



**CONSORTIUM FOR CITIZENS  
WITH DISABILITIES**

March 30, 2011

Dear Member of Congress:

The undersigned organizations urge you to cosponsor the IDEA Fairness Restoration Act, S. 613 sponsored by Senator Tom Harkin (D-IA), Senator Barbara Mikulski (D-MD), and Senator Bernie Sanders (I-VT), and H.R. 1208, sponsored by Representatives Chris Van Hollen (D-MD) and Pete Sessions (R-TX).

For more than three decades, the Individuals with Disabilities Education Act (IDEA) has required states to provide an appropriate education to all children with disabilities. The law has been carefully crafted so that parents and schools jointly develop an individualized plan by which a child can learn. The IDEA allows parents to seek an impartial hearing when their child has been wrongfully denied a free appropriate public education.

In 2006, the US Supreme Court ruled in *Arlington Central School District v. Murphy* that parents cannot be reimbursed for expert witness fees incurred as part of the due process proceedings. In doing so, the Court disregarded Congress' clearly-expressed intent that parents should recover expert fees just like attorneys fees.<sup>1</sup> The IDEA Fairness Restoration Act would override the decision and restore the bipartisan intent of Congress.

Expert testimony often is essential in IDEA hearings. Parents have the right to provide testimony from psychologists, physicians, therapists, educational experts and other professionals. But parents of children with disabilities have limited abilities to pay for such witnesses. Approximately 36% of children with disabilities live in families earning less than \$25,000 a year; over 2/3 earn less than \$50,000 a year.<sup>2</sup> Parents of children with disabilities are also 67% more likely to be unemployed than parents of nondisabled children.<sup>3</sup> The inability to recover expert witness fees makes a due process hearing difficult for low and middle income families to afford. The IDEA Fairness Restoration Act simply levels the playing field for those families for whom due process is their only hope for achieving an appropriate education for their child.

It is rare that parents seek a hearing. Most parents try to avoid hearings and resolve matters with the school district. In 2003, the Government Accountability Office reported that there were only 5 hearings per 10,000 special education students. The Act's due process protections should be affordable in those rare instances when parents and schools cannot agree.

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<sup>1</sup> "Joint Explanatory Statement of the Committee of the Conference," H.R. Conf. Rep. 99-687 (1986) in support of the Handicapped Children's Protection Act of 1986.

<sup>2</sup> Special Education Elementary Longitudinal Study (SEELS): The Children We Serve: The Demographic Characteristics of Elementary and Middle School Students with Disabilities and Their Households (2002).

<sup>3</sup> The Individual and Household Characteristics of Youth With Disabilities: A Report from the National Longitudinal Transition Study-2 (NLTS-2) (2003).

Please cosponsor the IDEA Fairness Restoration Act, S.613 and H.R. 1208, to ensure that the 7 million children who rely on IDEA receive an appropriate education. The Act will restore what a bipartisan Congress intended in enacting the Handicapped Children's Protection Act.

Sincerely,

Advocacy Institute  
American Association of Colleges for Teacher Education  
American Association of People with Disabilities  
American Psychological Association  
The Arc  
Association of University Centers on Disabilities  
Autism National Committee (AutCom)  
Autism Society of America  
Autism Speaks  
Bazelon Center for Mental Health Law  
Burton Blatt Institute  
Children and Adults with Attention-Deficit/Hyperactivity Disorder (CHADD)  
Conference of Educational Administrators of Schools and Programs for the Deaf  
Council for Learning Disabilities  
Council of Parent Attorneys and Advocates, Inc.  
Disability Rights Education and Defense Fund  
Easter Seals  
Higher Education Consortium for Special Education (HECSE)  
Jewish Federations of North America  
Learning Disabilities Association of America  
National Association of Councils on Developmental Disabilities  
National Association of Private Special Education Centers  
National Center for Learning Disabilities  
National Council on Independent Living (NCIL)  
National Disability Rights Network  
National Down Syndrome Congress  
National Down Syndrome Society  
National Respite Coalition  
School Social Work Association of America  
TASH  
Teacher Education Division of the Council for Exceptional Children  
United Cerebral Palsy

For more information, please contact a co-chair of the CCD Education Task Force.

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