

Court Approves Agreement in DC Special Education Case

August 29, 2006—A long-awaited agreement spelling out steps to end delays in District of Columbia students' access to needed special education has received court approval.

In an opinion issued August 24, Judge Paul N. Friedman called the settlement “the historic and hopeful point in the history” of two class action lawsuits filed in 1997. One, *Blackman v. District of Columbia*, challenged the school system’s failure to hold timely hearings on parents’ request for special education. The other, *Jones v. District of Columbia*, charged that the system unduly delayed implementation of special education plans ordered by hearing officers or agreed to in such hearings. The court combined the cases in 1998.

An estimated 2,000 children currently await implementation of overdue plans. “What is really astonishing is the need for so many hearings,” said Ira Burnim, legal director of the Bazelon Center for Mental Health Law, a national legal-advocacy organization, and one of the lawyers representing the students. “The District’s special education system is in such disarray that it appears to have more hearing requests—and hold more hearings—than systems in the 50 states combined. To comply with the settlement, DC will have to repair special education overall.”

Alisa Reff, counsel at Drinker Biddle & Reath, a law firm assisting the Bazelon Center pro bono, noted, “The delays have left thousands of children without the services and supports that have been ordered or agreed to. The consent decree is designed to help these children and prevent such backlogs in the future.”

The consent order sets out a timetable for reforms to improve timely access to special education in the District, including:

- Adjudicating or settling 90 percent of pending hearing requests by September 24, 2006 and ensuring that no requests are more than 90 days overdue;
- By June 30, 2007, implementing all currently overdue plans;
- Setting a schedule of deadlines to provide services ordered or agreed to in new plans;
- Improving and maintaining the District’s special education data management system and developing a tracking system to identify and address service lapses;
- Providing compensatory education services to eligible special education students whose access to services has been delayed; and

- Appointing a monitor, Amy Totenberg, who served as a mediator in negotiation of the settlement, and evaluation team of experts in system reform to provide periodic reports on progress.

The District government will supply \$5 million annually above the normal public school system budget to comply with the consent order. Another \$10 million is specified to pay for compensatory services.

“If implemented correctly, the consent decree will help ensure that children with disabilities can access the services that they’re entitled to under federal law without always having to resort to litigation against the school system,” continued Charles Moran, a private attorney for the children who filed the initial complaint.