

Push for School Safety Led to New Rules on Discipline

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By PETER APPLEBOME

Almost every school district has a story about the problems of disciplining children with disabilities — the wild kindergartner who disrupts classes for everyone else but cannot legally be removed from class, or the gang of youngsters caught selling drugs in which all are expelled except the one diagnosed with a disability.

In the Congressional debate over how best to deal with the 5.4 million students diagnosed with physical, mental, learning or emotional disabilities, no issue has been more knotty or more illustrative of the conflict between individual rights and group protections.

The issue has become more pressing as the number of disabled schoolchildren has grown to 10 percent of the public school population, up markedly in recent years as the definition of disabled has widened to include areas like hyperactivity and chronic fatigue syndrome.

The modifications to the Individuals With Disabilities Education Act now before Congress do not fully satisfy either advocates for the disabled, who want to make sure disabled students are given equal access to education, or some representatives of schools and teachers, who say that the needs of the few should not imperil the education and safety of the many.

But most experts say that it is at least an attempt to deal with one of the most vexing problems schools face today.

"This is better than current law, but it's not going to solve all the problems that we see today," said Jane Meroney, associate director of legislation for the American Federation of Teachers. Albert Shanker, the former president of the group who died earlier this year, crusaded for years to make it easier to remove disruptive students from classrooms.

A law tries to balance individual rights against group protections.

"This is not an issue that's going to go away," Ms. Meroney said.

At issue is the current form of the landmark legislation first passed in 1975 to protect the interests of students diagnosed with disabilities. Along with educational and financing issues, a provision in the legislation said that students with physical, mental, emotional or learning disabilities could not be suspended from school for misconduct for more than 10 days, or under a subsequent modification, for more than 45 days for gun possession. To expel a student for a longer period, a committee including the child's parents must determine that the misconduct had nothing to do with the disability.

Experts on both sides of the issue said the legislation was needed to keep districts from routinely dumping disabled students seen as behavior problems.

But as discipline problems in schools have increased, and the public debate over education increasingly has focused on the need to maintain safe and orderly classrooms, many educators and parents have

become more critical of the legislation's guidelines.

The American Federation of Teachers in a recent report cites numerous examples:

¶A West Virginia teacher was repeatedly hit by an autistic child for a year, once ending up in an emergency room, but the child remained in her class.

¶A North Carolina teacher's arm was broken by a student diagnosed with a disability, who was suspended for two days.

¶An 8-year-old in Toledo repeatedly set fires, exposed himself and destroyed a classroom but remained in school.

A proposed revision of the guidelines last year that would have dramatically increased the ability of districts to discipline disabled students was abandoned, partly because of criticism from advocates for disabled youths. But the issue has continued to simmer.

"Nobody envisioned back then the kinds of discipline problems that are on the table now," said Michael A. Resnick, associate executive director of the National School Boards Association. "And no one anticipated how much the culture would change and how big an issue discipline would become in the schools."

The current bill has several changes that would make it easier for schools to suspend students with disabilities, though not as many as some education groups had called for. Offenses that could bring a 45-

day expulsion were expanded to include not only gun possession but also bringing drugs or other weapons to school. Administrative procedures before administrative officers replaced formal court hearings. And assaults and conduct likely to cause injury or severe disruption were also included in new wording.

But advocates for the disabled say the language goes too far. They worry that in administrative hearings, untrained examiners may be biased toward schools. And they say the legislation's thrust is to allow suspensions or expulsions, not to encourage counseling and other assistance.

"The approach is totally wrong," said Diane J. Lipton, a lawyer at the Disability Rights Education and Defense Fund, in Berkeley, Calif., and the mother of a child with cerebral palsy. "They have many avenues open to them, a range of specialists, and special education personnel. Instead, the knee-jerk reaction is to move the kids out, which is only moving a problem someplace else."

Still, both sides agree something was needed.

"Congress has realized for a while that the law needs to be fixed, and amid all the controversy this is an attempt to fix aspects of it in a way that can get passed," Mr. Resnick said. "We wish the bill had some other elements in it, but I think the feeling is it's better to have a bill that can get passed than to have no bill at all."

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