

Pennsylvania Association for Retarded Citizens (PARC) v. Commonwealth of Pennsylvania (1972)

In 1972, the United States District Court for the Eastern District of Pennsylvania decided the case of Pennsylvania Association for Retarded Citizens (PARC) v. Commonwealth of Pennsylvania, hereafter PARC v. Pennsylvania. The court ruled that the state could not deny an individual's right to equal access to education based on an intellectual or developmental disability status. PARC brought the case against the state of Pennsylvania on behalf of fourteen families with intellectually disabled children who were unable to access to public schools based on their child's disability. PARC challenged state laws that permitted schools to deny education to children who do not reach the mental age of five, or the average intelligence of people aged five, by the time they begin first grade. Both sides settled following the testimony of expert witnesses on PARC's behalf, and the US District Court approved the consent decree. PARC v. Pennsylvania was one of the first cases to establish that people born with an intellectual disability should have the same access to education as the rest of the population.

During the time of PARC v. Pennsylvania, medical professionals, government officials, and lawyers used certain phrases to classify people with disabilities that have become unacceptable according to the medical, legal, and social standards of 2022. Professionals used to consider phrases like "mentally retarded" an appropriate way to classify people with a broad array of disabilities from Autism to Down Syndrome. As understanding of disabilities increased over time, phrases such as "intellectual disabilities" and "developmental disabilities" have become the preferred terminology in medical and legal fields. In 2010, the United States Congress passed a federal law that would phase out the use of "mental retardation" and replace it with the term with "intellectual disability."

PARC, which changed its name to The Arc in 1992, is a non-profit organization that aims to increase opportunity and accessibility for people with intellectual disabilities. Parents of fourteen intellectually disabled children who were denied free education in Pennsylvania partnered with PARC to sue the Commonwealth of Pennsylvania. Thomas Gilhool argued the case on behalf of PARC, and Edward Weintraub, a Deputy Attorney General, argued on behalf of the Commonwealth of Pennsylvania.

PARC v. Pennsylvania followed another court decision that opposed discrimination in education. In 1954, the US Supreme Court ruled that separate classrooms for African-American students violated the Equal Protection Clause of the Fourteenth Amendment in the case Brown v. Board of Education, hereafter Brown. The Equal Protection Clause demands that laws in the US protect US citizens equally. Disability rights activists saw Brown as an opportunity to challenge instances of discrimination against disabled children in education. PARC's argument relied on the precedent of Brown, stating that the Pennsylvania law violated the Due Process Clause of the Fourteenth Amendment since the schools did not allow for any hearings or recourse when denying the child's right to access public education. The Due Process Clause requires a formal process before denying a US citizen their rights. PARC v. Pennsylvania revolved around four Pennsylvania statutes. The statutes in question allowed public schools to postpone admittance into school indefinitely, barred students whom a school psychologist deemed "uneducable" from public schools, exempted intellectually disabled students from compulsory education, and removed intellectually disabled students from classrooms as soon as they turned seventeen. As the courts found that students were guaranteed equal access to education regardless of race in Brown, PARC sought a court ruling that expanded that access to disabled students as well.

In January 1971, PARC filed a complaint against the Commonwealth of Pennsylvania citing discrim-

inatory practices in the state's public schools. A few months later, in June 1971, the trial began in the United States District Court for the Eastern District of Pennsylvania. Settlement discussions began almost immediately following the beginning of the trial. A federal panel of three judges consisting of District Judges Thomas Masterson and Raymond Broderick and Circuit Judge Arlin Adams oversaw the trial. The court heard from four expert witnesses in the field of educating children with intellectual and developmental disabilities. The expert witnesses included Ignacy Goldberg, an education professor at Columbia University; James J. Gallagher, the director of the Bureau of Education for the Handicapped; Donald J. Stedman, associate director of the John F. Kennedy Center for Research on Education and Human Development at Peabody College; and Burton Blatt, who was the director of the Division of Special Education and Rehabilitation at Syracuse University.

