

NO!!!

Let's stand for our
RIGHTS!

Join US

On October 18, 1999, LHD Students Are Having A WALK OUT! Between 1st and 2nd Block—Meet In The Student parking lot and drive down to the district office.

WE HAVE A RIGHT, TOO!

Like other school districts across the country, the students, parents and educators at Lakeside High School have just run head-first into the double standard inherent in the discipline policies mandated by the federal Individuals With Disabilities Education Act, or IDEA. While the intent of this law is commendable—to ensure that disabled children are educated in a fair and equitable manner—in practice it has again shown its flaws. As I said when I was the only Senator to vote against the reauthorization of IDEA in 1997, the single aspect of this bill that is most questionable and unjust is the double standard it sets with respect to discipline in schools. Each and every school district retains nearly full and complete authority over disciplinary matters as they apply to students who are not in special education classes. They lose almost all of that authority under the present IDEA statute.

Under the IDEA amendments of 1997, if a child brings a gun to school and a team of parents and educators decide it is not related to the child's disability, that student may be removed for up to a year. But, the district must continue to provide the child with a free appropriate public education.

If the incident is determined to be caused by the child's disability, then the student may be moved from their regular classroom for no more than 45 days. Again, that child must receive not simply a free appropriate public education, but the school district must ensure that the student can continue to participate in the general curriculum, continue to receive services that allow the student to meet the goals set out in the child's individual education plan, and the school must provide services that address the misbehavior so that it does not recur.

Although I've just given you a succinct description of federal law, Mr. Parker is still faced with a paradox. He is responsible for making sure school is a safe place for all children to learn. However, IDEA requires the school to implement different consequences for children who qualify for special education services for violations like bringing a gun to school, selling drugs or engaging with violent behavior. Children in special education can make up anywhere from 10–20 percent of a school district's enrollment, encompassing children with a broad range of disabilities.

Instead of focusing on what's best for the children and staff at his school, including the student who brought the

gun to school, he and other administrators in his district must focus on what they have to do to minimize the district's exposure to a lawsuit. It's an unfortunate fact that this provision of law is often fought out in the court room, driving desperately needed resources away from serving children.

Mr. Parker and district officials have not yet made a final decision about what to do in this instance. However, Mr. Parker did make a point in an article published in the *Spokane Spokesman Review* yesterday. He said, "We have to focus on the law, not the kid." He's right. As I mentioned earlier, students at Lakeside High School are planning to walk out of class on the 18th of October and hold a rally to bring attention to their concerns. I want to assure the students and parents that they have my attention, and a disruption of classes is unnecessary. Instead, I hope they channel that energy into writing letters to and meeting with their elected officials to make them aware of their concerns about the law.

Mr. President, IDEA says that Members of Congress know more about how to educate students than do their teachers, their administrators, their school board members, people who have spent their lives and careers at this job. We do not know more. They know more. We should permit them to do their jobs.

The PRESIDING OFFICER. The Senator from Alabama.

FEDERAL MANDATES AND SCHOOLS

Mr. SESSIONS. Mr. President, the Senator from Washington has, once again, succinctly and clearly stated a circumstance and situation in this country that is almost beyond belief. I have had a number of complaints about that. I used to be a Federal prosecutor. One of my good friends who has been a prosecutor for a very long time personally came to Washington to talk to me about the abuses of this law. It actually resulted in a full-page article in *Time* magazine. The title of it was, "The Meanest Kid In Alabama."

It is probably not an accurate statement, but it indicated what we were dealing with. My friend, David Whetstone, told me of the circumstance in which a very violent, disruptive young man was kept in the classroom, under these Federal laws, beyond all common sense, all reason, beyond anything that can have any basis in connection with reality.

Americans may not know what is occurring, but this is happening in other schools. I want to tell you what happened to this young man. He had an aide who got on the school bus with him alone in the morning, sat with him alone through the classroom day, and went home with him at the end of the day because of his disruptive behavior. That had to be paid for by the school board, the taxpayers of that commu-

nity. Can you imagine what it would be like trying to be a teacher, trying to teach in a classroom with that kind of problem? He used curse words to the principal on a regular basis, and it was very disruptive. But our law said, basically, he had to stay in that classroom. It was just remarkable.

