



DATE DOWNLOADED: Sat Apr 6 21:43:07 2024

SOURCE: Content Downloaded from [HeinOnline](#)

Citations:

Please note: citations are provided as a general guideline. Users should consult their preferred citation format's style manual for proper citation formatting.

Bluebook 21st ed.

Emanuel Bardanis, The N. Neal Pike Institute on Law and Disability, 4 B.U. PUB. INT. L.J. 439 (1995).

ALWD 7th ed.

Emanuel Bardanis, The N. Neal Pike Institute on Law and Disability, 4 B.U. Pub. Int. L.J. 439 (1995).

APA 7th ed.

Bardanis, Emanuel. (1995). The n. neal pike institute on law and disability. Boston University Public Interest Law Journal, 4(2), 439-442.

Chicago 17th ed.

Emanuel Bardanis, "The N. Neal Pike Institute on Law and Disability," Boston University Public Interest Law Journal 4, no. 2 (1995): 439-442

McGill Guide 9th ed.

Emanuel Bardanis, "The N. Neal Pike Institute on Law and Disability" (1995) 4:2 BU Pub Int LJ 439.

AGLC 4th ed.

Emanuel Bardanis, 'The N. Neal Pike Institute on Law and Disability' (1995) 4(2) Boston University Public Interest Law Journal 439

MLA 9th ed.

Bardanis, Emanuel. "The N. Neal Pike Institute on Law and Disability." Boston University Public Interest Law Journal, vol. 4, no. 2, 1995, pp. 439-442. HeinOnline.

OSCOLA 4th ed.

Emanuel Bardanis, 'The N. Neal Pike Institute on Law and Disability' (1995) 4 BU Pub Int LJ 439
Please note: citations are provided as a general guideline. Users should consult their preferred citation format's style manual for proper citation formatting.

Provided by:

Fineman & Pappas Law Libraries

-- Your use of this HeinOnline PDF indicates your acceptance of HeinOnline's Terms and Conditions of the license agreement available at

<https://heinonline.org/HOL/License>

-- The search text of this PDF is generated from uncorrected OCR text.

-- To obtain permission to use this article beyond the scope of your license, please use:

[Copyright Information](#)

PROFILE

THE N. NEAL PIKE INSTITUTE ON LAW AND DISABILITY

The N. Neal Pike Institute on Law and Disability (the "Institute") was founded in 1983 to support the study, research, and development of disability law. The Institute is named for N. Neal Pike, a graduate of the Boston University School of Law Class of 1937, and a "lifelong advocate for individuals with disabilities."¹ His vision of a more enlightened jurisprudence continues to drive the Institute which has been headed by Henry A. Beyer since its inception. In carrying out the aims of the Institute, Beyer and his staff focus their efforts not only on practicing lawyers and judges, but on students at both the graduate and undergraduate levels. Their diverse strategies encompass a broad range of categories, including: teaching,² publication,³ research, and public service.

While the Institute's efforts serve as a much-needed impetus for social and legal reform, factors such as enrollment caps and finite resources constrain its ability to disseminate information. To overcome this problem, in 1990 the Institute began an innovative and ambitious program designed to reach beyond the seminars' audience: The Law School Mainstream Curricula Project (the "Project"). The Project was part of a larger initiative funded by the National Institute on Disability and Rehabilitation Research (the "NIDRR"), a division of the United States Department of Education. According to Beyer, NIDRR wanted to introduce disability-sensitive materials into courses traditionally taught at law schools, schools of public policy and schools of social

¹ PIKE INSTITUTE ON LAW AND DISABILITY, 1993-94 ANNUAL REPORT 3 (1994).

² The Institute's staff attorney Allan H. Macurdy teaches two Boston University Law School seminars: "Legal Rights of Individuals with Disabilities" and "Native Americans and the Law." Macurdy also teaches the former course at Boston College Law School and "Conflict of Laws" at Northeastern University Law School. In addition to these ventures, the Institute has offered a health law discussion series with featured speakers, including Lee Dunn, Chair of the Health Law Section of the Massachusetts Bar Association, and Sue Herz, Director of the Disability Law Center of Massachusetts.

³ The Institute produces the *Disability Advocates Bulletin*, a bimonthly periodical, and contributes disability law highlights to the "Coalition for the Legal Rights of the Disabled Newsletter." Beyer was also a contributing author to a manual entitled *Caring for Children with Special Health Needs in the Regular Classroom*, which is to be published in the near future. He was also co-editor of *IMPLEMENTING THE AMERICANS WITH DISABILITIES ACT: RIGHTS AND RESPONSIBILITIES OF ALL AMERICANS* (1993). In addition, Beyer, Macurdy, and other members of the Institute present and organize lectures on disability law.

work. Because of its expertise in the area of disability law and related issues, the Institute was recruited to compile and distribute materials for use by law schools nationwide.

