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The Individuals with Disabilities Education Act: Supreme Court Holds that Parents May Bring Suit *Pro Se*

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Summary

In *Winkelman v. Parma City School District*, the Supreme Court examined the issue of whether the Individuals with Disabilities Education Act (IDEA) permits parents who are not attorneys to bring suit in court, either on their own behalf or as representatives of their child. The Court held that such *pro se* suits were permitted for parents suing with regard to their own rights. In an opinion written by Justice Kennedy, the Court concluded that IDEA grants parents independent, enforceable rights that encompass a child's entitlement to a free appropriate public education and that these rights are not limited to procedural or reimbursement issues. This report examines the Supreme Court's decision. It will not be updated.

Background

The Individuals with Disabilities Education Act (IDEA)[1] is both a grants statute and a civil rights statute. It provides federal funding for the education of children with disabilities and requires, as a condition for the receipt of such funds, the provision of a free appropriate public education (FAPE). Originally enacted in 1975, the Act responded to increased awareness of the need to educate children with disabilities, and to judicial decisions requiring that states provide an education for children with disabilities if they provided an education for children without disabilities.[2] The statute contains detailed due

[1] 20 U.S.C. §1400 et seq. For a more detailed overview of IDEA, see CRS Report RS22590, *The Individuals with Disabilities Education Act (IDEA): Overview and Selected Issues*, by Richard N. Apling and Nancy Lee Jones.

[2] For a more detailed discussion of the congressional intent behind the enactment of P.L. 94-142, see CRS Report 95-669, *The Individuals with Disabilities Education Act: Congressional Intent*, by Nancy Lee Jones.

process provisions, including the right to bring suit in order to ensure the provision of FAPE. IDEA states, in part, "[a]ny party aggrieved by the findings and decision ... made under this subsection, shall have the right to bring a civil action with respect to the complaint presented pursuant to this section...."[3]

Lower Court Decisions in *Winkelman v. Parma City School District*[4]

Jacob Winkelman has autistic spectrum disorder and, in accordance with an individualized education program (IEP), was placed in a preschool with the concurrence of both his parents and the Parma City school district. When he was old enough for kindergarten, his parents and school officials disagreed on his proper placement, with his parents alleging that the school's proposed placement at Pleasant Valley elementary school was not appropriate to Jacob's needs. After rulings supporting the school district's determination by the hearing officer and a state-level review officer, the Winkelmans appealed *pro se* to U.S. district court. The district court agreed with the administrative rulings,[5] and the Winkelmans appealed, again without a lawyer, to the sixth circuit court of appeals. The court of appeals issued an order dismissing the appeal unless an attorney was obtained within 30 days.[6] The Winkelmans then sought and received a stay of this order from the Supreme Court, pending a decision by the Supreme Court. The Supreme Court granted *certiorari* on October 27, 2006, and decided the case on May 21, 2007.

The sixth circuit decision in *Winkelman* found that the preceding sixth circuit decision in *Cavanaugh ex rel. Cavanaugh v. Cardinal Local School District*[7] was dispositive of the question of whether non-attorney parents of a child with a disability could represent their child in court. *Cavanaugh* held that parents could not represent their child in an IDEA action and that the right of a child with a disability to FAPE did not grant such a right to the child's parents. The sixth circuit in *Cavanaugh* first noted that federal law allows individuals to act as their own counsel[8] but that parents generally "cannot appear *pro se* on behalf of their minor children because a minor's personal cause of action is her own and does not belong to her parent or representative."[9] Finding that this general principle was not abrogated by IDEA, the sixth circuit observed that IDEA explicitly grants parents the right to a due process hearing but "in stark contrast, the provision of the IDEA granting '[a]ny party aggrieved' access to the federal courts ...

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[3] 20 U.S.C. §1415(i)(2).

[4] 550 U.S. __(2007), 2007 U.S. LEXIS 5902 (May 21, 2007).

[5] 411 F.Supp.2d 722 (N.D. Ohio 2005).

[6] 150 Fed. Appx. 406 (6th Cir. 2005).

[7] 409 F.3d. 753 (6th Cir. 2005).

