When a lawsuit charges a school with violating the Constitution by using timeouts to control a violent child, judicialization of education has arguably reached a new extreme. Yet federal appellate judges resisted intervention, and instead showed that the Individuals with Disabilities Education Act (IDEA), when followed to the letter, may protect school officials from liability.

A mother in Albuquerque, New Mexico, Jennifer Couture, sued school officials, claiming that their use of a timeout room for her son ("M.C.") violated his Fourth Amendment right against unreasonable seizures and Fourteenth Amendment right to due process. The defendants claimed qualified immunity, which requires courts to rule in favor of a government employee unless the conduct violates “clearly established statutory or constitutional rights of which a reasonable person would have known.” A district court found for the plaintiff but was reversed by the Tenth Circuit Court of Appeals in August 2008.

M.C. in 2002 was six years old, profane, and violent. He hit furniture and threatened to kill students and teachers with hot oil. Having judged him “emotionally disturbed,” school officials had placed him in a special education program and prepared an Individualized Education Plan in consultation with his mother, who signed it. Teachers were obliged to follow the plan and report to his mother daily. Among the techniques of “behavioral intervention” prescribed were supervised timeouts in a timeout room.

After a visit, Ms. Couture objected to the characteristics of the room: “very small” with “carpeting, but no padding on the walls. Nothing in it.... It had a very dim light.” In an administrative appeal to a hearing officer, she also complained of “inappropriate reliance upon timeouts and physical restraints.” Defeated there, she complained to the district court under section 1983 of the U.S. Code, which individual litigants often use in an effort to show that state or local officials have deprived them of constitutional or federal statutory rights. The district court was troubled by the length of some of the timeouts and what seemed on occasion to be insufficient provocation on M.C.’s part, such as refusing to take his spelling test.

The circuit court, questioning the district court’s mode of analysis, found that the defendants were entitled to qualified immunity. Even if putting M.C. in the timeout room were considered a seizure—a question that the court declined to decide—it was not unreasonable. The court expressed sympathy both for Ms. Couture and the teachers, but ruled that “The Fourth Amendment...does not empower federal courts to displace educational authorities regarding the formulation and enforcement of pedagogical norms.... If we do not allow teachers to rely on a plan specifically approved by the student’s parents and which they are statutorily required to follow, we will put teachers in an impossible position—exposed to litigation no matter what they do.”

The court acknowledged that M.C.’s behavior did not improve with the timeouts. “But whether the timeouts were a good or effective teaching method is not the relevant question.... This was primarily a pedagogical judgment for the educators on the spot to make.”

In response to the Fourteenth Amendment claim, the court said that at some point, removing M.C. from the classroom and putting him in timeout might have gone so far as to deprive him of a protected interest in a public education, but the circuit judges, unlike the district court, concluded that 21 timeouts totaling approximately 12 hours over two and a half months did not go that far. Besides, they said, timeouts were not an interruption of his education, they were part of it.

For schools, the decision signaled that courts would prefer leaving management of troubled students to educational professionals as long as they abide by the law. For state governments wishing to avoid lawsuits, the lesson may be that laws should be crafted to give parents ample choice.

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