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February 20, 2007

Dr. Ima Educator
Superintendent
Podunk Community School District
44 Anywhere Street
Podunk, Iowa

Regarding: James Innocent, born May 18, 1998
Harassment by Peers & Disability Discrimination

Dear Dr. Educator:

I am writing this letter on behalf of the Parent Training & Information Center of Iowa and the ASK Family Resource Center. Pursuant to our mandate from the federal and state governments, we are advising and assisting John Innocent and Mary Doe, who are the parents of James Innocent, a student in your school district. James has several disabilities which affect his appearance and demeanor, and, as a consequence, he has been subjected to severe harassment by his peers. He comes home in tears on an almost daily basis, and it is reaching the point where he is afraid to go to school at all.

The PTIC and ASK are concerned that your school district may not be giving sufficiently serious consideration to the parental concerns regarding disability-related harassment by peers. Accordingly, please be advised that, according to a special education attorney we work with, Curt Sytsma, the U.S. Court of Appeals for the Eighth Circuit has recently held that a school district can be held liable for damages when it fails to respond appropriately to reports of such harassment. The school can be held liable for damages under Section 504 of the Rehabilitation Act, even if there have been no violations of the Individuals with Disabilities Education Act.

A precedent Mr. Sytsma suggests you may want to consider is *M.P. ex rel. K.P. v. Independent School Dist. No. 721*, 439 F.3d 865 (8th Cir. 2006). In this case, Circuit Judge Heaney held that a school district could be held liable for damages under the following circumstances:

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[T]he School District failed . . . to investigate allegations of disability discrimination, student-against-student harassment, hostile education environment, and disclosure of personal information; and failed to take appropriate and effective remedial measures once notice of the harassment was provided to school authorities. The School District's alleged failure to protect M.P. from unlawful discrimination on the basis of his disability is a claim that is wholly unrelated to the IEP process We therefore hold that M.P. has a right of action for damages under Section 504.

439 F.3d at 868. In light of this plain language, I would respectfully request that you personally verify whether or not your school district has taken "appropriate and effective" measures to address the harassment of James Innocent. A failure to do so could result in civil liability.

Thank you for giving this letter the serious consideration that allegations of disability-related harassment deserve.

Respectfully,

Susan E. Myers
Executive Director

cc: Curt Sytsma, Attorney
John Innocent & Mary Doe