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Questions? Contact Tamie at Tamie327@hotmail.com or 605-399-1624.

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Have you contacted your U.S. Representative and asked him/her to cosponsor H.R. 3995? If yes, have you followed-up? Contact Tamie with any questions and to receive H.R. 3995 advocacy materials (605-399-1624; tamie327@hotmail.com)

VOR Weekly E-Mail Update

April 18, 2008

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FOCUS ON SPECIAL EDUCATION

(see also, <http://www.vor.net/resources.htm>, for additional links on Special Education articles)

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1. Dismissal of P&A lawsuit to halt construction of a special education school upheld

Summary: In this situation, the Wisconsin P&A (Disability Rights Wisconsin - DRW) sued Walworth County in its attempt to halt the construction of a special education school arguing that IDEA requires that disabled students to be taught in the most integrated setting possible. The new school, says DRW is illegal segregation. A lower court dismissed the lawsuit finding that the Disability Law Center - **who couldn't find any student or their parent to join them in the lawsuit** - would not be "injured" by the construction of the new school. An appellate court recently upheld the lower court's dismissal agreeing that the Disability Rights Wisconsin did not have standing to bring suit. The managing attorney for DRW says its unlikely they will appeal the decision to the state's Supreme Court. DRW, however, didn't rule out bringing another lawsuit on the issue of "segregation" saying that ""No court has rules on whether it's illegal segregation. It's all been technical, procedural stuff." With no students or their families concerned about the construction of a new school, which will provide additional educational options, one wonders just WHO DRW is representing? Is this another situation where P&A is motivated by ideology without regard to the preferences of individuals with developmental disabilities and their families? **(COMPARE, H.R. 3995. PASS, H.R. 3995!!!)**

Dismissal of lawsuit on school upheld

New Lakeland facility to open in fall

By AMY HETZNER

April 15, 2008

An appeals court has upheld last year's decision by a federal judge to dismiss a lawsuit seeking to halt the opening of a new school for disabled students in Walworth County.

The three-judge panel of the 7th Circuit U.S. Court of Appeals in Chicago found this week that Disability Rights Wisconsin, the group that brought the lawsuit, had not proved it would be injured by construction of a new building for Lakeland School, which serves about 260 Walworth County students ages 3 through 21.

Jeffrey Spitzer-Resnick, a managing attorney for the group, said the organization was considering its options. He said it was "highly

unlikely," however, it would try to appeal the ruling to the U.S. Supreme Court.

Although construction of the new Lakeland School has proceeded as the lawsuit has made its way through federal court and the building is scheduled to open in fall, Spitzer-Resnick said his group could refile a lawsuit with a new argument about how it would be injured by the school's construction.

That lawsuit could seek to prevent more children from being placed in the new school.

"No court has rules on whether it's illegal segregation. It's all been technical, procedural stuff," he said.

Walworth County vote

Spitzer-Resnick's lawsuit against the Walworth County Board contends the board's approval of \$22 million to build a larger facility for Lakeland violates a federal law requiring disabled students to be taught in the most integrated setting possible.

The lawsuit was dogged from the beginning by its failure to enlist a single student or parent plaintiff.

"DRW couldn't find anybody to come forward and say sue on behalf of us," said Ronald Stadler, the attorney representing the county in the court case. "They couldn't find anybody who says, 'We don't want to be here.' "

Parents who are unhappy with their children's placement at Lakeland already have legal recourse by which they can challenge that decision before an administrative law judge, Stadler said.

The disability organization argued when it filed the lawsuit in 2006 that the new building violated the Americans with Disabilities Act by not giving its students enough opportunity to interact with non-disabled peers.

It noted that in the 2004-'05 school year, more than 11% of children with disabilities in Walworth County were educated at a public school separate from their non-disabled peers, compared with less than 1% of disabled students statewide.

2. Don't Take Sides on Inclusion

Summary: This is an excellent editorial that VOR has printed before. The author, Marcie Roth, is a well-known self-defined "inclusion" advocate. Yet, her personal situation involving her son's educational need resulted in his needs coming face-to-face with her ideology.

About the Author: *Marcie Roth is executive director of the National Spinal Cord Injury Association and a longtime national disability rights advocate.*

Don't Take Sides on Inclusion

By Marcie Roth

The Ragged Edge

September 2003

I have been fighting for children with disabilities to be able to receive a free appropriate public education since before PL 94-142 -- now called the Individuals with Disabilities Education Act, or IDEA -- was passed, back in 1975. I have represented hundreds of families as they fought to get their children that free appropriate public education in their neighborhood school, in the classroom the child would have attended if they didn't have a disability.

