million.

1962 The association received the Joseph P. Kennedy Foundation International Award.

1963 The President's Panel on Mental Retardation recommended the Mental Retardation Reconstruction Act, maternity and child care projects, expansion of the Vocational Rehabilitation Act and establishment of special education programs.

1964 Membership totalled 100,000. The first interorganization conference on mental retardation convened with representatives from 28 national organizations.

1965 The association's On-the-Job Training Project was established.

1968 ARC stepped up insistence on immediate eradication of inhumane treatment and improvement of institutional care.

1969 ARC was a co-sponsor of Project Star, a national demonstration of minority and poverty outreach approaches. We initiated the annual holiday card fund-raising program.

An ARC Governmental Affairs office was opened in Washington, D.C., to increase visibility in the nation's capital and attempt to influence federal policy toward children and adults with mental retardation and their families.

1970 The National Headquarters was moved from New York to Arlington, Texas, a city more centrally located for the growing membership.

The ARC supported an amendment to the Medicaid program to finance residential programs and develop standards to upgrade participating institutional programs. This program is known as the 'ICF/MR Program.'

The ARC also joined with other disability organizations to create the Accreditation Council on Services for People with Developmental Disabilities (ACDD), a national standard-setting and accrediting body. ICF/MR programs were required to meet ACDD standards to promote upgrading of residential programs.



photo by Diane & Dick Collier

1971 National and state offices of ARC began to join court suits to defend the rights of citizens with mental retardation living in state institutions and to ensure their right to education. Advocacy intensified to strengthen individuals' rights to be served by community-based residential services. Other stepped-up efforts took on such diverse issues as immigration, benefits for dependents of service people, early childhood, fair labor

standards as applied to workers with mental retardation, lead paint poisoning and immunization programs.

1973-76 ARC emphasized the complex issues surrounding the use of human subjects in research, both biomedical and behavioral. We made one of the major presentations to the National Commission on Research on Human Subjects.

1974 Reflecting a growing service to adults as well as children the Association for Retarded Children's name was changed to the National Association for Retarded Citizens.

The association worked for two major programs which had a significant impact on the lives of people with mental retardation - Supplemental Security Income and Title Twenty Social Services.

1975 ARC members' hard work securing the right to a public education for all children, regardless of their handicap, was rewarded by passage of Public Law 94-142, the Education of All Handicapped Children Act.

1976 With the International League of Societies for Persons with Mental Handicap, the ARC was host to a "Symposium on Normalization and Integration: Improving the Quality of Life," featuring international experts.

1977 The ARC received two federal grants for the establishment of the federal program information and assistance project. The project trained hundreds of advocates in the states about federal programs and developed three comprehensive federal resource guides.

1978 ARC's activities were directed toward extending and strengthening two federal acts, Rehabilitation and Developmental Disabilities.

1979 The month of March became Mental Retardation Month, designed by the ARC and The Advertising Council. Also, ARC addressed the issue of meeting the mental health needs of individuals with

mental retardation and focused attention on legislation to ensure funding for community housing.

1980 "NARC" became the Association for Retarded Citizens of the United States in the most significant name change of our history. State and local chapters nationwide adopted a uniform identity by becoming ARC of...

1981 The ARC media Campaign was launched with 200 participating chapters using a common strategy and set of broadcast and print advertising materials to build awareness of the association locally, statewide and nationally.

1982 The death in Indiana of a baby born with Down syndrome sparked renewed efforts by ARC toward protecting the lives of other so-called "Baby Does" born with mental retardation.

Also, in 1982, the innovative Bioengineering Program was launched to utilize technology to meet the needs of people with disabilities.

At the 1982 National Convention, delegates approved a resolution declaring the right of all peo-

ple to community-based services, regardless of the severity of their handicaps.

