

Read about the situation in the USA

Children with disabilities are first and foremost children, worthy of equal respect, opportunities, treatment, status and place.

Moral Right

Children with disabilities are first and foremost children. They will benefit from the same experiences that are desirable for all children for the same reasons. They will also benefit from avoidance of the same undesirable experiences for the same reasons. Inclusion provides opportunities for socialization and friendships to develop. It provides a sense of belonging and appropriate modeling of social, behavioral, and academic skills.

Do you agree or disagree?

Would this work within the Czech Legal system?

Civil Right

Separate is not equal. If something is offered to all children it must be accessible to all children. Access should not be denied based on disability or any characteristic alone. Children with disabilities have a right to go to the same schools and classes as their friends, neighbors, brothers and sisters. They have a right to be afforded equal opportunities.

Parental Right

Parents have a right, as experts on their own children, to pursue the least restrictive environment with supports and services for their children to successfully achieve their individual goals. They will always have far longer and greater responsibility, and vested interest in their child's future, than any system or paid professional. They are equal partners of the IEP (Individual Education Program) Team.

Ethical Right

Giving every child a sense of belonging, value and worth enhances their overall quality of life. Including children with disabilities in general education classes models acceptance of diversity. It teaches children how to function together with others of different abilities.

THE CASE OF RACHEL HOLLAND

Sacramento City Unified School District vs. Holland (9th Circuit Court, 1994) upheld the district court decision in which Judge David S. Levi indicated that when school districts place students with disabilities, the presumption and starting point is the mainstream.

The parents challenged the district's decision to place their daughter half-time in a special education classroom and half-time in a regular education classroom, they

wanted their daughter in the regular classroom full-time. Rachel Holland an 11 year old with mental retardation, and was tested with an I.Q. of 44.

**What did the district decide with regards to Rachel Holland?
Describe the condition of Rachel Holland?**

The District contended Rachel was too "severely disabled" to benefit from full-time placement in a regular class.

What was the reasoning behind the decision of the district?

The court found in favor of including the child.

The 9th Circuit Court established a four-part balancing test to determine whether a school district is complying with IDEA.

**What did the court apply?
What criteria did the court test?**

- 1) the educational benefits of placing the child in a full-time regular education program;
- 2) the non-academic benefits of such a placement. (The court noted social and communications skills as well as her self-confidence from placement in a regular class)
- 3) the effect the child would have on the teacher and other students in the regular classroom;
- 4) and the costs of supplementary aids and services associated with this placement (The court said cost is only a factor if it would " adversely affect services available to other children.)

The Clinton administration, via the Office of Special Education Programs, filed a "friend of the court" (amicus curiae) brief with the Court of Appeals in Support of Rachel Holland's placement in general education.

**Who filed the amicus curie brief?
What did the state argue?**

1. Educational Benefits

The district court found the first factor, educational benefits to Rachel, weighed in favor of placing her in a regular classroom. Each side presented expert testimony.

The court noted that the District's evidence focused on Rachel's limitations but did not establish that the educational opportunities available through special education were better or equal to those available in a regular classroom.

The district court also gave great weight to the testimony of Rachel's current teacher, Nina Crone, whom the court found to be an experienced, skillful teacher. Ms. Crone stated that Rachel was a full member of the class and participated in all activities. Ms. Crone testified that Rachel was making progress on her IEP goals: She was learning one-to-one correspondence in counting, was able to recite the English and Hebrew alphabets, and was improving her communication abilities and sentence lengths.

The district court found that Rachel received substantial benefits in regular education and that all of her IEP goals could be implemented in a regular classroom with some modification to the curriculum and with the assistance of a part-time aide.

2. Non-academic Benefits

The district court next found that the second factor, non-academic benefits to Rachel, also weighed in favor of placing her in a regular classroom. The court noted that the Hollands' evidence indicated that Rachel had developed her social and communications skills as well as her self-confidence from placement in a regular class, while the District's evidence tended to show that Rachel was not learning from exposure to other children and that she was isolated from her classmates. The court concluded that the differing evaluations in large part reflected the predisposition of the evaluators. The court found the testimony of Rachel's mother and her current teacher to be the most credible. These witnesses testified regarding Rachel's excitement about school, learning, and her new friendships and Rachel's improved self-confidence.

3. Effect on the Teacher and Children in the Regular Class

The district court next addressed the issue of whether Rachel had a detrimental effect on others in her regular classroom. The court looked at two aspects: (1) whether there was detriment because the child was disruptive, distracting or unruly, and (2) whether the child would take up so much of the teacher's time that the other students would suffer from lack of attention. The witnesses of both parties agreed that Rachel followed directions and was well-behaved and not a distraction in class. The court found the most germane evidence on the second aspect came from Rachel's second grade teacher, Nina Crone, who testified that Rachel did not interfere with her ability to teach the other children and in the future would require only a part-time aide. Accordingly, the district court determined that the third factor, the effect of Rachel's presence on the teacher and other children in the classroom weighed in favor of placing her in a regular classroom.

4. Cost

Finally, the district court found that the District had not offered any persuasive or credible evidence to support its claim that educating Rachel in a regular classroom with appropriate services would be significantly more expensive than educating her in the District's proposed setting.

The District contended that it would cost \$109,000 to educate Rachel full-time in a regular classroom. This figure was based on the cost of providing a full-time aide for Rachel plus an estimated \$80,000 for schoolwide sensitivity training. The court found that the District did not establish that such training was necessary. Further, the court noted that even if such training were necessary, there was evidence from the California Department of Education that the training could be had at no cost. Moreover, the court found it would be inappropriate to assign the total cost of the training to Rachel when other children with disabilities would benefit. In addition, the court concluded that the evidence did not suggest that Rachel required a full-time aide.

In addition, the court found that the District should have compared the cost of placing Rachel in a special class of approximately 12 students with a full-time special education teacher and two full-time aides and the cost of placing her in a regular class with a part-time aide. The District provided no evidence of this cost comparison.

The court also was not persuaded by the District's argument that it would lose significant funding if Rachel did not spend at least 51% of her time in a special education class. The court noted that a witness from the California Department of Education testified that waivers were available if a school district sought to adopt a program that did not fit neatly within the funding guidelines. The District had not applied for a waiver.

By inflating the cost estimates and failing to address the true comparison, the District did not meet its burden of proving that regular placement would burden the District's funds or adversely affect services available to other children. Therefore, the court found that the cost factor did not weigh against mainstreaming Rachel.

The district court concluded that the appropriate placement for Rachel was full-time in a regular second grade classroom with some supplemental services and affirmed the decision of the hearing officer.