



Special Education Law Update

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PARENTS HAVE SUBSTANTIVE RIGHTS UNDER THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA)

Winkelman by Winkelman v. Parma City
School District, 127 S. Ct. 1994 (May 21, 2007)

In May 2007, the U. S. Supreme Court ruled that parents can proceed *pro se* (representing themselves) in “IDEA” (Individuals With Disabilities Education Act) litigation in federal courts as “parties aggrieved.” In so finding, the Supreme Court reversed a decision of the 6th U. S. Circuit Court of Appeals. The 6th Circuit had held that the parents of a child were not entitled to pursue a free appropriate public education (FAPE) claim in federal court unless they hired an attorney. In reversing that decision, the U. S. Supreme Court concluded that parents have substantive rights of their own under the IDEA.

The Supreme Court rejected the view that parents’ rights under the IDEA are limited to certain procedural and reimbursement-related issues. Instead the Court concluded that the IDEA “convey[s] rights to parents as well as to children.” The court found that the IDEA conveyed to parents the entitlement to a free appropriate public education for their child.

In light of the Supreme Court’s finding that parents hold these substantive rights, the Court did not need to address the question of whether parents may litigate their children’s claims *pro se*.

Several commentators have opined that the Supreme Court’s holding will increase the number of frivolous claims filed in federal courts.

If you have any questions regarding this ruling, please contact this office.

–Carol J. Grogan

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