I have been active in the leadership of national organizations fighting for inclusion. I've provided training and technical assistance to states, communities, school districts and schools on exactly how to include students with disabilities in general ed.

Funded by U. S. and the state department of education, I spent three years in classrooms across my state, showing school teams how to include students. I've been widely published on the topic of inclusion, and have developed a number of tools that are in use today in general ed classrooms.

I can honestly say I've never met a child who can't successfully be included, under the "right" circumstances, no matter what.

Yet last spring I put my 11-year-old son Dustin on a short bus and sent him to a segregated school in another county at a cost of \$50,000-plus per year to the taxpayers of my community.

Shocking? You can only imagine.

I have been battling with our school system for four years to get Dustin the educational supports and services he needs -- and is legally entitled to -- without success. Despite intervention from the Maryland State Department of Education, the U. S. Department of Education, Congress, the White House, and even a superbly honest

article by reporter Jay Mathews that ran in the Feb. 6 Washington Post, Dustin's Individualized Education Plan -- his "IEP" -- was never implemented. Not for one day.

This is not just my view of things, but the actual "Findings" from the Maryland State Department of Education. (I have four such "Letters of Findings.") No behavior support plan, no keyboarding, no extra set of books for home, inadequate testing, outright lies. And then there was the abuse, also honestly portrayed in the Washington Post.

Despite it all, rather than implement Dustin's IEP, as required by law, my school system decided they "couldn't" serve him. They wanted him placed in a segregated school, in another county.

I was fortunate, though. Because of our high profile (and the Washington Post article), I was able to reject the hellholes they tried to send Dustin to (where 4-point restraint and timeout rooms are still in use), and managed to get him into a truly wonderful school, as segregated schools go.

In less than two weeks, my previously devastated child began to blossom. I have never seen him as proud as he was when he signed his name to a gift for his grandparents. He looked at me, beaming, and said "Look what the OT taught me to do!" Dustin was supposed to have received occupational therapy services as far back as 1998, but it took until now for it to actually happen.

I bet you're wondering why I didn't take legal action to force implementation of the IEP. I tried. I did as much as I could. A few wonderful people stepped up to help me, but I was unable to afford the legal battle I needed to fight, and I was well aware that even with adequate resources to spend on a lawsuit (\$50,000 or more), I was likely to lose anyway. There are very few legal resources for people like me. Just last year, I spent \$8,000 out of pocket, paying expenses for professional experts to attend meetings -- professionals I would have needed to use as expert witnesses in a hearing had I pursued a lawsuit. This was in addition

to the \$14,000 I spent out of pocket on copays for healthcare, after my really decent health insurance paid its portion.

While I was struggling to pay experts to attend meeting after meeting, as I fought for my child's right to an education, my school system was paying lawyers \$650 an hour or more to fight parents like me. Where did they get that money to spend? Taxpayer dollars, of course! they used my taxpayer dollars -- yours, too -- against my child.

Dustin's neighborhood school should be able to include him. But they have proven that they have neither the will nor the way to do it. I am a staunch inclusionist who now says: you're wasting your breath on that argument.

My new friends -- parents of kids in segregated schools -- will fight to the death to keep these segregated schools -- until we can be guaranteed that "inclusion" will not hurt our children.

I am far more aware than most that it really is possible to get inclusion right. I'm also far more aware than most of just how wrong "inclusion" is when it's not right.

My child will no longer pay a price for my ideology. He's paying a different price right now -- the price of being segregated from his nondisabled peers. I get to live with the guilt of allowing this. Supporting it, even.

If you want to be part of the solution, don't take sides on inclusion. Put your energy toward demanding full implementation and enforcement of IDEA. Until our children are assured that the law will really be implemented and enforced, the rest of the debate is irrelevant.

3. Special Education: Life After Special Ed Has Challenges

By Nancy Zuckerbrod

The Associated Press (printed in the Washington Post)

Monday, March 31, 2008

WASHINGTON -- Graduating from high school is typically a moment of great joy for young people and their parents, but for students with disabilities it is sometimes described in dark terms.

"It can feel like sinking into an abyss," said Cathy Healy, the mother of an adult son with Down Syndrome, who recently completed his studies at an Alexandria, Va. high school.