The experts focused on the issue of labelling students with "mental retardation" in their testimony. The experts argued that there is no such thing as "uneducable," the term used by Pennsylvania schools to deny education to disabled students. Additionally, they argued that schools are often the first institutions to label students with "mental retardation," reinforcing the stigma behind the term. Goldberg identified the source of the stigma attached to the label of "mental retardation" to the American eugenics movement. Eugenics is a set of political beliefs focused on eliminating people whom some label as undesirable with the goal of improving society. Goldberg testified that eugenics organizations in the United States claimed that people with "mental retardation" were often criminals and caused the breakdown of American society by passing on their genes. Goldberg explained that the claims and beliefs of the American eugenics movement still affected public sentiment, which meant that the label of "mentally retarded" was stigmatizing.

PARC v. Pennsylvania cited the Supreme Court case Wisconsin v. Constantineau, hereafter Wisconsin, which found that the state cannot stigmatize a citizen without due process. Stigmatization by the government in Wisconsin was characterized as when an individual's reputation is jeopardized as the result of a government action. PARC's lawyers argued that Pennsylvania schools frequently placed the "mental retardation" label onto children without any process to challenge the label or confirm its accuracy. The experts cited a study by Pennsylvania-based school psychologist Lester Mann that found that the diagnosis made by the school of "mental retardation" was erroneous in up to twenty-five percent of cases. Mann found that several issues in the classification process in schools contributed to the rate of misdiagnosis including misusing diagnostic criteria, insufficient testing equipment, and unequal standards for children of different races. Finally, the expert opinion argued that all intellectually disabled people benefit from education, either gaining some level of self-sufficiency or self-care.

Following the expert testimony, the litigants asked for time to discuss the settlement of the case. The panel allowed the parties to come to a satisfactory settlement. By October 1971, the litigants submitted a consent agreement. The Commonwealth of Pennsylvania agreed to provide free and appropriate public education to all people ages six to twenty-one characterized as "mentally retarded." In the court opinion, which Judge Masterson wrote, the court found that the consent agreement submitted by the parties was fair and ordered an injunction against the state from exercising the laws challenged in the case. Finally, the court ordered schools to give the opportunity for a hearing before a school is allowed to classify a student as "mentally retarded." Additionally, it required schools to give "mentally retarded" children re-evaluation on their classification at least every two years. The litigants filed no appeals following the decision and settlement.

PARC v. Pennsylvania was one of the first cases that dealt with the issues of intellectual disabilities, developmental disabilities, and education. The case also helped establish principles such as "free appropriate public education," "zero-reject," and "least restrictive environment" that allow for access to education regardless of disability. Also in 1972, the United States District Court for the District of Columbia decided a similar case in Mills v. Board of Education of District of Columbia, hereafter Mills. Mills expanded the rights of disabled children to have free appropriate public education to include physical, mental, and emotional disabilities in addition to intellectual and developmental disabilities as found in PARC v. Pennsylvania. Twenty-seven federal lawsuits involving disabilities and education followed PARC v. Pennsylvania and Mills, leading to Congress passing legislation to federally mandate states grant equal access to education for disabled students.

The Education for All Handicapped Children Act of 1975, now called the Individuals with Disabili-

ties Education Act, or IDEA, specifically codified the right to free appropriate public education for disabled children found in *PARC v. Pennsylvania*. According to Gilhool, the attorney who represented *PARC*, about three percent of American students at the time were classified as “mentally retarded,” with more than 60 percent of them receiving no public education. Pennsylvania itself had over 100,000 students classified as “mentally retarded” with only half receiving any form of public education. Following *PARC v. Pennsylvania*, previously excluded students in Pennsylvania could attend public schools, becoming the first state in the United States to guarantee that opportunity to students deemed “mentally retarded.” *PARC v. Pennsylvania* guaranteed that intellectually disabled students could not be denied their constitutional right to equal access to public education because of their disability.

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