

“Parents Trust Me, I’m From The Government And I’m Here To Help You”

The Individuals with Disabilities Education Act (IDEA) has a long history that provides an educational safety net designed to protect the rights of parents and their children with disabilities. Procedural safeguards are intended to ensure that parents are involved with every aspect of the educational process concerning their children. It is obvious that children with disabilities cannot advocate for themselves. So parents play a critical role in ensuring that school districts provide a *free and appropriate public education* (FAPE). But what if parents cannot advocate effectively because they do not speak English or they do not have access to information or they are not appropriately informed? The importance of information to parents cannot be overstated.

Another important issue is the need for transparency when changes are made to the special education system. State departments of education are required under Federal law to hold public hearings prior to changing special education policies. It is obvious why this is an important issue for children with disabilities. If advocates for children do not have an opportunity to express their concerns and opinions about changes in educational policy, then those very changes pose a threat to the fundamental rights of both parents and children with disabilities. The administrative agency has an inherent imperative to uphold the requirements of any Federal law established to protect the rights of the individuals it is mandated to serve. Within the purview of any administrative governmental agency is the guarantee that the public trust, which it is duty-bound to uphold, will be respected. What should happen then when the public trust is violated?

In 1995, the public trust was violated when the New York State Education Department decided to change the special education system without holding the required public hearings. The Department utilized, what is referred to as a *Rule Making Procedure* which did not require public hearings. So, without public hearings and by means of a *Rule Making Procedure*, the entire special education system was changed without the knowledge of many parents and educators throughout the state. *The Rule Making Procedure* allowed the State Education Department to introduce program CAPs limiting services to children with disabilities. Whereas in the past services were provided based on the individual needs of students, the program CAPs now require that placement considerations be made based on the needs of a “region” rather than a student’s individual needs.

A great deal of time has passed and a question arises. Is there a moral and/or ethical imperative to demand a review of the state’s actions? What do we do about this system? Do we dismantle it and possibly disrupt children, services and schools? What is the appropriate remedy? Do we hold public hearings now after that system has been in place for 13 years? If we leave the system without redressing the legal violation, then we have legitimized it by longevity. Consider the history of racial laws that were in place for decades. Should the fact that they were in place serve to legitimize what they really were – discriminatory? If we argue by analogy, we are left with powerful arguments that persuasively require some kind of challenge and action to the present system which was

illegally manufactured by the State Education Department. As the parent of a child with a disability, what would you do?

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