



Broken Promises:

Special Education in Massachusetts

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Every day, Massachusetts schoolchildren with disabilities suffer the devastating effects of educational neglect.

Although Congress passed legislation over thirty years ago guaranteeing these students appropriate special education support, our public schools routinely deny them the services they need to succeed.

The report *Broken Promises: Special Education in Massachusetts* details the pervasive and egregious nature of school district noncompliance with special education laws, and its human consequences. All the numbers are included but, more importantly, so are the voices of frustrated parents who have been thrust into battle with an educational system that is supposed to be helping their children.

The Massachusetts special education system is irretrievably broken. It has not, and cannot, educate our children as Congress intends.

SPEDWatch is a non-profit group that believes every child has a fundamental civil right to an appropriate education. We are organizing a civil rights movement to ensure that all Massachusetts schoolchildren with disabilities receive the education to which they are legally entitled.

Join us. The children are waiting.

Ellen M. Chambers, MBA
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Broken Promises: Special Education in Massachusetts

Executive Summary

Massachusetts has a proud heritage as a pioneer in championing the rights of students with disabilities. In 1974, our state enacted Chapter 766, guaranteeing all of our students with disabilities instruction and services that would meet their unique needs. Taking its cue from Massachusetts, and modeling its work on Chapter 766, Congress passed the Education of All Handicapped Children Act (later renamed the Individuals with Disabilities Education Act, or IDEA) in 1975. Over the years Congress has reiterated that the purpose of the IDEA is to ensure that public schools provide these students with services that will prepare them for further education, employment, and independent living.

Not all children with disabilities qualify for special education services, however. In Massachusetts, eligibility requires that certain criteria be met. The student must fall into one or more of several disability categories defined in special education law. The disability must prevent the student from making effective progress in school, and they must need specialized instruction and/or related services in order to make effective progress. Students who do qualify receive an Individualized Education Program (IEP,) a document that details the content of their educational plan. Parents receive regular progress reports, the IEP is updated annually, and the student is reevaluated every three years to determine if they still meet all eligibility criteria.

Unfortunately, special education has never been adequately funded, nor have special education laws ever been effectively enforced.

In 1975, Congress made a commitment to fund 40 percent of the cost of special education. Currently, the federal government provides only 18 percent towards these costs, and it has rarely contributed any more than this in the law's thirty-year history.

In Massachusetts, the cost of special education is included in the 'foundation budget' formula that sets the amount of education aid school districts receive from the State. In addition, the state's "circuit breaker" program allows school districts to seek partial reimbursement for the cost of individual students' programs that exceed a specific dollar amount. Despite this, educational advocates and administrators have long asserted that funding falls far short of what districts need to meet their obligations to students with special needs.

Lack of sufficient funding has placed school districts under enormous financial pressure. Although no district would ever admit it, a common response to this budgetary stress is simply to deny students the special education services they need to succeed.

But how can this be? Aren't there consequences for breaking special education laws?

In a word: no.

Noncompliance with special education laws has been rampant in our state's public schools for years. Between July 1, 2004 and June 30, 2005, the Massachusetts Department of Education (MASSDE) documented 1,159 cases of noncompliance statewide. As of February 1, 2007, 31% of these violations had still not been corrected.

The United States Department of Education (USDE) has cited the MASSDE *eight times in the last sixteen years* (most recently in March 2006) for failing to adequately document that our local school districts are complying with special education laws.

The consequences for Massachusetts students with disabilities have been disastrous. Denied the services they need to succeed, they are failing in overwhelmingly high numbers. It is important to keep in mind that only 8-9% of these students have the kinds of significant cognitive impairments that make it impossible to master standard grade level curriculum. The vast majority (90%) are as intellectually capable as their non-disabled peers. Yet their failure rate is staggering, and the MASSDE has no plans to effect any meaningful improvement in their achievement.

On the 2006 MCAS exams, only 26.1% of students with disabilities scored in the proficient range (or above) in English Language Arts. For Math, the figure was 15.5%. The MASSDE has set a target that by 2011 these figures will have risen by only 2.1% and 2.7% respectively.

Likewise, while the four-year graduation rate for all students currently stands at 79.8%, for students with disabilities the rate is only 61.6%. MASSDE expects to increase this rate by only 1.4 percentage points (to 63%) by the year 2011.

Sadly, none of this is particularly surprising given the research findings published by the National Council on Disability in their January 2000 report, *Back to Schools on Civil Rights* which included the following commentary:

“Federal efforts to enforce [special education] law over several Administrations have been inconsistent, ineffective and lacking any real teeth. Lack of accountability, poor enforcement, and systemic barriers have robbed too many students of their educational rights and opportunities... and have produced a separate system of education for students with disabilities rather than one unified system that ensures full and equal ... access for all students.”

Parents of these students are overwhelmed with frustration. They try to advocate for their children, but encounter roadblocks at every turn. Unless they have a firm understanding of the law, *and* the ability to craft legally sound and persuasive arguments, they are easily out-manuevered by school administrators who are focused on cost control. Parents who hire professional advocates or attorneys sometimes succeed in securing the services their children need, but most families cannot afford the cost of such help. Low-cost, no-cost support from the state's non-profit, legal advocacy centers (Disability Law Center, Massachusetts Advocates for Children, Children's Law Center, and others) is only available to families who meet certain income guidelines, or whose case meets the center's identified priorities.

Our special education system has made it virtually impossible for school districts and parents to work in partnership on behalf of students with special needs. It forces teachers who care deeply about children to remain silent while their students struggle and fail. It pits parents of students with disabilities against those without, in the desperate scramble for scarce education resources.

A child's access to quality education, like their access to quality health care, directly impacts their standard of living for the rest of their lives. The damage done by educational neglect, like that of physical neglect, is often significant and irreversible. The education of our children, all our children, is the foundation upon which the strength of our knowledge-based economy depends. This is particularly so at this time in our commonwealth's history, when unprecedented numbers of young, educated professionals are leaving the state.

Education is one of the most fundamental civil rights our country guarantees its citizens. This is, at its core, a civil rights matter. The plight of Massachusetts students with disabilities is no different than that of other disenfranchised groups before them whose civil rights were systemically denied.

History tells us that inequitable treatment of marginalized groups will persist until the oppressed people themselves rise up to demand change. So it was in the 1920s when women fought for the vote. So it was in the 1950s and 1960s when African Americans fought for equal rights. So it will be for students with disabilities in our public schools.

Massachusetts students with special needs, and their parents, are trapped in an educational system that places budget considerations above the needs of children. Capable students are failing, despite possessing the intellectual capacity to succeed. Our state department of education has set insultingly low expectations for the achievement of students with disabilities. Our public schools regularly violate their educational rights, and we cannot rely on our government to enforce those rights.

SPEDWatch believes that increased funding, committed government enforcement, and greater parent access to legal representation are among the critical changes that need to occur to address the inequities in our special education system. These will not, however, alter the underlying cause of the discriminatory climate described in this report: society's silent endorsement of these conditions. That will require a true civil rights movement.

SPEDWatch is a non-profit, parent-driven group that is organizing citizens into a civil rights movement to secure true educational equality for Massachusetts schoolchildren with disabilities. It is our fervent hope that educators, legislators, business leaders, and other sectors of society will join us. We will, however, act independently if necessary. As parents, we have no other choice.

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Go to www.spedwatch.org to download the entire *Broken Promises* report which contains the following content:

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