This charge presented the Institute with an immediate problem: existing textbooks lacked cases that dealt with issues relevant to persons with disabilities. The Institute's task was not only to identify these cases, but also to ensure that these cases illustrated basic legal principles so that the materials could be seamlessly integrated into professors' syllabi. The Institute's staff compiled materials for nine courses: Criminal Law, Property, Torts, Contracts, Constitutional Law, Civil Procedure, Writing Seminar/Moot Court, Family Law, and Labor Law. They then set out to find where popular casebooks were lacking with respect to "disability issues."

"I devoted a lot of time to reading other critiques of the law school canon to try to understand what the feminist critique was, what a race theorist might have objections to, and how critical legal studies might apply," Macurdy said, explaining that he wanted to assess "the intrinsic nature of disability hierarchy in the law — things that I wouldn't necessarily see unless I tried to pick apart the basics of the mainstream courses."⁴ Further, he said that the fundamental purpose of the project was to show how the law has certain assumptions about where people with disabilities "belong" in the social hierarchy and that these assumptions result in a marginalization of disability issues in the law curriculum. This premise is elaborated upon in Macurdy's essay "Disability Ideology and the Law School Curriculum," reprinted in this issue,⁵ and was also addressed in the Institute's Final Report on the Project.⁶ The report articulates the gaps identified in the current curricula of American law schools and lists the materials the Institute offered to redress these imbalances.⁷ For example, the Institute identified constitutional law cases which address the question of whether individuals with mental retardation (or other disabilities) constitute a "suspect class," and which explore constitutional constraints on civil commitments and the withholding of life-sustaining treatment. The criminal law issues identified by the Institute include one's competency to stand trial and

⁴ Interview with Allan H. Macurdy, Staff Attorney for the Pike Institute on Law and Disability, in Boston, MA (Nov. 9, 1993) [hereinafter "Macurdy Interview"].

⁵ Allan H. Macurdy, Commentary, *Disability Ideology and the Law School Curriculum*, 4 B.U. PUB. INT. L.J. 2 (1995).

⁶ PIKE INSTITUTE ON LAW AND DISABILITY, *DISABILITY AWARENESS IN LAW SCHOOL CURRICULA FINAL REPORT* 2 (1994).

⁷ Some of the cases selected by the Institute include: *Parham v. J.R.*, 442 U.S. 584 (1979) (illustrating the way in which parental rights to decide upon treatment for a child's medical or psychological condition are sometimes in conflict with the child's interests); *Katzer v. Baldor Electric Co.*, 969 F.2d 935 (10th Cir. 1992) (depicting the way in which unequal bargaining power in the employer/employee relationship can be exacerbated when the employee has a disability); and *People v. Wetmore*, 583 P.2d 1308 (Cal. 1978) (discussing the obligation of the state's criminal justice system to both the public and an individual with a mental illness who is incapable of understanding the nature and quality of his or her actions).

the diminished capacity defense. The property law cases which were presented considered reasonable accommodations for tenants with mental disabilities and the rights of tenants with disabilities under the Fair Housing Amendments Act and other federal legislation.⁸

Even a cursory glance at these examples reveals the centrality of "disability law" issues to core legal subjects, but the Institute found them to be conspicuously absent from classroom materials and discussion. Moreover, Macurdy anticipated some resistance by more conservative members of the academic community to reserving class time to pursue what would likely be deemed a "diversion" from the traditional curriculum. He explained that it "was not enough to introduce disability issues without making connections with the pedagogical goals of the course."⁹ The pilot teaching materials were to be a vehicle by which to explore the elements of mainstream topics like equal protection and due process in the context of a disability case and to further the goals of the Project.¹⁰

Having compiled the requisite texts, the Institute wrote to the deans of 171 United States law schools, describing the Project and soliciting the names of professors who might be interested in using the cases. In its final report on the Project, the Institute states that the number of professors' requests for pilot teaching materials exceeded its expectations.¹¹ Overall, the Institute sent out approximately 550 sets of materials to more than 168 professors across the country. Although the number of professors who were willing to submit detailed written comments about the materials was unexpectedly low, Beyer said that he hopes that a significant percentage of these professors are using these materials and have incorporated them into their classes. The Institute reports that requests for the materials continue to come in and that anyone interested in obtaining the materials should contact the Institute.

The Institute's current goal is to get the Project materials published and made available to all American law schools. The Institute has suggested to publishers that the materials could be released in various formats, either as a loose-leaf binder, or as a series of different pamphlets or mini-books, each for a different subject area that the school may require.

In the future, the Institute plans to continue its quest to become entirely self-supporting, building on a number of new or renewed sources of revenue. Buttressed by past successes, the Institute continues to work toward what has long seemed to many an impossible goal: the de-marginalization of a group that normative culture has long identified as bearing the mark of "different."

Emanuel Bardanis

⁸ PIKE INSTITUTE ON LAW AND DISABILITY, *supra* note 6, at 2.

⁹ Macurdy Interview, *supra* note 4.

¹⁰ *Id.*

¹¹ PIKE INSTITUTE ON LAW AND DISABILITY, *supra* note 6, at 2.

