

# CAPE OUTLOOK

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## CAPE Testifies on Asbestos

On March 28 CAPE testified before the House Subcommittee on Transportation, Tourism and Hazardous Materials on the need to extend the AHERA deadlines. In gathering its testimony CAPE spoke with school representatives nationwide and found that schools are making good faith efforts to comply with the EPA asbestos regulations. Many predict they that will make the October 12, 1988 deadline and many do not.

Since February EPA has expanded every component of its implementation of AHERA. There is an increasing number of inspection courses, management planner courses and state asbestos designees, and there is better information on resources available. At this writing there appears to be as much interest from school organization and employee unions in maintaining the deadlines as there is in extending them. There are currently six bills in Congress which propose extensions of varying lengths. Support for these bills is growing, and CAPE continues to encourage you to write your congressmen if you favor extension.

In gathering data from our schools CAPE found that the bare eleven months between receiving the new AHERA regulations and the October 12 deadline for inspection and submission of management plans was often too little time to safely and adequately perform the task. In some states the state department of education was appointed to supervise AHERA compliance, but was not getting sufficient guidance, if any, from the EPA regional office. As of March some states had no training courses. Some states had no accredited contracting companies. When schools received bids from asbestos management firms the estimates were made on different bases of per foot, per hour or per building, making them unsuitable for comparison. In one state in CAPE's survey there were no certified inspectors, due in part to the fact that inspectors in that state must be licensed architects. When EPA's regional office was called to verify this information, they could not, nor could the state's asbestos designee.

There is no certainty that Congress will pass an extension, so schools must continue to work to meet the existing AHERA deadlines. We again urge you to write your congressmen to support an extension and your reasons. *Outlook* will inform you on the progress of this legislation. Thank you to all who provided cases for the testimony.

## The Court and Private Schools: A Post-Aguilar Perspective

Nearly three years ago, on July 5, 1985 the Supreme Court handed down its 5-4 decision in the landmark Aguilar-Felton case, ruling that federal funds could not be used to provide on-site Chapter I services in religious schools.

Because of the broad implications of that decision and its serious effects over the years on private education's biggest federally-supported program, CAPE invited to its recent spring Board Meeting three lawyers, John Liekweg, Associate General Counsel of the U.S. Catholic Conference, Ken Terrell, Executive Director of the National Association of Private Schools for Exceptional Children and former counsel in the Department of Education's Office of Private Education, and Patricia Lines, the Department of Education's lawyer specializing in private school litigation to discuss the current state of First Amendment private school cases and to make some observations about trends.

Not surprisingly all of the important First Amendment cases now pending in federal courts are linked to Aguilar-Felton. For example in *Walker v. San Francisco Unified School District*, filed in November 1986 at issue is the constitutionality of new means of delivery of Chapter I services to conform to the court's judgment, such as mobile units and leased space. In *Pearl v. Bennett* the question is whether funds used to meet the new service delivery problems can be taken "off the top" of an LEA's total allocation or must be taken out of the funds allocated to each LEA on a per-pupil basis for private school students.

*Helms v. Clausen* filed in December 1985 is a major test in Louisiana of state funding of services provided private schools and of Chapter II, under which all schools including private are eligible to receive program services or curricular materials on a per-pupil basis.

*Polito v. Bennett* filed in September 1985 is another challenge to the "off the top" procedure as part of the particular Chapter I service delivery system used in Missouri, where the state constitution forbids the state to funnel federal funds to private schools. Although nine cases were cited by our legal panel, all are roughly similar and all except *Helms v. Clausen* seem to be on slow tracks.

In commenting on the general effect of Supreme Court decisions, Ken Terrell observed that a serious imbalance had developed in the priorities given by the Court to the two pillars of the First Amendment—the establishment of religion, and its free exercise. The Court has been more attentive to possible and/or alleged entanglements of religion and the state than to assuring the free exercise of religious belief. In other words, judicial adherence to a precedential view of church-state separation has had the result of weakening the role of religion.

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## An Expanded Understanding of Intelligence

What the best recent research discloses about the development of intelligence runs counter to nearly everything the school improvement movement is all about. It also offers a particularly important challenge to private schools.

This is the conclusion CAPE draws from a review of Howard Gardener's highly praised study, *Frames of Mind: The Theory of Multiple Intelligences* first published in 1983.

Contrary to popular conception, Gardener says intelligence is not a "general capacity or potential" possessed by everyone. So the measurement of it is woefully flawed by standardized tests.