Eventually the young man, going home one afternoon on the school bus, attacked the bus driver, it has been reported. The aide tried to restrain him, and he attacked the aide. My friend, the prosecutor, brought a criminal action or some legal action against him to try to deal with it. He was shocked, stunned, and amazed that this goes on, on a regular basis. He wrote me that in that County, Baldwin County, AL, there are at least six other incidents of a similar nature of which he was aware.

This may sound unbelievable, but I suggest anybody who thinks what the Senator has just said is not true, the kinds of things I am talking about are not true, ask your principals and teachers. Just ask them. It is Federal law that is mandating it.

We were supposed to pay for it when we passed it, and we never even paid for it. We were supposed to pay 40 percent of that unfunded mandate on the school systems. I think we are paying 15 percent now. This administration, President Clinton, opposes our getting it up to 40 percent. Why? I will tell you why I think the President opposes it. Not because it is not necessary; it is because the school systems, by this law, are having to do it anyway. They ran polling data that said maybe it strikes a better chord to have more teachers than to have funding for the Federal mandate we put on the schools, so we want to get more teachers and get more political credit or something; I don't know. We ought to finish funding this mandate. We ought to go back and look at this requirement and change it. It is not sound.

We want to keep disabled children in the classroom as much as possible. That is a worthy goal. But to go to the extent that we cannot remove children who bring guns to school, who consistently disrupt the school system, is beyond my comprehension.

In the Health, Education, Labor and Pensions Committee, we had testify the superintendent of a school system in Vermont. I was stunned. He said 20 percent of his budget goes to IDEA students, these kids with disabilities. In Vermont, 20 percent of the system's money goes for that. Somehow we are out of sync. You wonder why we cannot get more good education? Teachers cannot maintain discipline. They can only remove them, what, 40 days from a classroom in the face of the most outrageous behavior, even where there is violence involved. We have an obligation to the classrooms and to our teachers to help our teachers maintain order. If we are not going to do anything, then we don't do anything, but the worst thing for this Congress to do

is to pass laws that make it worse, make it harder for a teacher to do his or her job.

I know teachers who have quit; they say they cannot take it anymore. A friend of mine, who is 6 feet 4 and played college basketball, told me he taught junior high school and he didn't feel safe a lot of days.

I think we can do better. We ought to help our school systems do that. The Senator from Washington and a number of us, including the Presiding Officer, are working on some proposals that would allow us to empower school systems to receive funds with a minimum of restrictions as long as they have a firm plan that they know will work in their community to actually improve education.

We need to give the people elected to run our school systems more authority and give them the money so they can use it of the Federal money we are spending on schools, we know now only 65 cents out of every Federal dollar for education actually gets down to the classroom. We need to get our dollars to the classroom. We need to get that money down to the people who know our children's names. They need the money, not Washington. We cannot be a super school board for America. That would be so silly.

CUTS IN HOME HEALTH CARE FUNDING

Mr. SESSIONS. Mr. President, I sat here and listened with great interest when the Senator from Maine and the Senator from Kansas were talking about the home health care. I realized early that was going to be a problem in Alabama. It has had a dramatic and devastating impact on the State. Mr. President, 15 percent cuts consistently are really devastating the home health care agency.

Senator SHELBY, the senior Senator from Alabama, and I, right after this bill passed—without hearings, by the way, as part of a conference committee report—along with other people, when it was voted on, did not realize its significance. But pretty soon we realized that, so we called the top officials of HCFA into our office to discuss with them what we could do. We had proposed and offered an amendment to the effect we would delay the implementation of these changes until we had hearings to analyze their impact. We could tell it was going to be very bad. HCFA refused. They would not join us in that effort. That amendment we sought to have agreed to over a year ago was not agreed to.

It is, to my way of thinking, a situation that cannot continue. We are going to have to fix it. It was seen early. It was a matter that came up in an attempt to make some changes they thought would work, and Congress ought to pass laws to help effectuate that. But there was not an understanding of how bad it was going to be.

The agency in charge of the management of the home health care, HCFA,

is responsible and ought to be helping us in a more effective way to deal with this. It is true, as the Senator from Maine said, even under the containment of costs provided in the legislation that passed at that time, HCFA has cut substantially more than that.

