

Human and Civil Rights Reporter

Fall 2009

Connecticut Education Association

HCR Reporter
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UPDATE ON THE P.J. SPECIAL EDUCATION LAWSUIT

Court Rejects an Automatic 80 Percent Rule for Every Special Education Student

P.J. et al v. State of Connecticut, State Board of Education (P.J.) stands as one of Connecticut's most significant cases in the area of special education. The 1991 class action lawsuit filed on behalf of mentally retarded/intellectually disabled (MR/ID) students and their families was settled in 2001. The parties reached a legal agreement containing five agreed-upon goals that were developed from mutually-desired outcomes. An expert advisory panel (EAP) was appointed to set target numbers for each goal. The five goals are

1. An increase in the percent of students with mental retardation or intellectual disability who are placed in regular classes, as measured by the federal definition (i.e., 80 percent or more of the school day with nondisabled peers). *Note:* The EAP set a target for school districts that aimed to have 80 percent of the MR/ID students placed in regular classes for 80 percent or more of the school day.
2. A reduction in the disparate identification of students with MR/ID by school district, by racial group, by ethnic group, or by gender group
3. An increase in the mean and median percent of the school day that students with MR/ID spend with nondisabled peers

4. An increase in the percent of students with MR/ID who attend the school they would attend if not disabled (i.e., home school)

5. An increase in the percent of students with MR/ID who participate in school-sponsored extracurricular activities with nondisabled students

The court retained jurisdiction for five years, ending in August 2007, but would continue to hear arguments by the plaintiff-families for three additional years (until August 2010) if they believe the state has not complied with the agreement. One such motion was filed by the plaintiffs in the spring of 2008 but was denied by the court.

In April 2009, the State Department of Education (SDE) issued a periodic report on its progress toward the P.J. goals and found significant progress in all areas. For example, the percent of Connecticut students with MR/ID who are educated in the regular class (i.e., who spend 80 percent or more of their time with nondisabled peers) increased from 9.1 percent statewide in 1998 to 48.4 percent in 2008. Moreover, the mean percent of time that these children spend with nondisabled peers increased during this same period from 30.7 percent to 70.6 percent.

The SDE report also cites activities in which it has engaged in support of the agreement such

as statewide and individual district professional development, focused discussions with targeted districts' staff, and assigning consultants to work with targeted districts to conduct observations, provide feedback, and develop improvement plans. The SDE also has continued to provide the plaintiffs with information upon request.

Also, in 2008, one of the first post-P.J. decisions was issued in a lawsuit filed by Connecticut parents alleging that a school district did not provide their child with an appropriate program in the least restrictive environment. Specifically, in *P. v. Newington Board of Education*, 546 F.3d 111 (2nd Cir. 2008), the United States Court of Appeals for the Second Circuit rejected the parents' claim and adopted the so-called *Daniel R.R.* test that has been applied in other circuit courts. The *Daniel R.R.* test considers whether "education in the regular classroom, with the use of supplemental aids and services, can be achieved satisfactorily" and whether the school "has mainstreamed the child to the maximum extent appropriate." In the *Newington* case, the parents contended that, as a result of the P.J. settlement agreement, the Court was required to adopt a presumption that a student must be placed in general education with nondisabled peers for 80 percent or more of the school day. The court rejected this argu-

P.J. update...*continued on page 3*



A Message from the HCR Commission Chair

Greetings, My Fellow Educators!

First, I would like to take this opportunity to congratulate this year's CEA Human and Civil Rights award winners. The awards were presented in August at CEA's Summer Leadership Conference held at Mohegan Sun.

Through my travels this past summer, along with conversations with teachers, friends, and others, and reading the newspaper, I have been reminded of how truly lucky I am to live in the United States. We are a nation of abundance and freedom. We all know, however, that the abundance does not reach everyone and that not everyone is truly free to speak up for themselves. As teachers, we encourage our students to be individuals and to self-advocate. In fact, self-advocacy is sometimes a goal found in IEPs, yet many of us are unable to model these behaviors for various reasons, fear often being the biggest. Fear comes from many places, but if we are not able to speak up for ourselves and support our peers' individuality, who will? In these times of rapid change, I hope that we are all able to share our abundance, to find it within ourselves to hold true to our values, and to stand up for ourselves, our family, friends, colleagues, and our profession.

May you all have a positive teaching experience this year and be true to yourselves.

Peace,

Jennifer Jasenski

2009 CEA HCR AWARDS RECIPIENTS

At the annual CEA Awards Dinner held at CEA's Summer Leadership Conference at Mohegan Sun on August 3, 2009, four CEA members were honored for their contributions in the area of human and civil rights.

