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# Special Education Should Be a Service, Not a Place

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*Authors' note: Clients' names and identifying information have been changed.*

A federal law, in place since 1975, offers a remarkable promise to approximately 25,000 children in the School District of Philadelphia. That law, now the Individuals with Disabilities Education Act (IDEA), tells school districts that they must reach out and find children with disabilities — the Child Find obligation. Then schools must give the children the services and support they need to benefit from an education and the child must receive the services in the least restrictive environment. In other words, children should not be sent to a segregated "special ed" classroom; they should receive the help they need so that they can learn alongside their non-disabled classmates.

IDEA marked a turning point. Before schools were required to educate children with disabilities, they simply refused to do so because the children's behavior made them difficult to educate — it was easier for everyone just to keep them out of school.

Who are the children in Philadelphia who are supposed to benefit from this law? Today, over half of them — 16,000 at last count — have specific learning disabilities like dyslexia (reading difficulties) or dyspraxia (difficulties in motor skill development). Over 2,000 children have been diagnosed with emotional disturbance and another 2,000 need help with speech and language. Some 1,300 are diagnosed with autism and 3,100 have intellectual disabilities, or what used to be called mental retardation.

These children are our client Naima, a middle school student who has lived with almost total hearing loss in her left ear since kindergarten, when a classmate shot a cap gun in her ear. She also has Type II Diabetes,

asthma and ADHD. They are Juan, a first grader with autism. Or Jordan, a child with dyslexia. They are James, a fifth grader with cerebral palsy. These are children who can learn, who can graduate and go on to work or post-secondary education; indeed, we must make sure that they learn because they will go out into the world in great numbers.

Like many wonderful laws, however, IDEA is still a promise largely unfulfilled in Philadelphia. For Naima, annual hearing tests conducted by the school failed to recognize, let alone correct, her hearing loss. Nor did any of Naima's other issues prompt any administrator to suggest that she be evaluated for special education services. The problem reached a breaking point when Naima was expelled from her school following a disciplinary incident. Naima's mother tried to stop the expulsion by suggesting that she thought her daughter's behavior had some external cause, but she was ignored.

Juan's mother was told he couldn't come to school at all for the second half of kindergarten and the first month of first grade. Jordan's mother suggested dyslexia as a reason her son couldn't read, but was told there is no test for dyslexia. James has spent his entire school life in segregated "special ed" rooms. As our anecdotal experience suggests, a study released at the beginning of 2011 by the Advancement Project shows that children with disabilities are suspended, transferred to alternate schools and expelled at higher rates than other children.

Philadelphians must step up to resolve these problems, which are not just isolated incidents but instead are symptoms of a broad pattern of failure. The most important players are the people who know their children best: the parents. IDEA recognizes the powerful role played by parents. It gives them the power to ask for an evaluation of their children for special education services and if they are ignored or denied an evaluation they can request an administrative hearing. Parents can ask for a second opinion from an independent evaluator if they disagree with the result.

The law gives parents a seat at the table in developing the plans for their children and, if they are ignored or don't agree, they can request a hearing. Parents have the right to receive notice if the district plans to change the child's placement. If the district is not carrying out the services in the plan, parents can request a hearing. The law specifically recognizes these tools as legal rights of parents which are enforceable. Parents are the keystone to holding school district officials accountable because they are the people who will always be there — lawyers and advocates may come and go, but there will always be parents.

But parents cannot win this battle alone. This is where the lawyers — particularly public interest and pro bono lawyers — can make a powerful difference. First, unfortunately, many parents do not know that they or their children have rights and, if they do, how to exercise them. Lawyers can fix this. Here at the Public Interest Law Center of Philadelphia, we offer a monthly training course, available in person or via webinar (and free for those who cannot afford to pay) to give parents, advocates and others the tools they need to advocate for themselves. Last year, we trained students at the Earle Mack School of Law at Drexel University who, in turn, prepared YouTube training videos. We're hoping this year's crop of students will also do some in-person training. The Education Law Center's website has some wonderful written materials that can get parents started in asking for services, and will help them understand how the process is supposed to work.

The problem will never be solved unless we have lawyers who are willing to help the thousands of families who can't afford to pay. This year, we launched a program in collaboration with Dechert to meet this need. Through the Philadelphia Project, as we call it, we have trained Dechert lawyers who partner with us in representing families. We've trained about 30 lawyers so far and about 10 lawyers are already working with us on cases: interviewing witnesses, preparing experts and conducting administrative hearings, which are trial-like proceedings.

So, after Jordan's school told his mother that there was no test for dyslexia, we were able to find a national expert on dyslexia to show the district it was wrong. Our team secured for Naima a device that allows her to hear in class. For Juan, the little boy with autism who was not allowed to go to school, it took only a letter from lawyers in October to get him back in the next day.

This partnership is not just about individual issues. The administrative hearings available under IDEA can resolve individual problems for individual children, but we are finding that some of the issues are systemic and, as one of our hearing officers observed, hearing officers do not have the power to order a structural remedy. When this occurs, we and the Dechert lawyers are going to the federal court to get relief; we filed a class action lawsuit earlier this year to stop the district's practice of moving children with autism from school to school throughout their elementary and middle school years without notice or consultation with their parents, a practice that is not only harmful to the children but different than anything experienced by their classmates who do not have autism.

Of course, we at the Law Center are only one part of a larger movement within the city of Philadelphia to solve the issues that plague the education of children with disabilities. At least a dozen other organizations and individual lawyers also are representing and advocating for families of children with disabilities. Beginning last year, we all decided that we could amplify our force by identifying issues on which we can speak with one voice. We're letting the district know that we are here — ready to offer our suggestions and observations, but also making sure we avail ourselves of all necessary legal tools to make sure that our children are not written off but are provided the services which will permit them the opportunity to move on to happy, productive lives. •

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