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Students with disabilities still not receiving appropriate Extended School Year services
School District of Philadelphia fails to comply with settlement agreement

Philadelphia, Pa. – Today a group of parents of students with disabilities filed a motion in federal court seeking to force the School District of Philadelphia to fully comply with a settlement agreement secured earlier this year. The agreement was intended to resolve a lawsuit brought in 2014 that challenged the district’s failure to provide individualized Extended School Year (ESY) services.

An estimated 19,000 students in Philadelphia receive special education services. For many of those students, school breaks can significantly disrupt academic progress. To avoid that harm, the federal Individuals with Disabilities Education Act (IDEA) requires school districts provide ESY services to eligible students and make individualized determinations as to the type, amount, and duration of ESY services provided to each student based on that student’s specific needs. ESY services can be provided any time there is an extended break from school—such as winter, spring, or summer breaks. But the School District of Philadelphia only offered ESY services to its students through a one-size-fits all summer “program” of set time and duration, denying alternatives to students who needed different types or amounts of services from that offered by the program.

Parents, represented by the Public Interest Law Center and Covington & Burling LLP, challenged the district’s one-size-fits-all ESY program. In January 2017, parents agreed to settle the lawsuit. Under the settlement agreement, and in accordance with federal law, the school district agreed to work with each student’s Individualized Educational Program (IEP) team, which includes parents, to determine the type, amount and duration of services based on each student’s individual needs prior to assigning a student to the district’s scheduled program. If the IEP team determines that students need additional or different services than those provided within the district’s prescribed services, the district must provide those additional services.

Also as a result of the settlement agreement, the district agreed to provide parents with certain written notifications concerning their child’s right to individualized ESY services. In addition, the District agreed to offer ESY-specific trainings to parents, special education teachers, special education liaisons, school administrators, and other district and school personnel to ensure all individuals involved in ESY determinations understand the requirement to provide individualized programs. In monitoring the settlement agreement, the Public Interest Law Center

learned that the district had not complied with some of these key notice and training requirements and is now asking the court to order the district to comply and to extend the terms by an additional year until December 31, 2020.

Parents, guardians, and advocates should be discussing ESY at each IEP Team meeting to determine the type, amount, and duration of services that each child needs—regardless of whether such services are part of the District’s summer ESY program. Parents who believe their children are not receiving appropriate services or who have not been given the opportunity to meaningfully participate in their child’s IEP process with regard to ESY services should contact Lee Awbrey at the Public Interest Law Center at 267-546-1313 or lawbrey@pubintl.org.

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About the Public Interest Law Center

The Public Interest Law Center uses high-impact legal strategies to improve the well-being and life prospects of vulnerable populations by ensuring they have access to fundamental resources including a high-quality public education, access to health care, employment, housing, safe and healthy neighborhoods and the right to vote. For more information visit www.pubintl.org or on Twitter @PubIntLawCtr.

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