

## **Federal Court Decision Upholds Right of Connecticut Students with Disabilities to Public Education Until Age 22**

### ***State Law Had Cut-off Education Services at 21 in “Gross Violation” of Federal Law; Decision Provides Students with Year to Pursue Diploma When They Turn 21***

A federal court in Connecticut has ruled that special education students have a right to a free, appropriate public education until they reach the age of 22. The ruling, by the U.S. District Court for the District of Connecticut, came in a lawsuit challenging Connecticut’s law as being in conflict with the Individuals with Disabilities Education Act (IDEA), a federal law that protects the rights of students with disabilities.

The IDEA requires a state to provide a free and appropriate public education to students through age 21. Connecticut law had ended eligibility for a student at age 21. While Connecticut provides opportunities for students without disabilities to continue working toward their diploma beyond the age of 21, it did not provide the same opportunity to students with disabilities.

The Court’s ruling said Connecticut’s existing system “constitutes a gross violation of the IDEA.” It means that students with disabilities will not be excluded from pursuing their diploma once they’ve reached their 21st birthday, and would be eligible, consistent with federal law, for potentially as much as an additional year of special education services.

“This ruling is a win-win, for students with disabilities and for the state. It rightly recognizes that Congress directed its funds to expand the students’ educational opportunities, in critically important ways,” said Bob Joondeph, Acting Executive Director of Disability Rights Connecticut (DRCT). “Effective education is the key to advancement in our society. With more time to prepare and make effective connections to post-graduate programs and work opportunities students are better able to enter the workforce or succeed in post-secondary educational settings.”

“Most importantly, better education improves people’s lives, allows them greater independence and supports their achieving self-sufficiency,” Joondeph added. “Investing up front in a student’s success reduces the need for public supports later in life.” According to State Department of Education data, there are approximately 70,000 students in Connecticut who are receiving special education services.<sup>1</sup>

“This relieves a huge pressure I’ve been feeling, wondering what’s the point if I can’t finish. It gives me the time I need to be able to learn more and be more effective. I can work on finding a job, looking at colleges, getting my license, finding housing if I have to,” explained A.R., the plaintiff in the lawsuit filed in 2016. “Now I’ll be able to finish without the stress of not being able to finish on time. I won’t get scared and just give up.”

A.R. is now a 21-year-old student who is working hard towards her high school diploma. As a result of various circumstances and her disabilities, A.R. fell behind earning the credits needed to obtain her high school diploma. Because of her disability, she requires a supportive and structured environment to develop her academic and prevocational skills. A.R. was 19-years-old when she became the Plaintiff, but had only accumulated a little more than half of the credits she needed to graduate with a high school diploma. For A.R., additional time in her special education program provides a meaningful benefit. Without it, it’s unlikely she would be able to receive her high school diploma or develop the pre-vocational services that will help prepare her for future education and employment.

In finding Connecticut's denial of a free appropriate public education to individuals with disabilities between the ages of 21 and 22 was a gross violation of the IDEA, the Court awarded compensatory education to the class, having previously certified class status.

Compensatory education is designed to provide a remedy for the years Connecticut denied these students an education. The class includes individuals who were over 21 years old and under 22 years old within two years before filing of the lawsuit or individuals who turned 21 during the lawsuit, and who would have been eligible for a free appropriate public education but for "aging out" under Connecticut's law, because they had not yet earned a high school diploma.

The Court has referred the case to a Magistrate Judge so that the process of identifying class members, likely hundreds of students, and determining how the education they were denied can be provided, moves forward. This will help ensure that students who were wrongfully denied an education can begin to receive it.

The 32-page decision, by United States Senior District Judge Charles S. Haight, Jr., was issued on June 10, 2020 at District Court in New Haven. The ruling noted that IDEA was established in federal law for the "purpose of protecting the educational rights of students with disabilities".

In ruling that Connecticut violated the IDEA, the Court pointed out that "The record in this case compels the conclusion that Connecticut, as a matter of both law and practice, provides public education to non-disabled individuals over the age of 21. As long as Connecticut continues to do so, it must also provide a free appropriate public education under the IDEA to disabled students who have not yet obtained the age of 22."

More than 200 students in Connecticut stopped receiving special education services because they reached the age of 21, according to data from 2014 and 2015. The decision would take effect immediately, unless it is appealed by the state and the court were to delay its implementation pending the appeal.

Attorney Nancy Alisberg at DRCT's predecessor agency, the Office of Protection and Advocacy (OPA), filed the class-action lawsuit in 2016 in collaboration with co-counsel Jason Kim, of Schneider Wallace Cottrell Konecky LLP, a California-based law firm. The case was filed on behalf of special education students who are over the age of 21 but who have been denied special education due to a state law that cut off eligibility the school year a student turned 21. Attorney Kim has successfully filed similar lawsuits in Hawaii and Rhode Island regarding state laws that limit special education eligibility. DRCT has proceeded with the lawsuit since 2017, when it succeeded OPA.

"I am thrilled that the Court recognized the rights of these young adults to have all of the educational services they are entitled to under IDEA," said Attorney Alisberg, now retired, when asked of her impressions regarding the court's ruling.

Disability Rights Connecticut (DRCT), a statewide non-profit organization, advocates for the human, civil, and legal rights of people with disabilities in Connecticut. DRCT is the Protection & Advocacy System for Connecticut, and provides legal advocacy and rights protection to people of all ages with disabilities. This includes assisting individuals with problems such as abuse, neglect, discrimination, access to assistive technology, community integration, voting, and rights protection issues. DRCT also addresses issues through policy advocacy, education, monitoring, and investigation. More information is available at the DRCT website, [www.disrightsct.org](http://www.disrightsct.org)

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1 / In 2015-16, there were 70,055 Connecticut public school students in Grades K-12, or 13.4 percent of total enrollment, who required special education services. The special education prevalence rate has risen over the past four years from 11.6 percent in 2010-11. The Condition of Education in Connecticut 2015-2016, CT State Department of Education Yearly Status Report, at p. 9.

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