DEBRA BALLETO

CEA Humanitarian Award for Leadership in Recent Immigrant Educational and Community Relationships



Debra Balletto

Debra Balletto, a special education teacher at Wilby High School in Waterbury, has spent the last five years advocating for people in need and working to improve the lives of those less fortunate than herself. Each year, she has spent one week volunteering with members of her church building homes for families devastated by Hurricane Katrina.

Moreover, for the past year, Debra has become a kind of surrogate mother for a local refugee family from war-torn Burma, helping them to assimilate into American culture. Each Saturday, she has conducted English lessons in a small apartment living room and the "class" has grown from five to fifteen students. She has not just taught them basic English but also appropriate colloquial terms such as "brushing" versus "washing" their teeth and the various terms used for cleaning products. She uses donated

textbooks as well as instructional materials that she has created specifically for them. In addition to language instruction, she has helped the family members with basic needs such as filing for unemployment benefits when they were laid off, teaching them how to make medical appointments, and how to fill out paperwork when visiting a physician's office or pharmacy. While she has accepted monetary donations, she has also collected clothing and shoes and has personally assisted the refugees on shopping trips for basic necessities. She also has coached them in how to maintain a checkbook, how to take books from the local library, and even how to sing "Happy Birthday" when celebrating each other's birthdays.

Although she is retiring from teaching this year, Debra is committed to continuing to share her skills as teacher with those in need. In his nominating letter, Raymond Byron, treasurer of the Waterbury Teachers' Association, wrote, "I have had the opportunity to witness Debra give of her time...and have come to appreciate her selflessness and dedication to those less fortunate... Her strength and courage in drastically impacting the lives of others who are less fortunate is something that I admire greatly."

SALLY ROGERS

Prudence Crandall Memorial Award

Sally Rogers, a music teacher at Pomfret Community School, has developed the school's Cultural Arts Program in which the entire school community (preschool through grade eight) is immersed in a week-long study of a particular country. Sally, the adoptive parent of a minority child, initiated the program 16 years ago after recognizing the lack of diversity in her community and the need to promote a greater appreciation of different cultures.

The interdisciplinary program involves the selection of a particular country that will be the focus of the annual program. With help from school and community volunteer docents, activities are designed that will allow the staff and students to better understand the culture, customs, and human rights issues in the chosen country. Docents are invited to the school to read a story, do a craft, or share an experience from their country. A group of volunteers also compiles and distributes a teacher resource packet that includes relevant materials for the staff to use throughout the week and across the various disciplines including art, social studies, language arts, and music. In addition, each year a marketplace is set up in the school for students to visit and purchase goods, enjoy native food samplings, and learn about the country's export products. The annual cultural arts week also includes a native performance and culminates with a traditional meal to which the entire community is invited, as well as a service project in which students engage in a fundraising effort aimed at providing financial assistance to an important cause in that country. For example, when Kenya was the focus of the program, students sang Kenyan songs and recorded them on a CD that they sold. The monies raised were used for the purchase of much-needed mosquito nets for Kenyans suffering from malaria. Each CD sold enabled the school to purchase two mosquito nets.

By the time students leave Pomfret Community School, they have "visited" nine countries and have a clear understanding of these countries' cultures and traditions.

In the words of her nominator, Wendy Durand, Sally is a "very committed and talented colleague" who has developed the cultural arts week into a schoolwide event "where everyone has ownership and reaps the rewards of a program that is second to none."



Sally Rogers

MELISSA LOTSTEIN AND JENNIFER NAGEL

Hellen Keller – Anne Sullivan Memorial Award

Melissa Lotstein and Jennifer Nagel teach music and special education, respectively, at Sedgwick Middle School in West Hartford. Together, these colleagues initiated the school's Unified Theater that brings together a diverse group of general and special education students to act in student-written and directed skits that equally feature the talents of students with and without special needs. The Unified Theater program began



Jennifer Nagel (left) and Melissa Lotstein

in 2004 with 30 students and has grown to include more than 50 students this past year.

To prepare for the annual production, Melissa and Jennifer hold weekly 90-minute meetings with all of the students and, as the production date draws closer, conduct regular two-hour rehearsals. The Unified Theater relies solely on student and adult volunteers covering all aspects of the show from producers and choreographers to technical assistance and costume design. Melissa and Jennifer utilize their skills as educators to integrate all of the students into the production based on the students' individual abilities and talent. As their colleague, Jasdeep Singh, explained in his nomination letter, "their greatest tribute to the play each year is that the students become so engaged in the production process that it is easy to forget that this is unified theater. The line between 'categories' of students, special and mainstream education, blends and becomes invisible, leaving just children helping and teaching one another."