During their public school years, children with disabilities are entitled to a menu of special services, such as music or occupational therapy, extra reading help and door-to-door transportation. The law also requires they be given an Individualized Education Program, a blueprint tailored to their needs with involvement from educators and parents.

It's a comforting safety net that often ends abruptly when students leave school. They might get help securing a job, enrolling in a technical school or giving college a try. But it's just as likely they won't, says Karen Leggett of Silver Spring, Md., who leads a group

trying to improve the transition out of high school for students with disabilities.

Leggett said students with disabilities face waiting lists and tight funding for services once they leave high school. "Nobody really prepares you for that," she said.

Educators are legally required to prepare special-Ed kids for life after school under the Individuals With Disabilities Education Act. The law says that by the time students with disabilities are 16, schools are supposed to provide planning that may include more school, getting a job or trying to live independently.

The special education law covers about 7 million students with disabilities in public schools. Learning disabilities such as dyslexia are the most common, followed by speech or language impairments. Mental retardation and emotional disturbances rank next in frequency, though they show up in much smaller numbers.

The Education Department recently examined how well states have been implementing the special-Ed law and issued report cards to the states. Most received poor grades for their efforts to assist students with the transition out of high school.

For many schools, transition probably hasn't been a focus because of the emphasis the 2002 No Child Left Behind education law places on ensuring that students with disabilities are being taught core academic subjects like math and reading, said Alexa Posny, the commissioner of education in Kansas and former director of special education at the U.S. Education Department.

There is a sense that the focus on academics has come at the expense of teaching so-called "life skills," such as navigating public transit or learning to shop for groceries, said Nancy Reder, deputy executive director of the National Association of State Directors of Special Education.

Posny said the department's finding of lackluster transition efforts is likely to spark improvements. "I believe it's absolutely going to be at the top of everyone's radar," she said.

States recently sent the Education Department updates on their transition efforts and other special-Ed programs. The department is expected to review those and issue new report cards in June.

Another longer-standing obstacle is that schools and government agencies that serve needy adults don't work closely together. Often a special-education teacher will also serve as the school's transition coordinator, and that person typically does not have close contacts with agencies providing job training or other services for adults with disabilities.

"If you've got a transition coordinator who is a special-education teacher in the classroom, how does the teacher get out of the classroom to meet those other people?" Healy asked.

The most recent version of the special Ed law, passed in 2004, tried to tackle some of the transition problems.

The law spelled out that educators must develop appropriate goals for students, based on various assessments, and that progress toward those goals must be monitored.

"It's not just a matter of filling out some compliance boxes on an IEP," said Harvard University education professor Tom Hehir, referring to the individualized education program written for each special-Ed student. "It's not easy. It requires you to really think about where you're going with this particular kid in the long term."

The law also says that students' goals should reflect their interests and strengths. So if a student says he wants to be a veterinarian, but his math and science skills make that unlikely, schools might try to line him up with a job at an animal shelter.

But change in this area is slow in coming, says Ricki Sabia, a national advocate for students with disabilities and the mother of a high-school student with Down Syndrome.

"For individuals with intellectual disabilities there is still a certain status quo in the kind of jobs for which they are usually considered, regardless of their interests and abilities _ such as food service, custodial, laundry or mail room work." Sabia said.

Colleges do appear to be opening their doors a bit wider for students with disabilities.

About 11 percent of students in two- and four-year colleges are identified as having disabilities _ roughly double the level of the mid-1990s.

Legislation pending in Congress seeks to advance that trend. Among other things, it would make students with intellectual disabilities eligible for financial aid that is currently unavailable to them.

While they don't serve a lot of college-bound teens, high schools that exclusively teach students with serious disabilities appear to give the most thought to transition planning.

Jamal Quander, a 19-year-old student with mental retardation, attends such a school in Washington, D.C. He plans to stay another three years, as he's entitled to do under D.C. law, and much of that time will be spent planning for his future.

During a recent meeting at the school, St. Coletta, a job placement coach asked Jamal a series of questions about how he liked the work the school had secured for him at a day care center.

"It's cool going out all by yourself," Jamal said, beaming with pride over his success at taking public transportation on his own. But he said taking care of kids is not something he envisions doing long term. "I would like to do retail and office work," he said.

His mother, Michele Quander, said the school's transition process has given her confidence that Jamal, a self-professed fashion lover with a megawatt smile, can become independent over time.

"I'm happy for him. I'm excited," she said. "I'm glad we're starting early."

Tamie Hopp

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