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ABSTRACT

Although Public Law 94-142 (Education for All Handicapped Children Act) raised public awareness of the civil rights of the handicapped, the policy problems that it was intended to solve included more than civil rights issues. In particular, the law did not provide for modifications of its policies in improving public education opportunities for handicapped children. A critique of policy implications and lessons of P.L. 94-142 is possible by examining the law under the categories of policy formation, implementation, evaluation, and termination. Some laws, such as P.L. 94-142, may reflect only one perception of educational problems and thus become prescriptive. Moreover, the procedures for implementing policy often are defined after the fact; in the case of P.L. 94-142, problems of interagency cooperation and appropriate local strategies have surfaced. Policy evaluation, which in theory should oversee the implementation process, may often be neglected due to lack of data or to public opposition to elements of the originally formulated policy, as has occurred with P.L. 94-142. Finally, policy termination, little discussed by educational policy-makers, should be considered even in the policy formulation stage; neglect of such considerations may account for dissatisfaction with P.L. 94-142. (JW)

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THE CYCLE OF SPECIAL EDUCATION POLICY:  
IMPLICATIONS FOR POLICY RESEARCH

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## THE CYCLE OF SPECIAL EDUCATION POLICY: IMPLICATIONS FOR POLICY RESEARCH

### Setting the Context

P.L. 94-142 must be viewed as landmark education policy: first, it served as a basic civil rights document for handicapped children in the nation, and their families; second, it asserted a federal interest that a free and appropriate education be provided to all handicapped children, and then proceeded to define the ways in which administrators must provide these educational services. The Education for All Handicapped Children Act of 1975 was ambitious both in its intended purpose and in the amount of money that was authorized for its administration. This major federal education policy, in turn, forced the passage of state and local legislation, as state education agencies (SEAs) and local school systems (LEAs) began to assume responsibility for delivering expanded and alternative services to an ever-increasing number of children identified as part of the target population. In this way, 94-142 became the most prescriptive education policy to date.

In essence, federal policy-makers turned to the public schools to redress the neglect that had been articulated regarding the educational needs of handicapped children. Interestingly, advocates for the passage of this special education policy did not come only from the professional education community. Rather, they represented the interests of groups concerned with helping handicapped persons become informed and viable citizens in the society--associations for retarded citizens, United Cerebral Palsy, and learning disabilities advocate groups. In their view, handicapped children

were entitled to free and appropriate services within the public schools, because schooling was seen as the major access to the common-wealth.

In a sense, then, providing free appropriate public education to the handicapped was viewed as a liberating force by the advocates of P.L. 94-142. It was, in my judgement, this "civil-rights" aspect of the proposed policy that was necessary to get into the public consciousness an agreed upon definition of the problem. On the other hand, the emotionality of this advocacy position prevented proponents from responding to early reactions to the administration of the policy. Indeed, implementing the requirements of P.L. 94-142 created many difficulties for school system personnel who were asked to organize and deliver these new services. Unfortunately, difficulties with implementation were often equated by the special education community with an unwillingness to end discriminatory practices. In fact, the problems that 142 was intended to solve were very complex, and moved far beyond the civil rights aspects of the legislation.

No aspect of the educational effort was left untouched by P.L. 94-142. It was passed in 1975, and there are now, in 1982, significant revisions being considered by the Hill. These intense reactions may be attributed to the prescriptive nature of the policy, and to the fact that its advocates tended to view it in a vacuum, separate from other major issues confronting the public schools. From a policy analysis perspective, however, P.L. 94-142 allows us an unique opportunity to study the whole policy process in a time frame of less than a decade.

#### The Policy Environment

Problems that emerge from the entire social fabric of society are often

treated as matters of concern for the educational community; indeed, the public turns to education as a potentially accessible governmental institution and holds it responsible for a variety of dimensions that make a major difference in children's lives--including their well being, health, basic competence and future mobility in society. However, at the same time that education policy-makers and administrators are being asked to respond to problems that are both consequential and complex, the public is exhibiting an increasing lack of confidence in their ability and efficacy. All of these issues contribute to the present turbulent environment and set the context in which the education policy process now occurs.

