

## Legal Services Available

Based on conversations and inquiries made by several of our current clients, we would like to remind everyone of the array of legal services we can provide. Either individually or in conjunction with other attorneys that we have formed close strategic partnerships with, we are able to offer services in the following practice areas:

ESTATES AND TRUST, WILLS, AND SPECIAL NEEDS TRUST

POWER OF ATTORNEY, GUARDIANSHIP

POST EDUCATIONAL PLANNING FOR ADULTS WITH DISABILITIES

JUVENILE ARRESTS, SCHOOL SUSPENSIONS AND EXPULSIONS

WORKER'S COMPENSATION AND PERSONAL INJURY

CRIMINAL DEFENSE, CIVIL LITIGATION, AND DISABILITY RIGHTS



*Please contact us to discuss your legal options.*

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SPRING 2009

LAW OFFICES OF

# MARK B. MARTIN, P.A.

*A boutique law firm providing legal services and advice in the areas of special education law, suspension and expulsion hearings, juvenile justice, criminal defense, civil litigation and disability rights, serving all of Maryland.*

## Tuition Reimbursement for Private School

### RECENT VICTORY

We are proud to announce another victory for a student with special needs. We recently won a hard fought case to secure tuition reimbursement for the parents of a student with severe dyslexia. The parents had unilaterally placed their daughter at the Jemicy School, a private school that specializes in children of average-to-above-average intelligence who have language-based learning differences, such as dyslexia.

While attending kindergarten at the local public school, Jane's\* parents recognized that she was not progressing in certain areas while she was excelling in others. The parents obtained an evaluation that confirmed their suspicions and provided a copy of that comprehensive evaluation to the school system. While the private evaluation concluded that the student "demonstrated significant difficulties with phonemic awareness and processing which are precursors to effective phonetic skills and typical areas of deficit for dyslexic individuals," the school was dismissive of their concerns. The school team concluded that the student was not eligible for special education services and they only offered a minimal amount

of support. Recognizing the importance of early intervention services for their daughter the parents unilaterally withdrew her from the public school and placed her at Jemicy. It became very apparent in those first years of school at Jemicy that Jane required intensive services on a daily basis in order to progress.

After a few years, the parents again contacted the local public school to determine if they could now offer an appropriate public education. The parents provided the school with a great deal of information concerning Jane, the school conducted an extensive amount of their own testing but in the end the parents were extremely disappointed with the limited direct instruction and related services that were offered by the public school to support their dyslexic child.

Determined to keep Jane at the Jemicy School where she was getting the support and education that she needed and where she was making progress, Jane's parents contacted our office for help. We filed a due process request on their behalf, sued the school for tuition reimbursement

and won! While the Administrative Law Judge ("ALJ") noted that a goal of the IDEA is for disabled and non-disabled children to be educated in the same classroom, he also recognized that that goal can not always be achieved. He further noted that in some cases, due to the nature or severity of the child's disability, the child will need to be placed in a private school setting that is fully funded by the child's public school district. The law has provided a two part test that must be evaluated before tuition reimbursement can be obtained. First it must be determined that the IEP offered by the school district is inappropriate AND second it must be shown that the private placement is appropriate. In this case, the ALJ concluded that the IEP was inappropriate and further stated that the services offered and the proposed implementation of those services "appear disconnected with the student's severe dyslexia, past academic struggles and current performance." The ALJ further concluded that Jemicy is the appropriate placement for this student and therefore awarded tuition reimbursement.

*\*The name of the student has been changed to protect her identity.*



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## Now is the time to begin preparing for next school year.

IT IS TIME TO BEGIN REVIEWING AND REVISING YOUR CHILD'S IEP FOR THE NEXT SCHOOL YEAR. IMPORTANT QUESTIONS TO FOCUS ON INCLUDE, BUT ARE NOT LIMITED, TO THE FOLLOWING:

- Has your child made appropriate progress on the goals and objectives included in the current IEP?
- Are the present levels of performance updated and accurate?
- Are the proposed goals and objectives for the new IEP appropriate?
- Is your child in need of any related services, such as speech/language therapy, occupational therapy or physical therapy in order to appropriately progress on the goals and objectives?



## Dealing With Suspension or Expulsion?

The issues surrounding a possible suspension or expulsion are often complex and involve all types of students. It may only involve school officials or it may also involve the juvenile justice system as in the case of illegal alcohol consumption. Additionally, the students may be subject to both statewide and local rules. Our firm handled several such cases last year involving prom night and alcohol. In one such case, the students had a limousine service but it was the limo driver who reported the alcohol use to the school officials. The school officials then became involved and several honor roll students were facing serious charges and punishment. Working with the involved students we were able to prevent their expulsion and ensure they graduated on time.