Drawing from every area of relevant knowledge [there is Renaissance erudition at work here and the evidence is notable for its range and interest], Gardener argues for the existence "of several relatively autonomous human intellectual competences" or "frames of mind":

a)linguistic intelligence—"The intellectual competence that seems most widely shared across the human species."

b)musical intelligence—"of all the gifts with which individuals may be endowed, none emerges earlier than musical talent."

c)logical-mathematical intelligence—"For it is in confronting objects, in ordering and re-ordering them, and in assessing their quality, that the young child gains his or her initial and most fundamental knowledge about the logical-mathematical realm."

d)spacial intelligence—"the capacities to perceive the visual world accurately, to perform transformations and modifications upon one's initial perceptions, and to be able to re-create aspects of one's visual experience, even in the absence of relevant physical stimuli."

e)bodily-kinesthetic intelligence—"...control of one's bodily motions and capacity to handle objects skillfully"

f)personal intelligences—"access to one's own feeling life— one's range of affects or emotions" and "the ability to notice and make distinctions among other individuals", "and in particular among their moods, temperaments, motivations and intentions."

Schools have been most successful in developing the logical-mathematical competences, and have largely ignored the rest. Challenging conventional educational practice, Gardener points out that because "all children are different in their cognitive potential and intellectual styles...", the cost of attempting to treat all individuals the same, or trying to convey knowledge to individuals in ways uncongenial to their preferred modes of learning may be great."

Should we educators then "play from weakness or bolster strength or do we attempt to work along both tracks at the same time?" Gardener doesn't try to answer this crucial question by his research. He's not sure.

And so we find ourselves in a fix. The school improvement movement is driving hard for more uniform and rigorous standards, and for a standard curriculum of traditional subjects as in James Madison High School. It is pushing the effort to develop a national teacher certification to improve the ability of teachers to teach that curriculum—all with the goal of getting students to score better on standardized tests? Is there a supreme irony here—that in the process of trying to improve schools we are making them less effective in meeting their basic goal of helping all students achieve their potential?

Magnet schools, plans to create schools within schools, proposals for wider individualization, all of which respect student differences are, in a partial way, congenial to Gardener's thesis. However, broad trends in education are not at all congenial to what this research tells us about the education of intelligence.

Private schools which typically have small classes, allow for close teacher-pupil interaction, seek to meet individual needs, and often include healthy doses of the arts and physical education are perhaps better positioned to educate the different intelligences.

But this extremely thoughtful book poses an important challenge to them to be much more creative in the use of their unusual advantages and to nurture far better their students' strengths and talents. Gardener's study suggests private schools have unique opportunities for serving as educational models. Their future may well depend on how they pursue them.



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## Legislative Update

**Robert T. Stafford Elementary and Secondary Improvement Act (H.R. 5)**—This bill, which would reauthorize most elementary and secondary programs through 1993 was reported out of conference on April 13 and now goes to the floor. Besides Reauthorizing Chapters 1 and 2 (both the National Diffusion Network and the School Recognition Program, administered by CAPE for private schools, are funded under Chapter 2), H.R. 5 would target Chapter 1 remedial education grants to areas with heavy concentrations of poor children, provide some funding for magnet schools not under desegregation orders, reauthorize the drug-free schools act and the National Assessment for Educational Progress, extend and amend bilingual education, math and science programs, impact aid and adult education, and upgrade the Center for Education Statistics. It would also create new programs for secondary school basic skills, dropout prevention, gifted and talented children and early education for disadvantaged children and their parents.

**1989 Education Budget (S. Con. Res. 113 and H. Con. Res. 268)**—The Senate budget resolution passed on April 14 and calls for \$21.5 billion for the Department of Education budget. The House version passed last month and calls for a \$22 billion education budget. The bills are scheduled for conference the week of April 18.

**Civil Rights Restoration Act (P.L. 100-259)**—By a vote of 292 to 133 in the House and 73 to 24 in the Senate, the president's veto was overridden late last month and the Grove City ruling was reversed. That ruling had restricted enforcement of four civil rights laws prohibiting discrimination on the basis of sex, race, age or physical disability to programs within an institution receiving federal funding. Now the entire institution is subject to the civil rights laws if it receives any federal funding.

**Amendment to Toxic Substances Control Act (H.R. 4215)**—Congressmen Beryl Anthony (D-Ark) introduced this bill on March 22. It would extend both the asbestos management plan submission and the implementation deadlines by six months.

**Amendment to Toxic Substances Control Act (H.R. 4364)**—Congressman Harley Staggers (D-W.VA) introduced this bill with 16 cosponsors on April 13. It would require the EPA to issue regulations to prioritize implementation of the school's asbestos management plan in order of degree of health hazard posed. New deadlines would then be set for both the submission of management plans and for implementation, dating six months from the issuance of these new regulations. The bill would also amend the Asbestos School Hazard Abatement Act of 1984 to authorize additional loans for inspection and management plan costs.

**Smart Start (s. 2270)**—Senator Edward Kennedy and 13 cosponsors introduced a bill on April 12 to provide financial assistance for high quality full-day education to four and five-year-old preschoolers. It would provide low-income children with early education free of charge, and would charge others on a sliding fee scale.

## Capenotes

\*The United States Information Agency announces the 1989-90 Fulbright Teacher Exchange Program, offering one-year teaching positions in various countries. Contact the Fulbright Teacher Exchange, E/ASX, USIA, 301 Fourth Street, S.W., Washington, DC 20547; (202)485-2555. Deadline for application: October 15, 1988.