For these reasons, a particular policy problem cannot be addressed in a vacuum. Mobilizing the attention and resources of the education community towards the solution of a particular policy issue--such as a free appropriate public education for handicapped children--displaces the energy of that community from other issues to which it must attend. In addition, public attention is not unlimited, and advocates for a particular education policy are at once asking the public to address its concerns and not to address the concerns of others. Thus, in considering the possible adoption of a new policy, policy-makers need to be concerned with those pressing matters that will need to be displaced temporarily, as the new policy assumes a position of primacy in the policy terrain.

At the time of the passage of P.L. 94-142, the educational community was also being asked to deal with the emerging issues of the back-to-basics and accountability movements, as well as to continue to deal with the needs of Title I recipients and other "targeted" populations. Little attention was

paid by the advocates of 94-142 to ways in which their new policy concerns could be linked to the other issues in the education policy environment. Indeed, these broad concerns with the general "sorry state" of the public schools were cast as antithetical to special education needs. Because these competing demands on the educational community were kept separate and distinct from each other, it was inevitable that the public attention would again shift, and therefore, that the special education focus would itself be displaced. Finally, attention to the general policy terrain informs the entire education policy process.

Education policy questions have economic, psychological, political, sociological and ethical components, each of which can inform a potential solution to the problem. Because these problems are so complex, we do not know their answers, and rather have to posit a variety of complementary solutions. In this event, any education policy represents only one of a complex variety of potential responses to the problem. The drafters of Public Law 94-142 treated the legislation as one global response, or solution, to a number of related educational problems (albeit their over-arching concern was with issues of inclusion and belated inclusion of previously unserved and underserved populations). Moreover, they did not treat the enactment of 94-142 as an experiment, that is as a proposed solution to a problem that would be re-evaluated within a particular time frame. Indeed, the law does call for periodic evaluation of its impact on the proposed clientele, but not for a reassessment of its appropriateness as a strategy for dealing with the educational problems of the handicapped.

There are probably a number of reasons why this essential check-point in the policy process was ignored by the special education advocates, including the adversarial posture that they took towards the more general educational community. In a more generic sense, however, these policy-makers had treated the implementation of the legislation as a linear process. In essence, they had identified what they thought was the solution to the educational problems of handicapped children--P.L. 94-142. They then went about in a very systematic way to monitor the programs and activities of designated implementors--State Education Agencies (SEAs) and Local Education Agencies (LEAs)--to insure that these implementors were in compliance with the law. In addition, they identified points in this systematic process when these implementors would have to account for the degree of compliance each had achieved. However, provisions were not made for making modifications in the policy itself--that is, for re-evaluating whether or not the policy as it was originally constructed remained a viable and workable national strategy for improving the public education opportunities of handicapped children.

#### The Education Policy Process

Education policy may be conceived of as codified public opinion about the conduct of education. It usually takes the form of a legal, or authoritative, statement made by a governing body entitled to enact it. Legislation such as Public Law 94-142 may be viewed as a national education policy statement, intended to insure the provision of free and appropriate public education to all handicapped children. The way in which an education policy is formulated, implemented, evaluated and terminated constitutes the education policy process. A number of theorists have identified different stages in the policy process,

including Lasswell (1971), Brewer (1974), and May and Wildavsky (1978). However, these theorists have not fully explored the complexity of ties between each of the stages and the way in which each stage informs the other. In reality, while the policy process does occur developmentally--that is, first policies are formulated, then administered and then evaluated--the policy process is not rational and linear.