1984 The ARC spearheaded meetings of national medical and disability groups leading to the signing of the "Principles of Treatment of Disabled Infants" and the passage of the "Baby Doe" Amendments to the Child Abuse Act protecting newborns with disabilities from the withdrawal of medical care.



photo by Diane & Dick Collier

1985 The ARC Bio-engineering Program scored its first success when research was completed proving a computer system equipped with voice recognition and environmental control capabilities could be configured for use by people who are profoundly mentally retarded and severely physically impaired.

The ARC continued its work toward community integration through support of the Community and Family Living Amendments.

The Association also celebrated its 35th anniversary with an open house at National Headquarters in Arlington, Texas.



photo by Jean B. Morgan

1986 It was a banner year for key legislative victories with no less than 11 major laws enacted by Congress and signed by President Reagan. Among that total was the Education of the Handicapped Act Amendments of 1986 (P.L. 99-457). The law mandated a new preschool program for three-to-five-year-olds and early

intervention services to infants and toddlers from birth through age three.

1987 The ARC teamed with Johnson & Johnson to launch a three-year awareness and fund raising campaign that reached an estimated 75 million households.

To ensure the availability of community health care for people who have mental retardation, the ARC joined with several other organizations to form the National Consortium of Community Health Services for Persons with Developmental Disabilities.

The ARC Media Campaign was recognized by the National Academy of Television Arts and Sciences as a finalist for an Emmy Award nomination.



photo by Diane & Dick Collier

The ARC's On-The-Job Training Project changed its name to National Employment and Training Program in order to reflect its greatly expanded scope. In 1987 the NET Program encompassed such activities as supported employment, professional and volunteer training, job development and placement and more.

1988 The ARC State Prevention Information Network was begun to allow the National Headquarters and state affiliates to share current information on the prevention of mental retardation.

An ARC "Status Report on Waiting Lists for Community Services" revealed more than 139,000 children and adults on waiting lists for community services across the country.

The education of young women in high school and college was enhanced by the ARC's new curriculum on the prevention of Fetal Alcohol Syndrome and Alcohol-Related Birth Defects. Also

in 1988, the ARC worked toward the successful passage of the Alcohol Beverage Labeling Act to warn consumers that birth defects may result from the consumption of alcohol.

The Foundation of the Association for Retarded Citizens of the United States was established to provide a permanent financial base for ARC of the United States.

The ARC played a major role in achieving enactment of two civil rights laws passed by Congress: The Fair Housing Act Amendments of 1988, which prohibits housing discrimination based on disability, and the Civil Rights Restoration Act, overturning a Supreme Court decision that narrowed rights protection under Section 504 of the Rehabilitation Act.

1989 ARC's "We the People" project produced a curriculum to educate students with mental retardation about the U.S. Constitution.

The 1980s growth of the self-advocacy movement, in which people with mental retardation actively speak out about their own needs and desires, could be partially measured through a new ARC-produced workshop manual showing 368 self-advocacy programs across the United States.

The ARC joined *amicus curiae* briefs in several U.S. Supreme Court cases. In opinions voiced there and before other high courts, the ARC fought against the death penalty for inmates with mental retardation; demanded the guarantee of a free, appropriate education under P.L. 94-142; supported the right of a child with mental retardation and AIDS to be in school with her classmates; and sought to protect individuals with severe impairments from the withdrawal of life-sustaining nutrition.

The ARC supported a new federal law allowing Social Security recipients, including those with mental retardation, to buy into Medicare programs, thus allowing them to work and maintain vital health care coverage. The ARC launched its national Planned Giving Program with the dual purpose of providing a service to ARC's donors and securing greater financial stability for the association.

1990 In 1990 ARC of the United States began a year-long celebration of its 40th anniversary.

Passage of the landmark Americans with Disabilities Act (ADA) capped a very successful year in the ARC's efforts to secure rights protection, as well as better federally-funded services and benefits. The ADA



photo by Pat Waisanen

attacks discrimination against people with mental retardation and other disabilities, particularly in the areas of employment, transportation and public accommodation.

