



Children's School News

Welcome to the fourth edition of the *Children's School News*. For all the new families at The Children's School for Early Development, this newsletter is published quarterly to inform parents and alumni of what is happening at the school, provide helpful resources and list special events for everyone to enjoy.

We are pleased to announce that we now have classrooms in 14 locations including our new sites at Weekday Nursery School, Peekskill Heat Start and Mount Kisco Day Care. The staff has great events planned for the school year including the informative "Parent Workshop Series." The topics will be selected once the results of the questionnaire which was distributed to all families in September are compiled, so keep an eye out for these flyers in your child's backpack.

Ask The Attorney?

WHO HAS THE BURDEN OF PROOF?

By: *Sheryl R. Frishman, Esq.*

In the 2005 decision entitled *Schaffer v. Weast* (126 S. Ct. 528 (2005)), the United States Supreme Court ruled that the Individuals with Disabilities Education Act ("IDEA") placed the burden of proof in special education hearings on the party seeking relief. Prior to the *Schaffer* decision in New York, it was the longstanding practice in New York State that the burden of proof in these types of hearings was on the school district, even though most special education hearings are commenced by the parents.

The IDEA requires that school districts follow specific procedures in developing an Individualized Education Program ("IEP") for any student eligible for services. Specific procedural safeguards are afforded to the parents, including the right to challenge those services through administrative and court venues. As clarified by the IDEA '04 amendments, school districts may also seek such hearings. However, the IDEA does not specify which party has the burden of persuasion, or proof, before the Administrative Law Judge or Court.

In the Supreme Court's decision, Justice O'Connor wrote "If parents believe their child's IEP is inappropriate, they may request an impartial due process hearing. The Act is silent, however, as to which
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The Children's School for Early Development

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Children's School News Fall 2007



Dates to Remember

October 21

Ogden Nash's
The Tales of Custard the
Dragon
Chappaqua Library Theater

October 21

Yorktown Buddy Walk
FDR Park, Yorktown

November 1-4

Fortunoff 's "Shop and Give"
Charity Event

WHO HAS THE BURDEN OF PROOF?

party bears the burden of persuasion at such a hearing. We hold that the burden lies, as it typically does, on the party seeking relief." In most circumstances the party seeking relief is the parent. The Court, however, limited its ruling to States that have no law placing the burden of proof. Until recently, New York was one of these states that had no law on the books.

On August 15, 2007, a new law, signed by Governor Eliot Spitzer clarified New York's position, clearly putting the burden of proof in special education impartial due process hearings on the School District. This is a great victory for families of children with disabilities. It levels the playing field, as the school district has the greater resources to be able to present their case. However, there is one important exception to the school district having the burden of proof. When a parent or a person in parental relations seeks tuition reimbursement for unilateral parental placement the parent will have the burden of proof in showing the appropriateness of that placement.

THIS IS A GREAT VICTORY FOR PARENTS!

Sheryl R. Frishman, Esq. is a partner in the law offices of Frishman & Faber, a practice devoted entirely the special education and life planning needs of children and adults with disabilities. She is involved in many organizations devoted to the needs of persons with disabilities and is the mother of three children one of whom has Autism

Upcoming Events



Sunday, October 21st

Ogden Nash's The Tales of Custard the Dragon

A Family Musical benefits children and adults with developmental disabilities

1:00 p.m. and 3:30 p.m. (performance is 1 hour)

Chappaqua Library Theater

195 South Greeley Avenue, Chappaqua, NY

Admission \$7.00 (FREE to Westchester Arc Staff and Children 6 years or younger)

For tickets call the message center at (914) 949-9300 x3570. Give your name, phone number, number of tickets needed and show time. You will receive a confirmation and payment details by return phone call or email.

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Sunday, October 21st

Yorktown Buddy Walk

FDR Park, Yorktown, NY

10:00 a.m. – 2:00 p.m.

Sponsored by Yorktown Athletic Club

Co-sponsored by Westchester Arc and NDSS

The Buddy Walk is a celebration walk bringing together a wide range of concerned individuals to promote awareness, and inclusion of people with Down syndrome on the local and national levels. Contact: Terri Hunt, (914) 243-5874

Check Out these Websites



- ✓ Autism Speaks has joined with YouTube to create AutismSpeaksVids - a new video channel designed to increase awareness of autism through a variety of traditional and new media. The channel will host exclusive expert interviews on a range of autism-related topics, media coverage about autism, footage from fundraising events, advocacy efforts across the country. Go to www.youtube.com/autismspeaksvids
- ✓ Is your child on a gluten free diet or do you think your child has food allergies? Here are two websites that you might find resourceful:

www.feingold.org – The Feingold Association of the United States is a non-profit organization whose purposes are to support its members in the implementation of the Feingold Program and to generate public awareness of the potential role of food and synthetic additives in behavior, learning and health problem.

www.livingwithout.com – Living Without is a lifecycle magazine for people with allergies and food sensitivities.

www.gfcfdiet.com - this website is a free resource for any parent who needs support implementing a gluten free - casein free diet (GFCF Diet).

News from the PTA

Shop and Give

Fortunoff is having a charity shopping event from November 1st – November 4th to raise money for The Children's School for Early Development and other non-profit organizations. Purchase a \$10 special shopping pass from the PTA and this ticket will give you 15% off on most purchases throughout the entire store. Just send a note to the PTA mailbox with your \$10 and we will send you the shopping pass.

T-Shirt and Sweatshirt Sale

We are selling t-shirts and sweatshirts for kids and adults with The Children's School for Early Development logo on the upper left corner. The shirts come in blue and white for \$10 kids and \$15 for adults and blue sweatshirts for \$15 for kids and \$20 adults. To purchase these great items send a note to the PTA mailbox with the size and color of the item you want.

Children's School News Suggestion Box

How are we doing? At the Children's School, we value your input and ideas, so any comments and suggestions regarding this newsletter are welcome. You can also submit articles or information that may be included in upcoming newsletters. Just send an email to mooney73@verizon.net

