



Advocates try to keep special ed kids out of child welfare system

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HARRISBURG – Janet Stotland worries that parents of special-education students can sometimes face having their parenting skills put on trial – literally – by school districts frustrated by their children's emotional and behavioral problems.

As co-director of the Education Law Center, a nonprofit legal advocacy group in Philadelphia, Stotland is on the lookout for situations in which she believes districts are inappropriately referring special-education students to the child welfare system.

But an attorney for Pennsylvania School Boards Association said districts have to balance mandates to meet special-education students' needs with obligations to watch out for potential problems at home that could interfere with their schooling.

"A school district, first of all, has a duty to report instances of what they believe to be neglect. ... That is separate and apart from the duty to provide a free and appropriate public education for all students," said Emily Leader, PSBA's deputy chief counsel.

The law center recently scored a partial victory in this area, representing a Snyder County woman who challenged a trial court's order declaring her 13-year-old daughter "dependent" – a legal term meaning certain welfare services are needed to compensate for a parent's inability to control a child – and assigning a juvenile probation officer to supervise her because she was habitually truant.

A three-judge Superior Court panel sent the case back to the lower court, partly because the trial court would not consider testimony from an expert witness offered by the mother, whom court documents did not identify. The girl was identified only as C.M.T.

The mother argued that the witness would establish that her daughter's absences were justified by her disabilities, which include Asperger's syndrome – a form of autism – anxiety, panic attacks and depression, and the school district's failure to address them.

"She was being asked to go to school and get through the school day without the kinds of supports and services she needed ... something like a competent paraprofessional, or a behavior support person," said Phil Drumheiser, an attorney who represented C.M.T. in the trial court.

Brian Kerstetter, an assistant Snyder County district attorney, said his office sought the dependency declaration after receiving a referral from the girl's school district.

"We don't always have the benefit of knowing whether we're dealing with a special-needs child," Kerstetter said. "That's not to say (the district) did anything wrong at the time. I still believe we acted totally appropriately."

From Stotland's perspective, the ruling will have much greater implications for other parents struggling with similar situations. Although she had no firm statistics on the number of special-education students subjected to child-welfare proceedings stemming from truancy, Stotland says it's a subject she hears about frequently in her travels.

"I don't have any question in my mind that it's a problem. I've heard about it for a million years," she said. "These are the kinds of cases that should not be in the dependency system."