



The Council of Parent Attorneys and Advocates, Inc.

A national voice for special education rights and advocacy

PO Box 6767, Towson MD 21285 410-372-0208 www.copaa.org

January 23, 2009

The Honorable Chris Van Hollen
House of Representatives
Washington, DC 20515

The Honorable Pete Sessions
House of Representatives
Washington, DC 20515

Re: *The IDEA Fairness Restoration Act and Expert Fees:
Restoring the Balance Congress Intended*

Dear Congressman Van Hollen,

The Council of Parent Attorneys and Advocates (COPAA) is a national nonprofit organization of parents, attorneys, and advocates who work to protect the civil rights of children with disabilities and ensure that they receive appropriate educational services. We thank you and Congressman Sessions for introducing the IDEA Fairness Restoration Act, H.R. 4188, in the last Congress, and write to support introducing it again this year. Your bill will allow parents who prevail in hearings and litigation under the Individuals with Disabilities Education Act (IDEA) to recoup their expert witness fees. Few parents can afford the expense of expert witnesses. As a result, more than 110 organizations have joined with COPAA in supporting the IDEA Fairness Restoration Act. The list of organizations is attached to this letter.

The IDEA requires school districts to provide children with a free appropriate public education. When a school district provides an education so inferior that it fails this basic legal obligation, parents can seek a hearing from an impartial hearing officer. Expert testimony is often necessary in such cases. In 1986, Congress made clear its intent that parents who prevail should recover their expert witness fees under the Handicapped Children's Protection Act. But in 2005, the Supreme Court ignored Congressional intent and denied parents the right to recover expert fees.

Your bill would override this case and restore Congress' original intent. It will make a difference to the millions of parents of students with disabilities in America. Few parents can afford the thousands of dollars needed to pay qualified medical, educational, and technical experts. Approximately 36% of children with disabilities live in families whose income falls below the poverty line; approximately 2/3 live in families earning less than \$50,000 a year. While parents must hire expert witnesses to testify, school districts can use therapists, psychologists, and other expert witnesses on their payroll or hire witnesses at public expense. Of course, parents proceed to litigation only as a last resort. In 2003, the GAO reported that there were only 5 hearings per 10,000 special education students. And only parents who prevail could recover fees; parents who do not prevail could not.

We appreciate your support. The IDEA Fairness Restoration Act will ensure that parents are not deprived of their right to due process for lack of resources.

Sincerely yours,

Robert Berlow, Government Affairs Chair
Jessica Butler, Government Affairs Co-Chair
protectidea@copaa.org



ORGANIZATIONS SUPPORT



THE IDEA FAIRNESS RESTORATION ACT

- 1 Council of Parent Attorneys and Advocates, Inc., COPAA
- 2 National Disability Rights Network, NDRN
- 3 ARC of the United States
- 4 The Autism Society of America
- 5 Autism National Committee
- 6 Autistic Self-Advocacy Network (DC)
- 7 American Society for Deaf Children
- 8 Association of University Centers on Disabilities
- 9 Bazelon Center for Mental Health Law
- 10 Center for Law and Education, CLE
- 11 Children and Adults with Attention-Deficit/Hyperactivity Disorder (CHADD)
- 12 Disability Rights Education & Defense Fund, DREDF
- 13 Easter Seals
- 14 Higher Education Consortium for Special Education
- 15 International Dyslexia Association
- 16 Learning Disabilities Association of America
- 17 Learning Disabilities Association of Connecticut (CT)
- 18 League of Special Education Voters
- 19 National Alliance on Mental Illness
- 20 National Association of Councils on Developmental Disabilities
- 21 National Center for Learning Disabilities, Inc.
- 22 National Down Syndrome Congress, NDSC
- 23 National Down Syndrome Society, NDSS
- 24 The National Leadership Consortium
- 25 Nonverbal Learning Disorders Association
- 26 Our Children Left Behind.com
- 27 Southern Poverty Law Center School-to-Prison Reform Project
- 28 TASH
- 29 Teacher Education Division of the Council for Exceptional Children
- 30 Tourette Syndrome Association, Inc., TSA
- 31 United Cerebral Palsy Association
- 32 Alabama Disabilities Advocacy Program (AL)
- 33 California Association for Parent-Child Advocacy, CAPCA (CA)
- 34 Learning Disabilities Association of California (CA)
- 35 Bay Area Lawyers for Children (CA)
- 36 Burlingame Mother's Group of Kids with Special Needs (CA)
- 37 Community Alliance for Special Education, CASE (CA)
- 38 Families For Early Autism Treatment, FEAT (CA)
- 39 Legal Advocates for Children & Youth (CA)
- 40 Mills Legal Clinic - Youth & Education Law Project Stanford Law School (CA)