[8] 28 U.S.C. §1654. "In all courts of the United States the parties may plead and conduct their own cases personally, or by counsel."

[9] *Cavanaugh ex rel. Cavanaugh v. Cardinal Local School*, 409 F.3d 753, 755 (6th Cir. 2005), quoting *Shepherd v. Wellman*,313 F.3d 963, 970-71 (6th Cir. 2002).

makes no mention of parents whatsoever."[10] In addition, the court observed that the intended beneficiary of IDEA is the child with a disability, not the parents, and that although IDEA does grant parents some procedural rights, these only serve to ensure the child's substantive right and do not provide the parents with substantive rights.[11]

Supreme Court's Decision in *Winkelman v. Parma City School District*

The Supreme Court reversed and remanded the sixth circuit's decision, holding that parents have independent, enforceable rights under IDEA and that they are entitled to prosecute IDEA claims on their own behalf. In an opinion written by Justice Kennedy, the Court concluded that the rights IDEA grants parents encompass a child's entitlement to a free appropriate public education and that these rights are not limited to procedural or reimbursement issues.

Justice Kennedy observed that "a proper interpretation of the Act requires a consideration of the entire statutory scheme." The argument made by the Winkelmans was based on the premise that IDEA does not make parents merely guardians for their children's rights but rather makes parents parties in interest in IDEA actions. Since the Court accepted this premise, it followed that the general statutory rule that a party can represent his or her interests in court was applicable.[12] Therefore, the Court did not reach the issue of whether parents can appear *pro se* on behalf of the interests of their minor children in IDEA cases.

In arriving at its holding, the Court examined IDEA's statutory language, noting that one of the purposes of IDEA is "to ensure that the rights of children with disabilities and parents of such children are protected."[13] This language was found to refer to rights for both parents and children with disabilities. Similarly, the Court found that the establishment of procedural rights was required "to ensure that the rights of children with disabilities and parents of such children are protected."[14] These provisions were found to support the finding that the parents of a child with a disability have "a particular and personal interest" in the goals of IDEA and that "IDEA includes provisions conveying rights to parents as well as to children." These rights were found to be applicable not only to the administrative stage of an IDEA dispute but also to federal court procedures. Justice Kennedy observed 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."

The rights that IDEA provides for parents were found to encompass not only procedural but also substantive rights. The fact that some provisions of IDEA specifically delineate certain rights for parents does not create an inference that parents are excluded

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[10] *Cavanaugh ex rel. Cavanaugh v. Cardinal Local School*, 409 F.3d 753, 756 (6th Cir. 2005).

[11] *Id.* at 757.

[12] 28 U.S.C. §1654.

[13] 20 U.S.C. §1400(d)(1)(B).

[14] 20 U.S.C. §1415(a).

by implication when a child is mentioned. Finding that the text and structure of IDEA empowers parents to bring challenges on a broad range of issues, parents were seen as having an independent stake in not just the procedural guarantees but also the substantive guarantees. Justice Kennedy concluded, "IDEA does not differentiate, through isolated references to various procedures and remedies, between the rights accorded to children and the rights accorded to parents."

It was argued that granting these rights would increase the costs to the states because parents may bring more lawsuits if they do not have the financial constraint of paying for an attorney. However, the Court found that these concerns were not sufficient to support an argument under the Spending Clause that IDEA failed to provide clear notice before a new condition or obligation was placed on a recipient of funds. In addition, Justice Kennedy observed that IDEA specifically allows courts to award attorneys' fees to a prevailing educational agency when a parent has brought an action for an "improper purpose, such as to harass, to cause unnecessary delay, or to needlessly increase the cost of litigation."[15]

Justice Scalia, joined by Justice Thomas, concurred in the judgment in part and dissented in part. These Justices would have held that parents have the right to proceed *pro se* under IDEA when they seek reimbursement for private school tuition or for violations of the parents' procedural rights. However, Justices Scalia and Thomas would not have allowed such suits when the suits sought a judicial determination that the child's free appropriate public education was substantively inadequate.

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[15] 20 U.S.C. §1415(i)(3)(B)(i)(III).