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January 12, 2009

Hearing Canceled After School District Received Letter from HSLDA

When Tim and Karen Sue Tolin received notice that officials with Ubly Community Schools in Michigan had called a due process hearing for their son Sean, they turned to HSLDA for help.

Having already raised five biological daughters, the Tolins devoted their lives to helping special needs children through foster care and adoption. They currently have nine adopted children, seven of whom they homeschool.

Sean, their 8-year-old, has been diagnosed with multiple challenges, including congenital brain anomalies, Attention Deficit Hyperactivity Disorder, Obsessive-Compulsive Disorder, gastroesophageal reflux disease, asthma and Asperger syndrome. This year, Sean started second grade at Ubly Elementary School, where his parents found that he was not receiving the care he needed. After a final incident with the school last fall, the Tolins withdrew Sean from public school to homeschool him.



Courtesy of the Family

Tim and Karen Sue Tolin have devoted their lives to helping special needs children through foster care and adoption.

Although the public school was pursuing special services for Sean, his parents were providing extra care through private professionals. After withdrawing Sean from Ubly Elementary School, Mr. and Mrs. Tolin no longer needed or wanted the public school's services. However, school officials insisted that the Tolins have Sean undergo the evaluations they recommended and that he be given an Individual Education Plan. When Mr. and Mrs. Tolin refused, the school's attorney called a due process hearing.

The Tolins, who were members of Home School Legal Defense Association, contacted us for help. Litigation attorney Darren Jones wrote a letter to the district's attorney explaining that the Tolins have chosen to home educate Sean and waive his right to a free appropriate public education for the school year. He further explained that a recent decision by the Eighth Circuit Court of Appeals (litigated by HSLDA) affirms a parent's right to refuse special needs evaluations for their homeschooled children. (See *Fitzgerald v. Camdenton R-III School District*, 439 F.3d 773, 777 (8th Cir. 2006).)

After receiving the letter, the district's attorney quickly drafted an agreement that both parties signed, and Ubly Community Schools dropped the proceedings.

The Tolins report that Sean is now happily making great academic progress at home.

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