

Legal Services Available

Based on conversations and inquiries made by several of our current clients, we would like to remind everyone of the array of legal services we can provide. Either individually or in conjunction with other attorneys that we have formed close strategic partnerships with, we are able to offer services in the following practice areas:

ESTATES AND TRUST, WILLS, AND SPECIAL NEEDS TRUST

POWER OF ATTORNEY, GUARDIANSHIP

POST EDUCATIONAL PLANNING FOR ADULTS WITH DISABILITIES

JUVENILE ARRESTS, SCHOOL SUSPENSIONS AND EXPULSIONS

WORKER'S COMPENSATION AND PERSONAL INJURY

CRIMINAL DEFENSE

DOMESTIC RELATIONS

CIVIL LITIGATION AND DISABILITY RIGHTS

Please contact us to discuss your legal options.

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Fall 2009

LAW OFFICES OF

MARK B. MARTIN, P.A.

A boutique law firm providing legal services and advice in the areas of special education law, suspension and expulsion hearings, juvenile justice, criminal defense, civil litigation, domestic relations and disability rights, serving all of Maryland.

Overcoming the Soft Bigotry of Low Expectations

ANOTHER RECENT VICTORY

Laura* attended the local public school's learning center all through her elementary school years, however, when it came time to transition to middle school a similar type program did not exist. To the shock and dismay of her parents, the local school system decided to re-characterize Laura's disabilities in an inaccurate way in order to recommend placement in a far less challenging academic setting. Specifically, the school based members of the IEP team decided to change Laura's disability coding to mental retardation, to remove her from the diploma track and to recommend placement in a functional life skills program. Laura's parents, who had previously trusted the local school system and had accepted their reports that she was making appropriate progress, began to realize that perhaps their trust had been misplaced. They decided to further research the situation and they contacted our office for guidance as to their legal rights.

After disagreeing with the public school team's conclusions regarding the nature and impact of Laura's disabilities, her parents obtained an independent educational evaluation that concluded that Laura's disabilities were not as the school suggested and that Laura's IEP should not have

been reduced in its rigor. Her parents then decided to evaluate several private placement options to determine which would be best suited for their daughter. After some research, they determined that the Harbour School in Baltimore was a perfect fit.

Laura's parents recognized that the local school system was undertaking actions and making recommendations that were not appropriate for their daughter. Armed with an understanding of their legal rights and available legal strategies and following all of the procedural guidelines, the parents proceeded to enroll their daughter in the Harbour School. We then filed suit against the public school system for private school tuition reimbursement. After an arduous nine day hearing, the administrative law judge ("ALJ") found in favor of our client and awarded full tuition reimbursement!

The ALJ determined that the placement offered by the public school system "severely undercut the student's abilities and deliberately ignored her strengths and as such, did not offer her a FAPE (free appropriate public education) in the LRE (least restrictive environment)." The ALJ further

noted that while the public school system need only provide the "basic floor of opportunity that access to special education and related services provides" the school team in this case "assigned the Student to a placement so lacking in meaningful educational benefit for the Student as to render it essentially subterranean." The ALJ found that "what the Student needed was an educational program and setting" that the public school could not offer.

As the ALJ noted in her written opinion, "[b]y everyone's account, the Student, who was stricken with cerebral palsy at birth, is a delightful, determined, and effervescent child. Despite her physical and learning limitations, the Student never succumbs to frustration or defeat, and is always striving to overcome her deficits and achieve. Because her needs and abilities are so complex, she is often underestimated or misunderstood."

Laura has attended the Harbour School for the last few years and she is making tremendous progress. The Harbour School provides an ideal learning style and environment for Laura's unique educational needs.



Please visit our website at markmartinlaw.com and click on the adobe file titled "Tuition Reimbursement – Montgomery Co." to read the entire written opinion.

You can also access the full written opinion for the case we discussed in our last newsletter by clicking on "Tuition Reimbursement – Carroll Co."

**The name of the student has been changed to protect her identity.*

Upcoming Speaking Engagements

NORBEL SCHOOL BALTIMORE, MD NOVEMBER 3, 2009

Mark Martin is speaking along with Andrea Bennett, M. Ed. and Lisa Frank M. Ed. to review the components of a good IEP and educational program.

Norbel is a private, non-profit school serving children in grades 1-12 with average to gifted intelligence that have speech and language disabilities, specific learning differences, and/or high-functioning autism spectrum disorders.

2010 COPAA NATIONAL CONFERENCE ~ ST. LOUIS, MO, MARCH 11-14TH

Mark Martin is a Co-Seminar Leader for a two-day preconference session on Advanced Federal Litigation - A skills-based workshop for attorneys, focusing on litigation strategies for use in federal court. For more information go to www.copaa.org

Council of Parent Attorneys and Advocates "COPAA" is a nonprofit organization of attorneys, advocates and parents whose primary mission is to secure high quality educational services for children with disabilities.

Law Offices of Mark B. Martin, P.A. Receives Peer Review Rating for attorney and founder Mark B. Martin from LexisNexis Martindale-Hubbell

LexisNexis Martindale-Hubbell has recognized attorney Mark B. Martin with a Martindale-Hubbell Peer Review Rating. Mr. Martin was given an "AV" rating from peers, which means that he was deemed to have very high professional ethics and preeminent legal ability. Only lawyers with the highest ethical standards and exceptional qualifications receive a Martindale-Hubbell Peer Review Rating.