The education policy process paradigm, on the other hand, provides us with a useful way to design policy research. Indeed, policy research questions differ in each of the stages in the policy process. As May and Wildavsky suggest:

Compared to organizing research by roles (policy analysts, city councilman), functional areas (health, housing), institutions (Congress, Office of Management and Budget), or processes (coordination, bargaining), organizing research by stages of the policy cycle focuses attention upon generic activities integrally linked with the policy process. It directs attention to the ways in which political actors identify problems for collective action, conceptualize issues and identify strategic points of intervention, mobilize support and enact policies, design institutions to carry them out, implement programs to achieve policy objectives, evaluate whether those objectives have been achieved, and modify or, more rarely, terminate unsuccessful or outmoded institutions, policies and programs.

(1978, p.10)

### Policy Formulation

Of the four stages in the policy process, research attention has been focused primarily on policy formulation issues, including how problems become matters for public policy consideration, how public policies get on the agendas of appropriate governmental agencies, and how differing interests barter for limited official attention and resources.

For example, policy-makers do, in fact, respond to the concerns that vocal constituencies make known to them; moreover, because of the increasing influence that education policies are having on their organizations, educators are now moving from a position of informed neutrality in the policy process to a posture that assumes involvement in that process as a part of their professional responsibility (Halperin, 1981). There are many actors, representing differing interests, that are involved in policy formulation negotiations. Although each of these actors has a legitimate role in the education policy process, they do not always agree about the definition of a proposed education policy problem and therefore do not take similar positions about possible solutions to that policy problem. Policy researchers, then, have studied the influence processes that impact on policy decision-makers, and the way in which policy agenda get set (e.g., Boyd, 1978; Campbell and Mazzoni, Jr., 1976; Cloward and Piven, 1975; Guthrie, 1981; Sarason and Doris, 1979; Stan and Russ, 1978).

### Policy Implementation

At the implementation stage, education policies get translated into programs, usually of service delivery as in the case of P.L. 94-142. Organizational plans are developed that implementors follow to deliver those

services (e.g., Elmore, 1978; Hargrove, 1975; Montjoy and O'Toole, Jr., 1979). Most policies are not as prescriptive as 94-142, in that they will define program outcomes but not procedures to accomplish those outcomes. In fact, implementation procedures are usually defined, after-the-fact, and provide opportunities for opponents to a policy, or for doubters, to sabotage or modify the policy's intent. Policy researchers have conducted a number of case studies that trace how policies get interpreted, developed and modified, while they are being implemented (e.g., Bardach, 1977; Britan, 1981; Peterson, 1976; Pressman and Wildavsky, 1973).

Comprehensive legislation such as the Education for All Handicapped Children Act requires the involvement of a number of different institutions in the implementation process. SEAs, LEAs, institutions of higher education as well as therapists and representatives of the health professions all have defined roles in the implementation of 94-142 (e.g., Blaschke, 1979; Goor, et. al., 1978; Helge, 1979; Intriligator and Saettler, 1978; Stearns, Green and David, 1980; Torres, 1977). The involvement of representatives from different institutions in the implementation process surfaces problems of inter-agency coordination as well as issues of conflicting organizational prerogative. SEAs and LEAs are being asked to deliver services that were not previously a part of what they viewed as their organizational domain--the requirement to deliver "related services" in addition to educational services (e.g., Education Department, 1980; Farrow, 1982). In fact, inter-organizational coordination of the kind required in PL 94-142 is beyond the administrative experience of local school systems; also, no time was allotted to them to develop procedures to accomplish this goal (e.g., Chin and O'Brien, 1970;

Intriligator, 1982; Litwak and Hylton, 1962; Wiles and Branch, 1979).

Paul Berman has written what I believe is a definitive statement about policy implementation that suggests that there are both programmed and adaptive approaches to implementation; the task of implementation is to match the appropriate strategy to the particular organizational situation.

...programmed and adaptive implementation reflect different images of how policy should be executed and how design choices (e.g., specificity of goals, management responsibilities, extent of staff participation, amount of discretion allowed to deliverers and type of evaluation) should be treated. Policy could be more effectively carried out if these implementation strategies were chosen to meet the policy situation, especially the policy's scope of change, its degree of technical certainty, the extent of agreement about the policy, the degree of coordination characteristic of the implementing system, and the stability of the policy's environment.

