



## ***"Wait and See, or Wait and Fail? The Private School Dilemma"***

One of the frustrations that our clients often express to us is their inability to obtain information from their public school district. Sometimes it is a matter of the school district refusing to provide requested information, and other times parents experience extraordinary delay in obtaining information. Therefore, it is important for parents to know their rights in this area.

In our practice, we often encounter clients who, in their frustration with their school district's failure to offer an appropriate special education program and placement (or any special education program and placement) in time for the beginning of a new school year, decide, reasonably, to enroll their child in private school and to seek tuition reimbursement from the school district.

A decision to place a child in private school while awaiting the offer of a special education program and placement is a very serious one with potentially significant consequences on the parents' ability to seek tuition reimbursement from the school district.

While the Individuals With Disabilities Education Act (IDEA) clearly permits parents to seek private school tuition reimbursement where the school district has failed to offer the student a free appropriate public education (FAPE), and while federal IDEA regulations clearly state that each school district must have an Individualized Education Program (IEP) in place for each special education student by the beginning of each school year, unfortunately, Pennsylvania Hearing Officers and the federal courts have recently adopted a position that parents who take steps to obtain a private school placement pending a school district evaluation of their child or the development of an IEP are "jumping the gun," and, as a result, these decision makers are viewing parents as having made up their minds about sending their child to private school without first giving the school district the chance to offer a program (a process which is permitted to span many months). Thus, these decision makers are barring parents from obtaining tuition reimbursement under such circumstances.

This position places parents in a serious dilemma, since they are, essentially, being forced to "wait to see" if the school district offers an appropriate even where their child may already have suffered years of inappropriate programming or no special education programming at all. In many situations, "wait and see" becomes "wait and fail" since it is often only after the child has failed to make progress under an offered program that tuition is granted.

### *McAndrews Law Offices, P.C.*

30 Cassatt Avenue  
Berwyn, PA 19312  
Phone: (610) 648-9300  
FAX: (610) 648-0433

Wyomissing, PA ● Phone: (610) 374-9900  
Harrisburg, PA ● Phone: (717) 221-1422  
Scranton, PA ● Phone: (570) 969-1817