Opinions are solicited from peers with direct, professional knowledge of the lawyers under review. All of the review materials are strictly confidential, enabling participants to provide completely candid assessments of their colleagues. On average, Martindale-Hubbell contacts hundreds of thousands of attorneys each year to establish or confirm ratings. To establish a rating, Martindale-Hubbell sends confidential questionnaires to other lawyers and judges within the same geographic location and/or practice area as the attorney or law firm

LDA 47TH ANNUAL INTERNATIONAL CONFERENCE BALTIMORE, MD, FEBRUARY 17-20, 2010

Mark Martin is a Panel Member along with Dr. Larry Silver, Child/Adolescent Psychiatrist, and Carol Ann Heath, Assistant State Superintendent, Division of Special Education/Early Intervention Services, Maryland State Department of Education and others to answer "What if..." variety of scenarios presented by parents and others related to the educational needs of their children.

Learning Disabilities Association of America "LDA" is a non-profit volunteer organization advocating for individuals with learning disabilities whose mission is to create opportunities for success for all individuals affected by learning disabilities and to reduce the incidence of learning disabilities in future generations.

under evaluation. Martindale-Hubbell staff also participates in the review process by conducting personal interviews with members of the bar who may be able to shed some light on the credentials of a specific attorney or law firm.

"Martindale-Hubbell Ratings were created in 1887 as an objective tool that would attest to a lawyer or law firm's ability and professional ethics, based on the confidential opinions of other lawyers and judges who have worked with the lawyers they are evaluating," said Mike Walsh, senior vice president of large and national law firm markets at LexisNexis. "The Martindale-Hubbell Peer Review Ratings have remained the most prestigious and widely respected lawyer rating system in the world for the past 119 years." By reviewing the ratings, they can be guided to an attorney with very high ethics as well as the appropriate level of professional experience.

THE MARYLAND HIGH SCHOOL ASSESSMENT REQUIREMENTS

Passing the Maryland High School Assessment (HSA) or completing an alternative program is a graduation requirement for all students beginning with the graduating class of 2009.

There are multiple ways to meet the HSA requirement which include:

one Passing all four HSA tests

two Earning a combined score of at least 1602 on all four tests

Legal Update - Education

RECENT SUPREME COURT DECISION IN FAVOR OF PARENTS

Forest Grove School District v. T.A., was argued at the Supreme Court on April 28, 2009. Both Mark Martin and his associate attorney, Jennifer Falter, attended the oral arguments at the Supreme Court in Washington, D.C. A 6-3 decision was issued on June 22, 2009 and the Court held that the Individuals with Disabilities Education Act ("IDEA") authorizes reimbursement for private special education services when a public school fails to provide a FAPE and the private school placement is appropriate, regardless of whether the child previously received special education through the public school.

In this case, the parents had obtained a private evaluation diagnosing the student with ADHD and other learning disabilities. The local public school system refused to accept the private diagnosis and based on the evaluations that the school performed, they concluded that the student did not qualify for special education and related services pursuant to the IDEA. Thus, the student in this case was not challenging an inadequate IEP but rather the fact that the school district did not offer any IEP at all. Based on prior legal decisions and a review of the current statute, the court held that the IDEA permitted tuition reimbursement for students who have not previously received special education and related services through the public school system.

What it means: depending on the circumstances of the case, a court may award tuition reimbursement as an equitable remedy when the school fails to offer a FAPE even when a student has not previously received special education in the public school system.

Office Update

We are now offering legal services in the area of domestic relations. If you need assistance with any issues relating to divorce, custody, visitation, child support or other related matters please do not hesitate to contact our office.

Practice Tips for Domestic Relations...

- If you are experiencing challenges with respect to your custody or visitation schedule, always keep contemporaneous notes as to how the schedule is being followed.
- If the non-custodial parent is responsible for providing medical insurance coverage, consider having a medical child support order entered to allow the custodial parent to deal directly with the insurance carrier.
- Text messaging, emails and voice mails are very popular and effective ways for parties to communicate but remember...review every message before pressing the send button and consider that it may end up as evidence in a hearing.

WHAT QUESTIONS DO YOU HAVE? EMAIL US YOUR QUESTIONS OR COMMENTS AT INFO@MARKMARTINLAW.COM.

NOTE: THIS NEWSLETTER IS NOT INTENDED TO PROVIDE ANY LEGAL ADVICE. FOR LEGAL ADVICE PLEASE CONTACT OUR OFFICE SO WE CAN DISCUSS YOUR SPECIFIC CASE AND CIRCUMSTANCES.

three Completing the Bridge Plan for Academic Validation

four Passing all four of the Modified-HSA

Students who fail any one HSA at least twice may be allowed to satisfy the HSA testing requirement for that subject through the Bridge Plan for Academic Validation.

Students completing the Bridge Plan projects may not otherwise use the combined-score option to satisfy the HSA requirement. That is, they must pass each of the remaining HSAs or complete Bridge Plan projects for every test failed.

The Bridge Plan is a series of challenging projects linked to the MD Core Learning Goals tested by each HSA subject area. The number of projects assigned to your child will depend on the highest score he or she earned on the failed HSA; the higher the score, the fewer the projects that must be completed.

Modified-HSA

Students with disabilities who are able to make progress toward course standards but not in the same timeframe as non-disabled students may be eligible to take the Modified HSAs—or Mod-HSAs—instead of the regular exams. The Mod-HSAs cover the same course content as the HSAs, but the test format has been altered to meet the needs of eligible students. The modified assessments are administered at the same time as the regular HSAs, and students taking the tests may earn a high school diploma.

Testing Accommodations

All students with disabilities—regardless of the test they take—are entitled to the instructional and testing accommodations as indicated in their IEPs.

If you have a child with disabilities and have questions about his or her program of study, participation on state tests, services, accommodations, or supports, contact your child's teacher, IEP team or our offices for advice and guidance.

