



PUBLIC INTEREST LAW CENTER OF PHILADELPHIA

AFFILIATED WITH THE LAWYERS COMMITTEE FOR CIVIL RIGHTS UNDER LAW

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Court Upholds Earlier Ruling: School District of Philadelphia Must Involve Parents in Process of Transferring Students with Autism

Philadelphia, Pa. – United States Federal District Court Judge Legrome Davis today affirmed his earlier decision that parents of students with autism in the School District of Philadelphia must be involved in the educational placement process when the District decides to transfer them from one school building to another.

The decision comes after the School District of Philadelphia filed a Motion for Reconsideration in the case *PV v. School District of Philadelphia*, a class action lawsuit brought in 2011 by the Public Interest Law Center of Philadelphia and Dechert LLP. Originally filed on behalf of some 1600 students with autism, the plaintiffs contended that the District’s “upper-leveling” process, by which it transfers students with autism violates the Individuals with Disabilities Education Act (IDEA), because it ignored parental involvement as well as the difficulty that students with autism have with transition.

Judge Davis’ most recent decision reiterated his earlier finding that a change in school building location is a change in placement for students with autism since as a result of the autism, children have “difficulty with transitions, changes in routine and unexpected events.” Given the federal IDEA’s provisions emphasizing parental involvement, the Court also reasoned that parents should be at the core of all decision-making about their children with autism for purposes of preparing students for such changes.

While the Court recognized that a school district would have the final decision about a school building location for a student, he specifically required that the school district include a change of placement in a student’s Individualized Education Program (IEP) and notify the parents of this change through the federally required Prior Written Notice form, known in Pennsylvania as a Notice of Recommended Placement (NOREP). This week’s decision further says that parents must sign-off and return the NOREP in order for a student’s placement to change. If parents do not agree with the change in placement included in the IEP, they can challenge the placement change and request a due process administrative hearing. Students cannot be transferred until all legal proceedings are complete, giving parents the right to appeal a decision from a due process hearing to a state or federal judge.

“The court’s decision comes at critical time for parents of students with autism in Philadelphia as the district faces a possible delay in starting the school year. Parents of students with autism

should know that today's decision means the Court has recognized the difficulty with transition that students with autism have, and the necessity of the District working in partnership with their parents to plan for their educational placements," said Sonja Kerr, Director of the Disabilities Rights Project at the Law Center.

The Law Center, Dechert LLP and the school district will continue to work toward a settlement agreement in this case concerning the details of the injunctive relief ordered and must report progress to the District Court by October 15, 2013.

Parents of students with autism who have questions can contact the Law Center at 215.627.7100.

Read the full decision here: <http://www.pilcop.org/wp-content/uploads/2013/08/Special-Ed-PV-Denial-of-Motion-for-Reconsideration.pdf>

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