

MEDIA ADVISORY
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Contact: William Frazier (888) 927-4332 (927-IDEA)
Email: William@pabilaw.org

Federal Lawsuit To Keep MI Schools Open

Families Across Michigan With Special Needs Demand Schools Stay Open

NEW YORK, NY – Civil Rights attorney, Patrick Donohue, and Brain Injury Rights Group announced on Wednesday, January 5, 2022, they have filed a motion seeking a Temporary Restraining Order (TRO) against all Michigan school districts on behalf of hundreds of thousands of special education students. The action seeks to have United States District Court Judge, the Honorable Judith Levy, issue an emergency order preventing all Michigan school districts from closing and unilaterally changing from in-person services to “remote learning” without the consent of the parents of these special education students.

There are about 200,000 students in Michigan between 3 and 21 years of age receiving special education services. These students have Individualized Education Programs (IEPs) with their local school districts that outline the educational program the student is supposed to receive. When the local school districts unilaterally, substantially and materially changes their educational programs by closing school and keeping these students home to receive “remote learning”, or no services at all, they violate the federal civil rights of these students under the Individuals with Disability Education Act (IDEA). This illegal action by school districts violates the pendency or “stay-put” rights of each special education student. The specific IDEA provision, 20 U.S.C. § 1415(j), states “during the pendency of any proceedings conducted pursuant to this section, unless the State or local educational agency **AND** the parents otherwise **AGREE**, the child shall **REMAIN** in the then-current educational placement of the child.” The U.S. Supreme Court “has emphasized that the provision’s text is ‘unequivocal’ and ‘states plainly’ that the child ‘shall’ remain in his current educational placement ‘during the pendency of any proceedings initiated under the act.’” Go to www.reopenclass.com/reopen-class-news/ to see a copy of the filing.

Patrick Donohue stated, “**It is inexcusable for school districts to continue to violate the rights of special education students by closing schools eighteen months after ‘Two Weeks To Stop The Spread’! This is a continuation of the COVID-19 crimes against our children based upon the fears of adults by corrupt union bosses and unaccountable education bureaucrats. Shame on those who were silent while the greatest case of child sacrifice occurs in human history! Where is Governor Gretchen Whitmer?**”

Each student represents a family. As of Wednesday, January 5, 2022, the following school districts have announced unilateral changes from in-person to “remote”: Ann Arbor Public Schools, Oak Park Public Schools, Detroit Public Schools Community District, Southfield Public Schools, Lansing School District, Pontiac Public Schools, Genesee County Schools, Flint Community Schools, Richfield Public School (with more being announced every hour).

The TRO was filed as part of a pending federal statewide class action lawsuit, *5:21-cv-11532-JEL-APP, Simpson-Vlach et al v. Michigan Department of Education et al*, seeking declaratory and injunctive relief against the Michigan Department of Education and other local school districts to enjoin them from violating the Plaintiffs procedural and substantive rights under the Individuals with Disabilities Education Act (IDEA), Section § 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act (ADA), the Michigan Constitution, and the Equal Protection Clause of the Fourteenth Amendment.

Plaintiffs have suffered and continue to suffer irreparable harm as a result of Defendants' refusal to meet the educational needs of students with disabilities in Michigan School Districts and will continue to suffer further irreparable harm unless and until the Court grants declaratory and injunctive relief against Defendants to remedy the illegal treatment of and discrimination against students with disabilities in Michigan School Districts, and to ensure that the educational rights of students with disabilities are not violated.

The federal lawsuit also alleges the Defendants violated the Racketeer Influenced and Corrupt Organizations (RICO) Act of 1970. The RICO cause of action arises from a scheme by defendants to fraudulently use their respective enterprises to defraud plaintiffs, the beneficiaries of IDEA Part B, by making false assurances to the United States Department of Education (USDOE) that the MI DOE and its local school districts complied with IDEA during the COVID-19 pandemic.

For more information about the lawsuit, please go to www.ReOpenClass.com and if parents want to join the lawsuit they can call the toll-free hotline: 888-927-4332 / 888-927-IDEA.

Patrick Donohue is a civil rights attorney who became an advocate after his daughter, Sarah Jane, was violently shaken by her baby nurse when she was only five days old, breaking four ribs, both collarbones and causing a severe brain injury. The Brain Injury Rights Group is a national civil rights legal advocacy non-profit organization headquartered in New York City. Besides Brain Injury Rights Group, Mr. Donohue has founded one of the largest brain injury programs in the country located in New York City, the International Institute for the Brain (iBRAIN).

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