- 41 Sacramento Asperger Syndrome Information & Support (CA)
- 42 Solano Families for Effective Autism Treatment, Inc. (CA)
- 43 The K.E.N. Project, parent advocacy organization (CA)
Disability Rights Education and Defense Fund, DREDF (CA, also listed above as national)
- 44 Autism Society of Boulder County (CO)
- 45 African Caribbean American Parents of Children with Disabilities, Inc. (CT)
- 46 Child Law Unit - New Haven Legal Assistance Association, Inc. (CT)
- 47 Connecticut Legal Services, Inc. (CT)
- 48 Learning Disabilities Association of Connecticut (CT)
- 49 S.E.P.T.A. Network (CT)
- 50 Advocates for Justice and Education, Inc. (DC)
- 51 Bread for the City (DC)
- 52 Juvenile & Special Education Law Clinic, Univ. of District of Columbia - David A Clarke School of Law (DC)
- 53 The Children's Law Center (DC)
- 54 University Legal Services (DC)
- 55 Autistic Self-Advocacy Network (DC)
- 56 Florida Association of Special Education Attorneys (FL)
- 57 Southern Legal Counsel, Inc. (FL)
- 58 Statewide Advocacy Network on Disabilities, STAND (FL)
- 59 Learning Disabilities Association of Illinois (IL)
- 60 Advocacy Services of the Jewish Federation of Metropolitan Chicago (IL)
- 61 Chicago Medical Legal Partnership for Children, Health & Disability Advocates (IL)
- 62 Equip for Equality (IL)
- 63 LIFE Center for Independent Living (IL)
- 64 Mothers from Hell 2 (IL)
- 65 Northwestern Illinois Center for Independent Living (IL)
- 66 Self Advocacy Council of Northern Illinois (IL)
- 67 Special Kids, Special Families (IL)
- 68 Will-Grundy Center for Independent Living (IL)
- 69 Voice-Advocacy (IL)
- 70 South Suburban Chicago CHADD (IL)
- 71 Kentucky Protection and Advocacy (KY)
- 72 Disability Law Center (MA)
- 73 Federation for Children with Special Needs (MA)
- 74 Center for Law and Education (MA; also listed above under national)
- 75 Maryland Coalition for Inclusive Education Inc. (MD)
- 76 Maryland Disability Law Center (MD)
- 77 Mid Atlantic Chapter of TASH (MD)
- 78 Anne Arundel County Chapter, Autism Society of America (MD)
- 79 Learning Disabilities Assoc. of Calvert County, Inc. (MD)
- 80 Shared Support Maryland, Inc. (MD)
- 81 Disability Rights Center of Maine (ME)
- 82 Michigan Tourette Syndrome Association (MI)
- 83 Paraquad Independent Living Center (MO)
- 84 Parents United Together of Mississippi (MS)
- 85 ADAPT Montana (MT)
- 86 Montana Advocacy Program (MT)
- 87 Education Law Center of New Jersey (NJ)

- 88** New Jersey Protection & Advocacy, Inc. (NJ)
- 89** New Jersey Special Education Practitioners, NJSEP (NJ)
- 90** The Arc of New Jersey (NJ)
- 91** Apraxia Network of Bergen County (NJ)
- 92** Excellent Education for Everyone (NJ)
- 93** Parent2Parent Group of Jackson New Jersey (NJ)
- 94** Mr. G's Kids, Inc. (NJ)
- 95** Seton Hall Law School Center for Social Justice (NJ)
- 96** Statewide Parent Advocacy Network of New Jersey, SPAN (NJ)
- 97** The Special Education Clinic Rutgers University School of Law (NJ)
- 98** The Center for Learning Differences, Inc. (NY)
- 99** Ohio Legal Rights Service (OH)
- 100** The Ability Center of Greater Toledo (OH)
- 101** Northwest Special Educational Services (OR)
- 102** Disability Rights Network of Pennsylvania (PA)
- 103** Education Law Center of Pennsylvania (PA)
- 104** Jewish Family & Children's Service of Greater Philadelphia (PA)
- 105** Pennsylvania Tourette Syndrome Association (PA)
- 106** The Arc of Pennsylvania (PA)
- 107** The Global and Regional Asperger Syndrome Partnership of Philadelphia (PA)
- 108** Tennessee Disability Coalition on Education (TN)
- 109** Down Syndrome Policy Network of Tennessee (TN)
- 110** Spina Bifida Association of Houston Gulf Coast (TX)
- 111** Advocating 4 Kids Parent Support Group (VA)
- 112** Endependence Center, Inc., Disability Advocacy & Services (VA)
- 113** Autism Society of Northern Virginia (VA)
- 114** Disability Rights Wisconsin (WI)
- 115** Wisconsin Family Assistance Center for Education, Training, and Support, FACETS (WI)
- 116** The Arc of Racine County, Inc. (WI)