It is expected to produce only about one-third of the savings that actually occurred. They squeezed that program for \$46 billion over 5 years. That is about three times what was actually planned to be cut. We have a crisis that does require attention. I thank the Senator from Maine for leading the effort.

DEFENSE APPROPRIATIONS CONFERENCE REPORT

Mr. KYL. Mr. President, Congress has no greater responsibility than to ensure that our Armed Forces—the guardians of the freedoms which all Americans cherish so dearly—are given the resources they need to carry out their mission. Consequently, the Defense Appropriations bill is one of the most important pieces of legislation that we pass each year.

As others have expressed, this is by no means a perfect piece of legislation. There are a number of items contained in this bill that do not meet the most urgent needs of the Armed Forces. At a time when the men and women who serve in uniform are being called upon to serve the interests of the United States in a growing number of places—Bosnia, Kosovo, Haiti, Iraq, and the list goes on—Congress must ensure that the most critical needs of the Armed Forces are met first.

However, I believe that the strengths of this conference report outweigh its faults. The report does contain funding to address a growing number of readiness and quality-of-life issues currently challenging our military. Our men and women in uniform need to know that their Congress supports them, and voting for this conference report is one way to demonstrate that support.

So, Mr. President, although I believe that Congress can always do a better job of directing defense dollars where they are most needed, I also believe that there is much in this conference report that addresses critical needs of the military, and that is why I voted in favor of the report.

IN THE AFTERMATH OF THE RONNIE WHITE VOTE

Mr. LEAHY. Mr. President, this Chamber is where 50 years ago this month, in October 1949, the Senate confirmed President Truman's nomination of William Henry Hastie to the Court of Appeals for the Third Circuit, the first Senate confirmation of an African-American to our federal district courts and courts of appeal. Indeed, today is the 50th anniversary of that historic event. This Senate is where some 30 years ago the Senate confirmed President Johnson's nomination

of Thurgood Marshall to the United States Supreme Court. And this is where last week, the Senate wrongfully rejected President Clinton's nomination of Justice Ronnie White. That vote made me doubt seriously whether this Senate, serving at the end of a half century of progress, would have voted to confirm Judge Hastie or Justice Marshall.

For the first time in almost 50 years a nominee to a Federal district court was defeated by the United States Senate. There was no Senate debate that day on the nomination. There was no open discussion—just that which took place behind the closed doors of the Republican caucus lunch that led to the party line vote. On October 5, 1999, the Senate Republicans voted in lockstep to reject the nomination of Justice Ronnie White to the Federal court in Missouri.

For many months I had been calling for a fair vote on the nomination, which had been delayed for 27 months. Instead, the country witnessed a partisan vote and a party line vote as the 54 Republican members of the Senate present that day all voted against confirming this highly qualified African-American jurist to the Federal bench.

Tuesday of last week the Republican Senate caucus blocked confirmation of Justice Ronnie White. It is too late for the Senate to undo the harm done by that caucus vote, although I would hope that some who voted based on inaccurate characterizations of Justice White and his record would apologize to him. What the Senate can do and must do now is to make sure that partisan error is not repeated. The Senate should ensure that other minority and women candidates receive a fair vote. We can start with the nominations of Judge Richard Paez and Marsha Berzon, which have been held up far too long without Senate action. It is past time for the Senate to do the just thing, the honorable thing, and vote to confirm each of these highly qualified nominees.

Likewise, we should be moving forward to consider the nomination of Judge Julio Fuentes to the Third Circuit. His nomination has already been pending for over seven months. He should get a hearing and prompt consideration. He should be accorded a fair up or down vote on his nomination before the Senate adjourns this year.

The bipartisan Task Force on Judicial Selection of Citizens for Independent Courts recently recommended that the Senate complete its consideration of judicial nominations within 60 days. The Senate has already exceeded that time with respect to the nomination of Judge Ann Williams to the Seventh Circuit. When confirmed, she will be the first African-American to serve on that court. We should proceed on that nomination without further delay.

Likewise, the Senate should be moving forward to consider the nomination of Judge James Wynn, Jr. to the Fourth Circuit. When confirmed, Judge