(1980, p. 221)

Policies get implemented in organizations--in this case school systems; although school systems do have some similar systemic properties, there is enough variation in their modes of operation to require that they be given by policy-makers the flexibility that Berman suggests in choosing from a variety of appropriate implementation strategies that they deem appropriate to deal with local conditions that are both internal and external to their organizational situations. At the very least, these questions about implementation inform a host of policy research questions, that cluster into

three broad categories: (1) the influence of policy implementation in facilitating or sabotaging the intent of the policy; (2) the unique organizational problems that occur as a result of the need to implement new education policy at the same time that daily operations are maintained; and (3) problems of inter-organizational coordination in the policy implementation process.

In sum, the implementation stage in the education policy process may not be successfully treated independently from decisions that are made during the policy formulation process. Policy-makers need to make informed decisions about the steps that they believe are acceptable for implementors to take in moving toward the policy's goals. Reasonable time frames for accomplishing these steps would then have to be determined, and opportunities provided for modification of these steps after an experimental period of time. In this way, the policy evaluation stage also is inter-connected with the policy implementation process.

#### Policy Evaluation

The evaluation stage in the education policy process should include attention both to a reassessment of the ability of the policy to accomplish its intended goal and to a reconsideration of the viability of the enacted policy to ameliorate the broader policy problem. Theoretically, until formal evaluation becomes a part of the policy process, policy will continue to be formed and modified by using political and ideological methods, rather than rational and scientific methods. Moreover, Shulsky (1976) suggested that we

currently use evaluation data to inform a decision we have already taken: that is, we use evaluation data "...to put intuitive views into a more objective form, and if not take away their controversiality, at least raise the cost of controverting them" (p. 197). Finally, Sroufe (1977) has suggested that policy evaluation becomes an instrument to support who gets what in our society both advantaged and disadvantaged groups--and not an objective tool for policy analysis (see also, Applied Management Sciences, 1980; Birman, 1979; Comptroller General of the United States, September, 1981).

There is, in fact, a discrepancy between the stated importance of policy evaluation and its actual use in informing policy decisions. (See, for example, Greenberg, et. al., 1977; Rich, 1977; Shumavon, 1978.) The question becomes what data is relevant both to the policy research and to the education policy process. Lynn, Jr. (1978) suggests that we think about policy as a moving target; that is, policy is a process that moves through time consuming states. Policies, then, that deal with social problems are developed incrementally over time; while the immediate questions may change, the need for research on the fundamental issues continues. Therefore, the policy process has longer horizons than do individual policy-makers.

In addition, there is some concern about the availability of data suitable to help make these major decisions. In fact, policy analysts have indicated that data that is available to policy makers for decision-making is inadequate both in terms of its quality and relevance to policy problems (Louis, 1981; Scott and Shore, 1979; Weiss, 1980), and in terms of the ability of policy makers to utilize research results in the form in which they are reported (Caplan, Morrison & Stambaugh, 1975; Rich, 1977). For example, the data

available to the policy makers who enabled P.L. 94-142 centered on "proof" that handicapping conditions are not barriers to benefiting from public education experiences, and on the unevenness and inequity of services available throughout the states for children with special needs (Melcher, 1976; Sarason & Doris, 1979). Indeed, such data supported the need to make an education policy statement about free and appropriate public education services for handicapped children. However, the resulting policy statement, P.L. 94-142, identified a specific set of procedures for its administration. It was the impact of these implementation procedures that was not carefully assessed in the policy formulation stage and that has created such major problems for implementors that a demand is now being placed on the system for major modifications of the initial policy (Comptroller General of the United States, February, 1981; Thomas, 1980). Thus, the collection of appropriate and useful data is necessary in all three of the stages in the policy process discussed this far--formulation, implementation and evaluation.

