

Susman Godfrey, Georgetown Law's Civil Rights Clinic, Merritt Law File Class Action on Behalf of Disabled Students in Virginia

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Susman Godfrey, together with the Civil Rights Clinic of Georgetown Law and co-counsel at Merritt Law, PLLC, filed a federal class action lawsuit today seeking a declaratory judgment and injunctive relief to reform policies and practices of the Virginia Department of Education (VDOE) and Fairfax County Public Schools (FCPS) with respect to their treatment of the disabled community. The lawsuit alleges repeated and continuing violations of Virginia's disabled students' civil rights under the U.S. Constitution and the Individuals with Disabilities Education Act (IDEA).

The plaintiffs, represented pro bono by Susman Godfrey and the Civil Rights Clinic of Georgetown, include a disabled child identified in the complaint as D.C., his parents, and Hear Our Voices, a nonprofit created by D.C.'s parents that is devoted to achieving better educational opportunities for disabled children and proposes legislation to reform problems that cannot be remedied by the court.

Under the IDEA, if parents disagree with the proposed education of their disabled child, they are entitled to challenge the public school in a "due process hearing" before a hearing officer who is required to be impartial and free of bias. Plaintiffs allege that the Virginia due process hearing officers are not impartial but in fact have the worst ruling record of any major state in the entire country with respect to the parents of disabled children who have brought claims under the IDEA.

The parents of D.C. experienced injustice firsthand in Virginia's due process hearing system. Upon learning that their hearing officer had never ruled for a disabled child in more than twenty years, the parents commenced an investigation of VDOE through Freedom of Information Act (FOIA) requests. Based on nonpublic documents produced under FOIA, the data reveals for the first time that Virginia's due process hearing system is dramatically biased towards school districts and against the parents of disabled children.

Among many shocking statistics detailed in the complaint (attached to this release), in Northern Virginia 83% of hearing officers have never ruled for a disabled child in a decade, and approximately two thirds of the hearing officers statewide have never ruled for a disabled child in twenty years.

Overall, the analysis found, in the past 20 years parents in Virginia have won less than 2% of almost 1,400 due process cases brought under the IDEA — far below the 30 percent national average for parental success in IDEA cases. As alleged in the complaint, one of the primary reasons for the low parents' success rate is that the VDOE — in cooperation with local education agencies like FCPS — developed and maintain an exclusive roster of school-friendly hearing officers, whom the VDOE and FCPS have kept in place for more than a decade.

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"It is a travesty that two generations of special needs children were deprived of the educational and due process rights to which they were entitled under the IDEA and U.S. Constitution," said Bill Merrill, an attorney with Susman Godfrey. "This lawsuit is a critical step toward improving how Virginia schools treat this vulnerable population."

"We investigated the VDOE and brought this case for two basic reasons," said Trevor Chaplick, D.C.'s father. "First, we want to shine a light on and reveal the deeply troubling ruling record of Virginia hearing officers against parents of disabled children in IDEA due process cases. We believe this is a scandal that has existed for at least twenty years. Second, we hope to make a difference for the disabled community through legal reform. We feel fortunate to be supported by a gifted legal team dedicated to these objectives. The parents of disabled and special needs children deserve a better fate from the Virginia public school system."

This lawsuit seeks to put an end to VDOE and local school district practices that systematically deprive special needs students of their rights under the IDEA and U.S. Constitution. Specifically, plaintiffs seek (among other things):

- Greater oversight and transparency into hearing officer selection, training, certification, and decision outcomes;
- Elimination of conflicts of interest and unfair financial incentives that empower the VDOE and local school districts to stack the deck against disabled children and their families; and
- Investigation and removal of biased hearing officers.

Plaintiffs also intend to bring these issues before government officials and encourage all those interested in supporting this cause to visit www.hearourvoices.us.

Plaintiffs are represented by Susman Godfrey partner [Bill Merrill](#) and associate [Michael Adamson](#), Aderson Francois of the Civil Rights Clinic of Georgetown Law, and Braxton Hill and Craig Merritt of Merritt Law, PLLC.

The news has been covered by [Politico](#), [Associated Press](#), [Richmond Times](#), [The Virginia Mercury](#), [DCist](#), [Independent Women's Forum](#), and [WTOP](#).

The case was filed in the United States District Court for the Eastern District of Virginia, Alexandria Division and is *D.C., by his parents and guardians, Trevor Chaplick and Vivian Chaplick et al v. Fairfax County School Board et al* (case number 1:22-cv-01070).