

Tax Funded Vouchers Allow Students with Disabilities to Waive Their Federal and State Rights to A Free and Appropriate Education

A few months ago the Equity and Adequacy Coalition received a reminder from Ian Robinson and Sarah Robinson that voucher students with disabilities give up rights guaranteed by federal and state law when they opt into a private school setting.

Those parents who foot the bill for private school tuition at their own expense possibly have the right to waive legal entitlements for their children with disabilities. But do they have the right to do so when the public is paying part or all of the bill? It would seem not!

The message from Ian Robinson and Sarah Robinson is pertinent to this matter:

“Dear Mr. Phillis:

We must publicize and fix the fact that Ohio’s special needs voucher programs are promoting and financing educational segregation at public expense.

The voucher program supports private schools, which unlike public schools, charge a fee just to apply and are left free to decide whom to admit or reject. Moreover, that such schools have the ability to accept or reject an application for admission opens the door to secretly pervert state and federal anti-discrimination laws. To be eligible for registration, a private provider should demonstrate that it shall not discriminate on the basis of race, color, or national origin (OAC 3301-101-09), but this regulation does not forbid discrimination on the basis of disability. Additionally, parents who accept a Jon Peterson special-needs scholarship program voucher must give up their child’s right to be included in general education. However, these parents are systematically not informed of this fact.

Under state and federal law, students with a disability are entitled to receive a free and appropriate public education (“FAPE”) under the Rehabilitation Act of 1973 and the Individual with Disabilities Education Act (OAC 3301-101-12). However, under the state voucher program, parents and students relinquish their due process rights and their right to a free appropriate public education under the federal Individuals with Disabilities Education Act and Ohio Operating Standards for Students with Disabilities. In addition, private providers are not required to provide all of the services included in the IEP. Parents have to sign a waiver of such rights. Students and their parents’ due process rights are further abridged in that they are forbidden to allege or seek redress for any violation of any requirements involving the implementation of their IEP and whether the child has received a free and appropriate public education.

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In most cases this means that their children will be entirely excluded from state and federal protections. They will likely attend a totally segregated school with literally no possibility of learning alongside non-disabled students. While some parents might voluntarily choose this kind of exclusionary education they should not be tricked into doing so. There is virtually no public awareness of this deceptive practice and the resulting rollback of civil rights for people with disabilities.

Please help inform the public on this issue and encourage all to remedy these discrepancies that cause harm to Ohio students.

Sincerely yours,

Sarah Robinson, Retired Licensed Social Worker
Ian Robinson, Attorney at Law”

Ohio has a long history of providing programs for children with disabilities. Just 2 decades after statehood, the Governor requested an enumeration of hearing-impaired children. In 1827 the legislature enacted legislation to establish a school for the hearing-impaired.

In 1834 the state constructed a building to accommodate the education of hearing-impaired children.

In 1879 Cincinnati schools began a local program for hearing-impaired children.

A state school for the blind opened in 1837. A school for physically-disabled children was established by the Cleveland Board of Education in 1910. Programs for children with learning disabilities were started in the early 1900's.

Before the federal and state guarantee of a free and appropriate education for all children with disabilities was legislated in the mid-1970's, Ohio had been recognized as having one of the largest, broadest, and most effective special education programs in the nation. It is ironic that Ohio, beginning in the 1990's, has in place laws that allow parents of children with disabilities to waive their rights when opting into private education ventures.