\*The Department of Education seeks applications for field-initiated research grants that will support efforts to advance educational theory and practice. About 10 awards will be made, ranging from \$30,000 to \$70,000. Contact Delores Monroe, Office of Research, Office of Educational Research and Improvement, Department of Education, 555 New Jersey Ave., N.W. M/S 1606, Washington, DC 20208; (202) 357-6223.

\*The Department of Education released the first in a series of eight publications to help parents engage in their children's education. "Becoming a Nation of Readers: What Parents Can Do" recommends that parents regularly read aloud to their children, take them to libraries and bookstores and encourage leisure reading. The booklet, published by D.C. Heath, is available for 50 cents from the Consumer Information Center, Pueblo, CO 81009.

\*The National Endowment for the Arts awards grants of \$2,000 to \$10,000 for literary magazines including school literary magazines which have published at least three issues since August 1, 1986. Funds must be used to pay authors; to pay for production, design and related costs; increased distribution efforts; technical assistance and development of financial supports. Contact Literature Program, NEA, 1100 Pennsylvania Ave., N.W., room 723, Washington, DC 20506; (202) 682-5451.

\*The National Geographic Society provides several resources for developing geography curricula and keeping them alive. Teachers and administrators can subscribe to *Geography Education Program Update*, a quarterly newsletter with lesson plans and curricular materials free of charge by writing the National Geographic Society, Education Media Division, Washington, DC 20036. *Teaching Geography: A Model for Action* is a resource book for teaching geography available for \$10 plus postage and handling. Call the Society at 1-(800) 368-2728. *Guidelines for Geography Education* is available from the Association of American Geographers for \$3.00. Write them at 1710 16th St., N.W., Washington, DC 20009. National Geographic Kids' Network provides fourth to sixth grade science units on software with teaching materials which can be used so that students can hook up with a telecommunications network via a modem, and share data with their peers elsewhere in the U.S. For information write the National Geographic Kids' Network, Dept. 1145 17th St., N.W. Washington, DC 20036, room 529-D.

\*According to the Coalition for National Service, a Gallup Poll found that 83% of the general population and 87% of 18-24 year-olds favor national voluntary service, prompting the Coalition to conclude that "Young people are not lacking in a desire to serve as much as our country is failing to give them opportunities to serve."

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## Another Look at Teacher Board Certification

David Mandel, Vice President for Policy Development of the Carnegie Forum on Education and the Economy spoke to CAPE's Board of Directors at their March meeting on the progress of the National Board for Professional Teaching Standards. The national board was created in May of 1986 by the Carnegie Forum to provide voluntary board certification for teachers, similar to voluntary board certification for physicians and other professionals. The intention of the board is to set high national standards for teachers, thus conferring a nationally recognized status to the teaching profession for the benefit of teachers and students. Board certification will not replace state licensing. The board will develop tools to assess teachers' knowledge of the arts and sciences, understanding of their subject area, grasp of pedagogy and clinical experience. They plan to contract out this research on how best to measure those competencies.

James A. Kelly, a former history teacher, education professor, foundation executive and school finance expert was named president of the board last October, and there are now 64 members, just over half of whom are elementary and secondary teachers. The remainder is comprised of other educators, state and local officials and business leaders.

The Carnegie Corporation will provide one million dollars a year for the next five years, and the board has requested a one time \$25 million from Congress to be matched with the same amount in other funds in order to carry out its plans. The board has the support of the governors, teacher unions and many teachers, as was shown at a congressional hearing in February when several education leaders, governors and teachers testified in support of the \$25 million request for federal funds.

The board hopes to begin granting board certification within the next five years. Mr. Mandel acknowledges the concern of CAPE's Board of Directors that the number of private school teachers chosen was low, but asked them to consider the wide diversity of its 64 members as also serving their interests.

## The Court

Pat Lines, commenting from a study she was completing about First Amendment cases and private schools said that First Amendment decisions over the past eight years have strengthened the middle class at the expense of the disadvantaged. Public policy designed to broaden educational opportunities for the poor have been struck down. Despite the primary importance of precedent in deciding cases, the Court appears to be giving less weight than before to policy considerations. A net result is that efforts to enhance democracy in education over the past decade have been effectively blocked.

Though no one was willing to hazard a guess about the effect of the addition of Judge Kennedy, all agreed that the past decade had produced a new set of major, legal challenges for the proponents of religiously-supported private schools.

## Capenotes

*\*Education Week* cites a study at UCLA indicating that the teaching profession is becoming increasingly white and female. Based on data collected from college freshmen over the past 22 years, of those who planned to teach in 1966 70%, and in 1987, 80% were female. In 1966 90% and in 1987, 93% were white.

*\*Cambridge Documentary Films* produces films to foster social change that "challenge audiences to think and act on important issues, such as the image of women in advertising, the positive image of alcohol in advertising, and the subject of nuclear war. For a catalogue to rent or buy films write them at P.O. Box 385, Cambridge, MA 02139.

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