The association also joined the battle against AIDS with a new three-year project to develop an education strategy to teach people with mental retardation how to prevent the spread of Human Immunodeficiency Virus.

The ARC created the Strategic Planning Working Group to help guide ARC through the 1990s and beyond. The 15-member committee examined programmatic areas along with ideas and issues designed to make structural and financial changes throughout the ARC, including all levels and all chapters.

arc
Association for Retarded Citizens

1 2 3 4 5 6 7 8 DORAN DECISION 1983

9 SUPERIOR COURT OF WASHINGTON FOR THURSTON COUNTY
10 SEATTLE SCHOOL DISTRICT NO. 1,)
11 et al.,) NO. 81-2-1713-1
12 Petitioners)
13) DECLARATORY JUDGMENT
14 v.)
15)
16 STATE OF WASHINGTON, et al.,)
17)
18 Respondents)
19)
20)
21)
22)
23)

24 THIS MATTER having come on for trial on November 1, 1982,
25 before the Court sitting without a jury; the presentation of
26 evidence having been completed on December 22, 1982; and the Court
27 having reviewed the briefs and heard argument of counsel for all
28 parties, having made an Oral Opinion dated April 29, 1983, and
29 having entered Findings of Fact and Conclusions of Law, hereby
30 declares as follows:
31
32 (1) The educational programs established by the Legislature
33 as necessary to meet the current needs of the children of this
34 State pursuant to Article IX, Sections 1 and 2, of the Washington
35 Constitution, are found in a series of laws, including:
36
37 (a) the Basic Education Act of 1977 ("BEA");
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48 DECLARATORY
49 JUDGMENT-1

50 PLEASE NOTE PAGE 4
51 LIVE # 31

(b) the Education For All Act of 1971;

(c) the Transitional Bilingual Instruction Act of 1978.

(d) the Remediation Assistance Act of 1978

7 (2) Under existing state law, the State, through the Legis-
8 lature, must fully fund the regular program for normal-range abil-
9 10 students, a program of vocational education, a special education
11 12 program for handicapped children, a pupil transportation program
13 14 sufficient to provide transportation to and from school for studen-
15 16 for whom such transportation is necessary in order for them to
17 18 attend their assigned schools, a program of transitional bilingual
19 20 instruction for limited-English speaking students, and a remediati-
21 22 assistance program for students deficient in basic skills.
23

25 (3) Under existing state law, the Legislature must fully fund
26 the minimum staff ratios set forth in the BEA, salaries necessary
27 to assure local school districts the ability to hire and retain
28 competent staff, and necessary related costs such as substitute
29 staff, the costs of any sick leave cash-out program that the
30 Legislature requires school districts to offer their employees, an
31 appropriate NERC factors.

39 (4) Because regular program staff ratios and non-employee
40 related cost ("NERC") funding are insufficient for the vocational
41 program of education, funding of that program should include
42 appropriate recognition of increased staff and NERC factors in
43 addition to those in the regular program.

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(5) The across-the-board funding reduction found in Chapter 14, Laws of 1982, 2d Ex. Sess.; the reduction in transportation funding and delay in compensation increase funding found in Chapter 14, Laws of 1981, 2d Ex. Sess.; the cancellation of compensation increase funding found in Chapter 50, Laws of 1982, 1st Ex. Sess.; and the staff mix lid found in Section 87(3)(b) of Chapter 340, Laws of 1982, are unconstitutional.

15 (6) The educational programs necessary to meet the current n
16 of the State's school children under Article IX, §§ 1 and 2, of t
17 State Constitution must be funded by the Legislature as the State
18 first priority, before any statutory programs are funded. Once t
19 Legislature fully funds such programs, including a necessary tran
20 portation program at 100% or as close thereto as is reasonably
21 possible, the Legislature cannot thereafter reduce the funding for
22 those programs below the established constitutional minimums or
23 directly or indirectly affect the school districts' ability to
24 provide the necessary programs to all of their students without
25 resort to excess levies.

