

MEDIA ADVISORY
January 10, 2022

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Is Gov. JB Pritzker Illinois’ “Pontius Pilate”?

**Special Needs Parents File Federal Lawsuit To Keep Schools Open Across Illinois
Calls For President Biden, AG Garland and Secretary Cardona To “Bring In The Feds!”**

NEW YORK, NY – Civil Rights attorney, Patrick Donohue, and Brain Injury Rights Group announced on Monday, January 10, 2022, they have filed a motion seeking a Temporary Restraining Order (TRO) against all Illinois school districts, including Chicago Public Schools, on behalf of hundreds of thousands of special education students and their parents. The action seeks to have the United States District Court issue an emergency order preventing all Illinois 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. The lawsuit also alleges a RICO Fraud conspiracy by school districts across Illinois taking federal funds but not providing the services to these students.

There are over 250,000 students in Illinois between 3 and 21 years of age receiving special education services (about 14 percent of 1.8 million students; Chicago has about 350,000 students). 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 Pritzker? There aren’t words to describe the dereliction of duty by Governor Pritzker and his administration after more than 18 months of government overreach into every aspect of our lives. Governor Pritzker wants to *wash his hands* of his responsibility to parents and special education students in the State of Illinois! He should be ashamed of himself for his deafening silence while the greatest case of child sacrifice occurs to our children under his watch.”

“Why is President Biden letting the Chicago Teachers Union hold parents and children hostage for their political agenda? We are calling on President Joe Biden, Attorney General Merrick Garland and Secretary of Education Miguel Cardona to bring the federal Offices of Civil Rights within the U.S. Departments of Justice and Education to take control of these rogue school districts and these corrupt teachers unions for violating the civil rights of our most vulnerable children! It is well documented when President Biden and Attorney General Garland attacked parents as domestic terrorists for participating in school board meetings as well as President Biden and Secretary Cardona went after states and school districts who would not implement unscientific school mask mandates on children. It’s time for President Biden, AG Garland and Secretary Cardona to advocate for parents and kids instead of corrupt teachers unions and unaccountable education bureaucrats! Bring in the Feds! They should immediately file a notice of appearance and support these parents and children!”

The TRO was filed as part of a pending federal statewide class action lawsuit, *1:22-cv-00123 Simmons v. Pritzker et al*, seeking declaratory and injunctive relief against the Illinois State Board of Education (“IL DOE”) 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 Illinois Constitution, and the Equal Protection Clause of the Fourteenth Amendment. Below are some basic legal information and facts detailed in the federal class action lawsuit:

- The **Individuals with Disabilities Education Act**, 20 U.S.C. §1400, et seq. (“IDEA”), guarantees students with disabilities a **free appropriate public education** (“FAPE”). The term FAPE refers to special education and related services that are designed to meet a child’s unique needs and that will prepare the child for further education, employment, and independent living.
- The **Illinois State Board of Education** is the **State Education Agency** (“SEA”) which manages and controls the education affairs for all **Local Education Agencies** (“LEA”), i.e., school districts. The **Superintendent of Education** adopt regulations to implement education pursuant to Illinois Law.
- As defined by 20 U.S.C. §§ 1401(14) and 1414(d), the vehicle for the provision of FAPE is the **Individualized Education Program** (“IEP”), the document which embodies the school district’s recommendations for a particular child. *Bd. Of Educ. v. Rowley, 458 U.S. 176, 181 (1982)*. Once drafted, the IEP is essentially a contract and bears the imprimatur of the State, regardless of the Local Educational Agency (“LEA”) that created it, and carries a presumption of correctness. *See Letter to Rieser, EHLR 211:403 (July 17, 1986)*.
- Pursuant to **Section 504 of the Rehabilitation Act of 1973**, 29 U.S.C. § 794, et seq. (“**Section 504**”), disabled students who receive special education are entitled to have their educational needs met as adequately as the needs as non-disabled students are met. Section 504 prohibits discrimination against individuals with disabilities and prohibits discrimination to the full range of state and local government services, programs, and activities (including public schools) regardless of whether they receive Federal financial assistance.
- Pursuant to **Title II of the Americans with Disabilities Act**, 42 U.S.C. § 12101, et seq. (“**ADA**”), no qualified individual with a disability shall, by reason of such disability, be excluded

from participation in or be denied the benefits of the services, programs, or activities of a public entity (State or local government), or be subjected to discrimination by any such entity. This includes disabled students who receive special education.

- IL DOE receives funding pursuant to IDEA, 20 U.S.C. § 1412, the ADA, and § 504, and therefore must comply with the statutes' provisions.
- IL DOE must ensure that each LEA in Illinois, i.e., school districts, takes steps to ensure that children with disabilities within its jurisdiction have access to the same educational opportunities as their non-disabled peers. 20 U.S.C. § 1412(a)(2); §1413(a)(1); 34 C.F.R. § 300.110.
- IL DOE and the school districts deprived plaintiffs of their substantive due process rights as guaranteed by the **Fourteenth Amendment to the United States Constitution**, in violation of the Civil Rights Act of 1871, 42 U.S.C. § 1983, when it closed its in-person instruction in March of 2020, and again when they went "remote" in January 2022.
- IL DOE and the school districts fraudulently obtained federal funds by and through both the IDEA and Medicaid for unlawful related services purportedly "rendered" to Illinois students with disabilities.
- **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 Illinois 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 Illinois 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 IL 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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