In November, the Unified Theater presented its fifth-anniversary production entitled "Around the World in Sixty Minutes" that included five mini-skits plus a grand finale that took the audience on a journey to France, Spain, the Amazon, the North Pole, and Australia. The show combined humor, acting, and music, and was widely attended.

The mother of a student with special needs who has participated in the Unified Theater expressed her sincere appreciation for the efforts of Melissa and Jennifer by stating that these two teachers took her daughter "under their wings and together created a production with singing, dancing, and role-playing that has left her with more self-confidence, more friends, and memories that will stay with her into high school."

P.J. update...continued from page 1

ment and held that even though “Connecticut school authorities may have found this [80%] percentage figure useful, we conclude that mandating such a percentage in every case would be inconsistent with the IDEA’s directive that schools take an individualized approach to each student.” The court further opined that the 80 percent figure is neither “presumptively adequate” nor “presumptively inadequate.”

Thus, this case is significant for reaffirming that P.J.’s goal of students being included in regular education 80 percent of the time was a goal, not a mandate, and that each child’s Individualized Education Program (IEP) must be developed on a case-by-case basis with that child’s own individual needs driving all decisions.

RECOMMENDED HCR RESOURCES FOR TEACHERS

A Report on the Status of Gay, Lesbian, Bisexual and Transgender People in Education: Stepping Out of the Closet, Into the Light

This recently released report from the National Education Association addresses the challenges facing gay, lesbian, bisexual, and transgendered students and employees in our schools. It reveals that many GLBT students are missing school, underachieving academically, or dropping out due to bullying, harassment, or physical abuse in school. GLBT employees suffer as well under pressure to hide their sexual orientation for fear of reprisal. This research-based report provides strategies and tools to assist educators in improving school environments for their students and colleagues. To download a copy of the report, go to www.nea.org/assets/docs/glbstatus09.pdf

American Academy of Pediatrics Issues New Policy Brochure to Help Thwart Bullying

For the first time, the American Academy of Pediatrics (AAP) has included a section on bullying in its policy statement concerning the pediatrician’s role in preventing youth violence. In its *Connected Kids* brochure entitled, **Bullying: It’s Not OK**, the AAP offers specific strategies for physicians, parents, and educators to use to address bullying whether the child is the victim, perpetrator, or bystander. AAP has adopted the prevention model developed in the 1970s by Norwegian researcher Dan Olweus. The Olweus model works at the school, classroom, and individual levels and focuses particular attention on bystanders. The goal is to allow bystanders to realize that the bully is the child with the problem and the victim is the child who needs protection. To order copies of this brochure, click on “Bookstore” at www.aap.org.



Let's go to the movies!

Eat, Watch, Discuss, Relax!



CEA’s Human & Civil Rights Commission presents:

A Movie & Discussion Night for Teachers

THE HOBART SHAKESPEAREANS

This documentary is the inspiring story of one phenomenal teacher, Rafe Esquith, and his eager students at the Hobart Boulevard Elementary School in the heart of Central Los Angeles who together touchingly demonstrate the power of education. With genuine passion and ironclad conviction, Mr. Esquith turns the Asian-American and Latino children of a violence-stricken central Los Angeles neighborhood on to the wonders of Shakespeare, Mark Twain, and mathematics. By imploring them to work hard and believe in their own self-worth, he inspires hope in this endearing troupe and proves once again that one educator really can make a difference.

Monday, November 2, 2009
5:30 PM – 8:30PM

CEA Headquarters
21 Oak Street, Fifth Floor, Hartford

A light dinner and popcorn will be served.
This is a free event and open to the first 30 CEA members to register.

Free on-site parking is provided

To register, please go to www.cea.org and click on *Upcoming Events*.
Registration deadline: Friday, October 23



New cyberbullying workshop offered to local Associations **Cyberbullying: Your Responsibilities, Your Rights**

Texting, picture messaging, online social networking – you do it; your students do it. But because of the anonymous nature and unlimited audiences of technological communication, cyberbullying has emerged as one of the most challenging issues for students and educators today. In a matter of seconds, anyone can be privy to personal, hurtful, and offensive information generated by one person about another.

In this workshop designed by teachers, you will obtain critical guidance on what your responsibilities are when one of your students reports being the target of cyberbullying, hear about topical resources for the classroom, and learn what your legal rights are if you become a victim of cyberbullying.

Local associations interested in more information about hosting this workshop in their district should contact:

Lynn Rice Scozzafava

Litchfield High School Language Arts

President, Litchfield Education Association

Litchfield High School: 860-567-7530 x 547 or mobile 860-480-1460

HCR Workshop

What Is the Human and Civil Rights Commission?