In response to these "user" problems, policy evaluation is shifting "from being a precise, scientific means of measuring objectives, to a broader concept of information-gathering, analysis, and dissemination (Comfort, 1980). This shift may be explained by Wise's (1977) observation that policy decision-making is a hyper-rational process, and that educational policies fail when planners and implementors treat the process as rational and linear.

In the last few years, policy researchers have shown an increasing interest in the conditions under which national education policies succeed or fail. They cite a general public disenchantment with government as a source of solution to educational problems, and an expanding perception that current

policies will fail unless they are dramatically altered (See, Ashford, 1977; Clinton, 1979; Ingram and Mann, 1980). This atmosphere of failure has been reinforced by the current administration's reinterpretation of the appropriate federal role in education: in short, the solution to educational problems is the responsibility, they believe, of state and local governments, and the remaining federal responsibility is to provide technical assistance and to filter monies, in decreasing proportions, to the states and locals to administer and distribute.

Public Law 94-142 has been seriously influenced by this major change in the public view of the appropriate federal role in education--and, some say, played a major role in decreasing public confidence in the ability of federal policy-makers to deal appropriately with local educational problems. Indeed, plans for the Special Education Consolidation Grant include efforts at "Administrative Simplification", "State and Local Flexibility", and "Burden Reduction."

Ingram and Mann (1980) view these conditions of failure as a unique research opportunity:

The current atmosphere in which failure of policies is freely admitted gives us the opportunity to study such phenomenon as how agencies adjust goals to match what has actually been accomplished; how public officials seize upon accomplishments other than substantive policy for which to claim credit; how agencies that are supposed to implement policy attempt to transfer responsibility; and on a positive note, how administrators learn from their failures and seek corrective action. Policy failure thus constitutes an added dimension that

political scientists can explore in attempting to understand political behavior. (p. 16)

### Policy Termination

Policy termination informs the formulation and implementation of new policies; termination interacts with formulation; and all phases of the education policy process interact and inform each other (e.g., Brewer, 1974; DeLeon, 1978; Lasswell, 1971). Indeed, at another level, if education policies are designed to solve major problems, then an effective policy would in fact solve that problem and then need to be terminated. One would assume that this principle would provide important guidance in the policy formulation process and in the particular form the policy takes. Given this vital connection to the entire policy process, it is somewhat surprising that termination has not been meaningfully attended to by both policy analysts and policy-makers.

There are, however, some explanations offered for the relative lack of attention to the policy termination stage. Policies are proposed solutions to complex educational problems; however, policy-makers tend to treat education policies as answers to a problem, and not as one possible solution. Therefore, policy statements are deliberately designed not to be terminated (see Bardach, 1976; Behn, 1974; Biller, 1976). In addition, policies are built on a system of beliefs that policy makers are reluctant to subject to critical evaluation. Therefore, as Cameron (1978) suggests, negative consequences of a working policy are not linked to the policy's controlling ideas; in fact, these ideas remain "socially valid long after the policy effects are dysfunctional." Finally, Wallerstein (1976) proposes an "entitlement ethic" explanation: the very nature of an entitlement

education policy--such as Public Law 94-142-- makes it difficult to terminate, particularly when policy makers see a political advantage to continuing the entitlement. From this perspective, social legislation and "civil rights" legislation are most difficult to terminate.

Peter DeLeon (1978) makes a convincing argument for policy termination to be considered as a legitimate part of the education policy process: "the termination stage can be treated as both an end and a beginning--the end of a program that has served its purposes and the beginning of a process intended to correct an errant policy or set of programs" (p 371). Indeed, policy termination has been viewed in two ways: (1) as an outcome of the education policy process (see Cameron, 1977; DeLeon, 1978; and Lasswell, 1977); and (2) as a process in itself in which one policy ends and another begins (see Bardach, 1976; Biller, 1976; Brewer, 1978). Moreover, difficulties with terminating a particular policy can be avoided by viewing termination as a process in which termination goals are paired with new or replacement policies and both activities are accomplished simultaneously (Bradley, 1976).

