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**FEDERAL JUDGE DENIES NEW JERSEY DEPARTMENT OF  
EDUCATION MOTION TO DISMISS LAWSUIT ON BEHALF OF  
DISADVANTAGED CHILDREN WITH DISABILITIES**

Judge Mary L. Cooper of the United States District Court of New Jersey ruled today that the New Jersey Department of Education and its Commissioner, Lucille Davy, cannot deny children with disabilities their day in court to challenge laws denying them an appropriate education.

Said lead attorney David L. Harris of Lowenstein Sandler, which represented the plaintiffs on a *pro bono* basis, "Judge Cooper's Decision means that children with disabilities and their families in New Jersey will have their day in court based on the evidence, not merely theories and promises. It is significant that the Court found that the organizations we represent have standing to bring these claims based on the work they do with, and on behalf of, these children and their families. We remain hopeful that the knowledge that this case will proceed will encourage the New Jersey Department of Education to re-examine its practices so that we can work together to ensure an inclusive education for all of our children."

Lowenstein Sandler represents plaintiffs New Jersey Protection & Advocacy, Inc. (NJP&A), the Education Law Center (ELC), the Statewide Parent Advocacy Network of New Jersey and the ARC of New Jersey. Attorneys from NJP&A, ELC and the Hackensack law firm Loughlin & Latimer serve as co-counsel.

The lawsuit states that the U.S. Department of Education repeatedly cited New Jersey for its failure to implement the Individuals with Disabilities Education Act, which requires a "free and appropriate public education" in the "least restrictive environment." Children are suffering as they are unnecessarily sent out of district and are denied aids, services

and accommodations needed to receive an appropriate education if they are placed in general education classrooms.

Many segregated special education settings include rote and mechanical instruction and low expectations. Children with disabilities cannot meet teachers' expectations, risking failure and loss of opportunity to master needed skills. Often punished with loss of recess, points and activities, they are retained for failing grades or promoted without any educational gains.

Conversely, benefits to inclusion include improved language development, and reading skills, higher grades, higher scores on standardized tests, mentoring, larger friendship networks, improved attendance and higher self-esteem. Non-disabled children also benefit from inclusion: their reading and mathematics performance is substantially better than their counterparts educated in segregated environments and they demonstrate social and developmental benefits, including improved understanding and relationships with children with disabilities.