



EDUCATION DISABILITY RIGHTS SUCCESS STORIES

Kim Curran, Education Disability Rights Project (EDRP) Staff Attorney, successfully helped her client regain OPWDD eligibility after it was lost in 2023. New York State's OPWDD (Office for People with Developmental Disabilities) provides many needed services for eligible individuals with intellectual and/or developmental disabilities. One such service is a housing subsidy offered through OPWDD's Home and Community Based Services (HCBS) waiver, making it easier for many eligible individuals to live independently in the community in their own apartment or housing. OPWDD will pay a portion of the individual's rent through the HCBS waiver and will also provide other necessary services that an individual may require.

Due to a missed Medicaid recertification deadline, our client lost OPWDD eligibility in 2023, which then resulted in losing his eligibility for a housing subsidy. As such, he could not pay his rent and was on the verge of being evicted from his apartment. **Attorney Curran** worked with the client to get the documentation needed to keep his OPWDD and HCBS waiver eligibility. **Kim** worked closely with OPWDD so that the agency would continue to provide him with his housing subsidy while we worked on regaining his eligibility. Lastly, **Kim** connected this client with our Civil unit to help prevent his eviction. Ultimately, our client regained his OPWDD eligibility and now has full access to HCBS waiver services and all of his other necessary OPWDD services. **Congratulations, Kim!**



Kim Curran
Staff Attorney
EDRP Unit



Danielle Leake
Staff Attorney
EDRP Unit

The EDRP recently assisted a 4-year-old preschool student with Autism when the local school district failed to provide him with special education services over the course of 2 successive school years. The Committee on Preschool Special Education ("CPSE") had developed Individualized Education Programs (IEPs) for the student in September 2022 and February 2023, which mandated that the student be placed in a 12:1+4 special class with related services of Speech/Language Therapy. While the student did receive some speech services, the student did not have a placement in a special education preschool and did not receive *any* academic services during the 2022-2023 school year. Although the school district had sent out placement packets to different special education preschools, the majority of these programs had no available space. During the search process, the District failed to provide any interim services to the student, either academic or behavioral, such as Special Education Itinerant Teacher ("SEIT") or 1:1 Applied Behavior Analysis services ("ABA") in the home/community setting. In fact, the District ignored multiple requests from the parent and the student's developmental pediatrician which urged the District to provide these vital services.

The District's failure to provide mandated services continued through the 2023-2024 school year. Not only was the student deprived of appropriate special education services, but he was also placed in a general education preschool that could not meet his needs. In fact, the student had to be removed from this general education preschool due to his behaviors and the school's inability to deliver special education services.

At that point, **the EDRP** assisted the parent in obtaining an independent educational evaluation ("IEE") by a clinical psychologist of the parent's choosing, at District expense. The IEE made a strong recommendation for ABA services. Efforts to discuss the implementation of the IEP and/or ABA services were unproductive, and **Staff Attorney Danielle Leake** filed a Due Process Complaint on the student's behalf. The Due Process Complaint included a request for a special education preschool program and compensatory services for the almost 2-year period in which the student received 1) no academic services; 2) no ABA services; and 3) only a portion of Speech/Language services owed to him.

Ultimately, the District agreed to place the student, now a Kindergartener, in an in-district ABA program. The District is also incorporating many hours of compensatory ABA services into the existing program to make up for all past missed services. In addition, the District agreed to provide compensatory group speech services for past missed Speech/Language services to promote the student's social growth. We are happy to report that this student is becoming very social with his same-age peers, his academic and communication skills have improved, and negative behaviors have decreased. **Amazing work, Danielle!**

The Education and Disability Rights Project (EDRP) is a bi-county project that represents students with disabilities between the ages of 5-21 in Special Education matters, including attendance at Committee on Special Education (CSE) meetings, Resolution Sessions, and Impartial Hearings. In addition, the EDRP assists students in issues pertaining to residency and homelessness and helps adults with developmental disabilities to secure eligibility and services through the Office of People with Developmental Disabilities (OPWDD).