37 (7) Whatever system the Legislature selects for determining
38 salary and necessary salary increase funding, it must establish
39 those levels and any governing rules affecting school district
40 employee compensation in advance, so that the local school district
41 boards of directors may properly consider the issues relating to
42 employee compensation at the time they are required to finally ad-

1 their annual budgets. Where school districts execute collective
2 bargaining agreements with their employees strictly in accordance
3 with state law and the salary levels fixed by the Legislature in
4 the appropriations act, the Legislature is bound to provide suffic:
5 funding to the school districts to allow them to meet their
6 contractual obligations.
7
8

9 (8) During the 1981-82 and 1982-83 school years, the State di
10 not satisfy its duty to fully fund the regular program of educatic
11 the vocational educational program, the special education program
12 for handicapped children, pupil transportation, the transitional
13 bilingual program, or the remediation assistance program.
14
15

16 (9) By July 1, 1984, the Legislature must define and provide
17 full funding for pupil transportation, which will include trans-
18 portation to and from school for students for whom such transporta
19 tion is necessary for them to attend their assigned schools.
20
21

22 (10) The Legislature must fully fund a special education
23 program for handicapped children that is sufficient to provide the
24 children an appropriate education at public expense. Special
25 education programs for handicapped children are required under the
26 Constitution, and must be included as part of the state system of
27 basic education and fully funded pursuant to Article IX, §§ 1 and
28 independently of the intent of the Legislature as determined by th
29 BEA and related state education laws. In order to satisfy the
30 requirement of full funding, sufficient funds must be provided and
31
32

33 DECLARATORY
34 JUDGMENT-4

1 distributed in a manner that is based as closely as reasonably
2 practicable on the actual cost of the special educational needs
3 identified in the properly formulated individualized educational
4 programs of all handicapped students pursuant to state law and
5 sufficient to insure each school district's ability to comply with
6 all of the rights, procedures, and substantive requirements con-
7 tained in the special education laws.
8

9 (11) By July 1, 1984, the Legislature must define and provide
10 full funding for the transitional bilingual and remediation
11 assistance programs necessary to meet the requirements of the
12 governing statutes.
13

14 (12) A block grant may not be used to fund programs, such as
15 the transitional bilingual, remediation assistance, and special
16 education programs, that the Legislature has determined to be
17 necessary to meet the current needs of the state's school children
18 and thus brought within the scope of the state's constitutional
19 obligations under Article IX, Section 1.
20

21 (13) The Court will not grant a writ of mandamus in this case.
22

23 (14) Petitioners will recover their ^{statutory} costs in the following
24 areas: full funding of BEA as to staff levels, reliance salary
25 districts, and NERCS; need for and funding of substitute staff
26 and the vocational, transportation, handicapped, transitional
27 bilingual, remediation programs. Respondents will recover their
28 ^{statutory} costs in the following areas: full funding of grandfather salary
29

30 DECLARATORY
31 JUDGMENT-5

1 districts; need for and funding of extracurricular and gifted
2 programs and enrollment decline, large and urban district and
3 deferred maintenance costs.

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6 DATED this 21 day of ^{Sep} August, 1983.

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9
10 151 Doran
11
12 Judge Robert J. Doran

13 Declaratory Judgment Approved
14 and Presented by:

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16 By Michael W. Hoge
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19 Lead Counsel for Petitioners

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44 Special Assistant Attorney General
45 Lead Counsel for Respondents

46 DECLARATORY

47 JUDGMENT-6

1 WASHINGTON EDUCATION ASSOCIATION
2

3 By *Judith L. Longquist*
4 Judith Longquist
5 Faith Hanna
6 Counsel for Intervening Individual Petitioners
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DECLARATORY
JUDGMENT-7

1 HOWARD C. POWERS

2 *HC Powers*
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4 Counsel for Washington State
5 Special Education Coalition

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DECLARATORY
JUDGMENT-8