The ease with which termination may be accomplished is influenced by a number of factors. First, the form that the termination takes may be either functional or structural: Bothun and Comer (1979) define functional termination as the cessation of all program activities and services, whereas structural termination includes both the cessation of program activities and of institutional arrangements made to perform these activities. They suggest that functional termination is insufficient and allows threatened implementing agencies time to oppose the termination effort. In addition, a number of major federal legislative policies authorized the creation of new federal bureau-

cracies or the strengthening of existing agencies, to oversee the administration of monies appropriate for the policy--in the case of P.L. 94-142, the Bureau of Education for the Handicapped (renamed the Office of Special Education and Rehabilitative Services) was given greatly expanded authority and resources to administer the law. More often than not, these bureaucracies undertake a number of activities designed to insure their own permanence in the bureaucratic structure (Biller, 1976). Indeed, the energy expended on their own organizational survival is a second factor that inhibits the ease of policy termination.

In fact, this last phenomenon--the need to perpetuate the implementing federal agency--was an unanticipated consequence of the policy process. Indeed, there is a sense in which the education policy process is analagous to a change process. First, a new education policy replaces an old policy or changes an existing state of affairs. As the policy process advances, implementors and clients alike have an opportunity to adapt to the change; this adaptation requires a great deal of organizational and individual energy and causes us to be reluctant to consider the possibility of another change which might occur as part of the policy termination process. Indeed, there is much resistance to a proposed new policy, or change, whether in the policy formulation stage or in the policy termination stage of the education policy process. Moreover, termination of an education policy is viewed as an admission of error or failure (see Behn, 1976; Bothun and Comer, 1979; DeLeon, 1978); therefore, policy makers as well as organizational leaders must build a tolerance for change in the implementing organizations--a capacity for ongoing modification and improvement. In sum, this close analogy between

change processes and the education policy process surfaces some interesting questions for policy researchers, including: (1) can policy research be made more useful, more timely, more productive if it is shaped to take into account all phases of the policy process including termination? What influence on the success of a policy does the nature of the competing policies, held in abeyance, have? (2) Can policy research be improved if it is cast in the tradition of change research and defined as a change? In that case, do all the the questions and methodologies coming out of the change literature apply? and (3) What effects do the connections between what we have thought of as stages of the policy process have on the ultimate success of the policy? And how should we define success, anyhow? Is it when there is no longer any need for a specific policy because the job has been done or the values incorporated into the social fabric?

#### Conclusion

In retrospect, the seeds of destruction that were sown into PL 94-142 can be seen as the result of the fact that the framers of the policy did not attend to the policy termination process. They did not attend to the need to diffuse or incorporate the impact of previous policies. Also, they did not relate to the wider societal factors that were present in the policy environment, including the lack of consensus about the function of schooling. In addition, the prescriptive nature of the policy opened the way for the deregulation activities now occurring; current federal policy-makers believe that 142 pushed the federal role in education to a place that is unacceptable in the current public view.

In the education policy process, inattention to issues of termination-- including both the termination of previous policies that a new policy is intended to replace, and planning for modification and termination of a newly proposed policy, will lessen chances for the success that the proposed policy's advocates envision. On the other hand, if success for a policy is defined as having the functions the policy was designed to serve met, then by widening the circle of allies, and paying more attention to incorporating the needs of other groups, advocates for a policy can defuse some of the forces that will press with competing demands, for a specific policy termination. Special education may find itself forced, by budget and role exigencies, into that position (in fact, some of that has happened with the bilingual community) and may find that there is strength in combining forces. The unintended consequence of a law perceived as overly prescriptive and under funded may be (1) a modification of the extreme adversarial, advocate position, and (2) a new coalition, formed of educators and advocates alike with an interest in those children who are not currently well served by the schools. The ultimate result may well be just the kind of schools and educational experiences that the original framers of P.L. 94-142 hoped for, even if the means are a great surprise.

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