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SCHOOL LAW

Parents Have Independent Rights Under IDEA

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The Individuals with Disabilities Education Act (“IDEA”), 20 U.S.C. §§ 1400 et seq., seeks to ensure “that all children with disabilities have available to them a free appropriate public education” and “that the rights of children with disabilities and parents of such children are protected.” 20 U.S.C. § 1400(d)(1)(A), (B). This past summer, the United States Supreme Court resolved a split among the federal courts of appeals “as to whether a non-lawyer parent of a child with a disability may prosecute IDEA actions *pro se* in federal court.” *Winkelman v. Parma City Sch. Dist.*, 127 S. Ct. 1994, 1999 (May 21, 2007) (citing cases from the First, Second, Third, Sixth, Seventh, and Eleventh Circuits).

In *Winkelman*, the nonlawyer parents of a disabled child had concerns about their autistic six-year-old child’s educational progress within the Parma City School District in Parma, Ohio.

Even after participating in and following the various administrative processes set out by the IDEA, the parents remained dissatisfied with the outcome. Pursuant to the IDEA, the parents then sought judicial review in the federal district court on their own behalf and on behalf of their child. The district court granted the school district judgment on the pleadings, and the parents appealed to the Sixth Circuit. However, the Sixth Circuit entered an order dismissing their appeal unless they obtained legal counsel to represent the child.

In an opinion authored by Justice Kennedy, the Supreme Court reversed. Although noting that there is no “specific provision” of the IDEA expressly stating “that parents have the status of real parties in interest,” such is the case when considering the “plain language” of the IDEA’s statutory scheme as a whole. *See id.* at 2000, 2003. The Court rejected the argument, accepted by some courts of appeals, that “while a parent can be a ‘party aggrieved’ for

aspects of the hearing officer’s findings and decision, he or she cannot be a ‘party aggrieved’ with respect to all IDEA-based challenges.” *Id.* at 2003. “[T]he language in IDEA confirming that parents enjoy particular procedural and reimbursement-related rights does not resolve whether they are also entitled to enforce IDEA’s other mandates, including the one most fundamental to the Act: the provision of a free appropriate public education to a child with a disability.” *Id.* at 2004. If such were the case, it would lead to unreasonable and incongruous results in that the IDEA’s procedural and reimbursement-related rights are significantly intertwined with the substantive adequacy of the education. *Id.* at 2004-05. Furthermore, the Court noted that “[t]he parents enjoy enforceable rights at the administrative stage, and it would be inconsistent with the statutory scheme to bar them from continuing to assert these rights in federal court.” *Id.* at 2002.

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