### REMINDE STUDENTS OF THE FOLLOWING IMPORTANT FACTS:

In one county, the local school policies provide that students who arrive intoxicated to a school sponsored event are subject to the same penalties and punishment as if they had consumed the alcohol on the school premises.

Also, students who are not drinking but are with a group of students that include some who are drinking subject themselves to punishment and penalties.

## Important Questions

### WHAT ARE MY OPTIONS IF I DON'T AGREE WITH THE IEP?

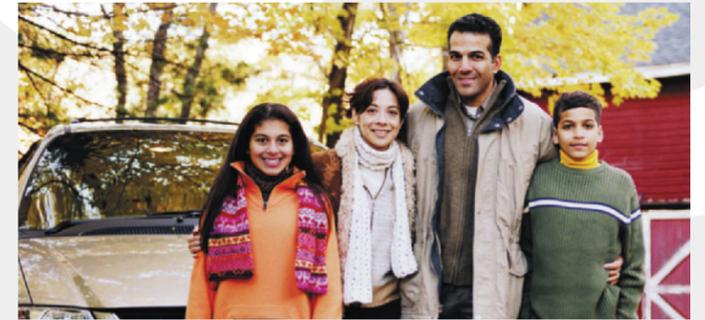
At times, you, as the parents, may not agree with the school's recommendations about your child's education and related services. Under the law, you have the right to challenge decisions about your child's eligibility, evaluation, placement, and the services that the school provides to your child. If you disagree with the school's actions-or refusal to take action-in these matters, you have the right to pursue a number of options including mediation, due process or you can file a complaint with the state education agency.

### WHAT IS THE DIFFERENCE BETWEEN AN IEP AND A SECTION 504 PLAN?

Not all students who have disabilities require specialized instruction. For students with disabilities who do require specialized instruction, an individualized education plan or IEP is developed according to the Individuals with Disabilities Education Act (IDEA). The IDEA process is more involved than that of Section 504 of the Rehabilitation Act and requires documentation of measurable growth. However, some students that have disabilities do not require specialized instruction but they do need the assurance that they will receive equal access to public education and services. In that case, a section 504 Plan is developed to ensure that the student is receiving appropriate accommodations and, if necessary, special services for his/her specific circumstances. Section 504 plans should be updated annually.

### DO ANY OF YOUR KIDS HAVE FOOD ALLERGIES?

Food allergies and school can at times be a challenging combination. Depending on all of the circumstances, a student with a food allergy may be entitled to protections through a section 504 plan. Recent changes to the American's With Disabilities Act have clarified the rights of students with food and other allergies.



## Strategic Relationships

We work with a variety of specialists that can assist in the process of ensuring that your child receives a free appropriate public education. These specialists include speech and language therapists, psychologists, psychiatrists and educational consultants. The benefit of our relationship with specialists is not only the value they can provide to you with respect to the specific needs of your child but we frequently confer with them for advice or input with specific or general situations concerning our clients.

PLEASE FEEL FREE TO CONTACT OUR OFFICE WITH ANY LEGAL ISSUE AT TEL. 410.779.7770.

# 10 tips

## TO ENSURE A SUCCESSFUL SCHOOL YEAR

**one** Make sure you have a copy of your child's daily schedule

**two** Learn the names of his/her teachers and try to introduce yourself to them as soon as possible.

**three** Make sure that all of your child's teachers have a copy of his/her IEP, Section 504 plan, and/or Behavior Intervention Plan.

**four** Ask each teacher if there is anything you can do as a parent to help ensure a successful school year.

**five** Ask each teacher the best way to communicate with them – email, daily or weekly calls, or written notes.

**six** Seek opportunities to volunteer in the class or school.

**seven** Establish relationships with other parents and staff at the school to share information and to stay informed.

**eight** If your child will be transitioning to a new school by year end, begin to prepare for that process by evaluating what changes will occur and if your child is being properly prepared for them during this school year.

**nine** Ask the teacher if they are agreeable to a meeting or phone call in 4 to 6 weeks after the start of school to determine how your child is doing. Emphasize to the teacher that you want to address any issues early to ensure a successful school year.

**ten** If your child receives similar therapies by both private and public service providers, exchange the contact information for each provider. Try to facilitate communication between the providers so they can coordinate their services.