The Human and Civil Rights (HCR) Commission is a standing committee of CEA that provides content and technical information to CEA members on human and civil rights issues such as affirmative action, cultural competence, student achievement, ESEA, IDEA, gender equity, diversity training, English-language learners, safe schools, and NCLB.

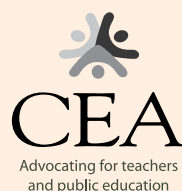
HCR takes an active leadership role in CEA by:

- Monitoring legislation that affects human and civil rights.
- Presenting the Human and Civil Rights Awards at the Summer Leadership Conference.
- Developing, delivering, and promoting appropriate statewide professional development programs to meet needs in the education environment.
- Sharing information about the HCR Commission's work in the *HCR Reporter* and on the Web site (www.cea.org/about/Commissions/hcr).
- Working on equity issues in Connecticut's schools.
- Reviewing the status of human, professional, and civil rights of teachers in Connecticut.

2009-2010 HCR Commission

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Human and Civil Rights Reporter is published biannually by the Connecticut Education Association (CEA) Human and Civil Rights Commission and CEA's Policy and Professional Practice Department. This newsletter is intended to provide CEA members with legal perspectives on various human and civil rights issues. Reader input is encouraged and appreciated as a vital means of addressing members' professional and educational needs in this arena. It is written and edited by Robyn Kaplan-Cho, Connecticut Education Association, Capitol Place, Suite 500, 21 Oak Street, Hartford, CT 06106-8001. Tel. 860-525-5641 or 1-800-842-4316. E-mail: robynk@cea.org.



CEA-sponsored workshop

SECTION 504: AN EMERGING ISSUE FOR TEACHERS

Section 504 of the Rehabilitation Act of 1973 is receiving increased attention in schools. This workshop will provide an overview of the civil rights law, its procedural requirements (with an emphasis on the eligibility process) and relationship to IDEA, and its applicability to such timely issues as AD(H)D, field trips, allergies, and AIDS. A case-study method is utilized.

Length: 2+ hours (CEUs offered)

Presenter: Robyn Kaplan-Cho, CEA

Local associations interested in hosting this workshop should contact Robyn Kaplan-Cho at robynk@cea.org.

WALKING THE TALK: CLASSROOM STRATEGIES FOR ADDRESSING BIAS

This workshop, designed for K-12 classroom instructors, examines various approaches to designing and integrating activities into the classroom that raise awareness of bias and empower students to advocate for change, especially around gay, lesbian, bisexual, or transgendered (GLBT) bias.

Length: 90-120 minutes

Presenter: National Education Association (NEA)-Certified Trainers

BARGAINING SPECIAL EDUCATION LANGUAGE: WHERE STUDENTS' RIGHTS AND TEACHERS' RIGHTS INTERSECT

Your contract can serve as an important vehicle for protecting your rights and advancing your concerns as a teacher working with special education students. In this workshop, teachers will learn how to integrate special education issues into the collective bargaining process. Participants will study the pros and cons of negotiating contract provisions related to performing health procedures, teacher notification and scheduling of PPT meetings, professional development opportunities, class-size limitations, local dispute-resolution procedures for special-education-related problems, placement decisions, and many more related topics. Model contract language will be provided. This workshop is ideal for negotiating committees and teachers with a particular interest in this area of the law.

Length: 2+ hours (CEUs offered)

Presenter: Robyn Kaplan-Cho, CEA

TAKING A STAND: CREATING SAFE SCHOOLS FOR ALL STUDENTS

This introductory workshop is designed for all school personnel who are interested in addressing bias regarding sexual orientation and gender issues. It uses video clips and hands-on activities to examine the obvious and subtle ways that bias plays out in schools. It also offers resources for creating schools that are safe for all students, regardless of sexual orientation and gender identity.

Length: 90-120 minutes

Presenter: National Education Association (NEA)-Certified Trainers

MYTH BUSTERS: UNDERSTANDING YOUR LEGAL RIGHTS AND RESPONSIBILITIES IN THE SPECIAL EDUCATION PROCESS

This workshop focuses on the laws of special education with a particular emphasis on regular and special education teachers' rights and responsibilities when participating in the special education process. Participants will learn what the law requires of them as well as what they can and cannot do in such areas as PPT meetings, drafting IEPs, and accommodating students in the regular education environment. The impact of special education laws on teachers' working conditions as well as changes to the Individuals with Disabilities Education Act (IDEA) will be integrated into the workshop.

Length: 2+ hours (CEUs offered)

Presenter: Robyn Kaplan-Cho, CEA

Human and civil rights workshops are offered to CEA members free of charge. If you are interested in having your local Association host one of these workshops, contact your local Association president or CEA UniServ representative for more information. CEUs will be offered.

HCR Workshops

