

A Matter of Justice: Our Fight to Obtain Braille Instruction

by Holly Miller

From the Editor: When news of the judge's ruling in the Hank Miller case leaped over the Internet, Federationists applauded across the country. Holly Miller's story is one of conviction and perseverance. Because his family refused to have low expectations, Hank Miller will get the chance to live up to his full potential. You can read the Miller case online or download the judge's 69-page ruling. However, URLs are



subject to frequent changes, and often you must pay a fee to download a case from a website. To download a free copy of this case, enter the case name (J.M. and H.M. v. Oceanport Board of Education) in a Google search box or similar program, then from among the answers, tap on the link from <www.special-ed-law.com>.

Holly Miller is a member of the board of the Parents of Blind Children of New Jersey as well as a member of the NOPBC board. In addition to Hank and a seventeen-year-old son, Red, she has a greyhound named Louie who is blind from birth.

On August 18, 2008, I sent an email to the special services director of our school district, suggesting that our son, Hank, might need Braille. Hank was getting ready to enter second grade. I'll admit that at that point my husband and I weren't 100

percent convinced Braille was the answer for him, but we saw signs that Hank was having trouble reading print, and we felt he should be evaluated.

Hank had enough vision to see large print, but eye fatigue limited the length of time he was able to read. It was a physical effort for him to see words on the printed page. The longer he had to read, the less he understood what he read.

Two months after I sent our original email, we were granted a meeting, at which the state-employed teacher of the visually impaired (TVI) gasped, "I'd hate to do *that* to him!" By *that* she meant Braille, of course.

Undaunted, we pressed for a learning media assessment. The assessment was done, but the results were not presented to us until February. Even though the reading stamina portion of the evaluation was left blank, we were told that Braille was not appropriate for our son.

The Individuals with Disabilities Education Act (IDEA) presumes Braille to be the primary reading method for legally blind students. Yet, although Hank is legally blind, we were forced to prove that Braille was appropriate for him.

Over the following months, we sent countless emails and letters and attended one meeting after another. We prepared for each meeting carefully, bringing articles and advocates. We secured an attorney. We switched attorneys. Evaluations were done by both sides.

The school personnel and the professionals at the New Jersey Commission for the Blind and Visually Impaired (NJCBVI) were immovable. Nothing we did, said, or presented swayed their firmly made-up minds. They told us that Hank was a sighted reader, that he was better off as part of the sighted world. They insisted that Hank's wonderful approach to learning would be thwarted if we forced him to learn Braille. "Why would you want to make him more blind?" they demanded. They seemed to believe we were trying to do something *to* him instead of *for* him. We jokingly called it Munchhausen by Braille--a reference to Munchhausen by proxy, the phenomenon by which parents deliberately cause their children to become ill.

As the months--then years--went by, we emphasized repeatedly that our concern was Hank's inability to handle sustained reading tasks. We were assured that sustained reading wasn't a problem, even though the district never tested it. During this time, Hank was kept in the resource room for reading, five days a week, ninety minutes a day. He spent 25 percent of his school day in the resource room. When we

asked why, we were given a multitude of reasons, but we were skeptical about all of them. The fact that Hank's eyes couldn't keep up with the regular classroom workload was never on the list.

The testing done by the school district showed that Hank had no reading disability on a cognitive level. However, when we asked the district to evaluate his sustained reading, the evaluation never took place. Our own experts did sustained reading evaluations, and we shared the results with the NJCBVI. These tests all showed that Hank did very well on short reading tasks, but when he read for longer periods of time (ten to twenty minutes), his speed, accuracy, comprehension, and retention fell significantly. These results clearly illustrated that Hank's vision was the problem, not his mind.

Despite our findings, the school district and the NJCBVI still declared that Braille was inappropriate for Hank. It became apparent that nothing we could do would change their thinking. The only way Hank would ever get Braille instruction would be through a court order.

By this time our story had caught the attention of Dr. Marc Maurer, president of the National Federation of the Blind (NFB). With the might of the NFB behind us, we filed for due process in June 2011. Our legal team consisted of Jayne Wesler from Sussan & Greenwald in New Jersey and Sharon Krevor-Weisbaum and Jessie Weber from Brown, Goldstein & Levy in Baltimore. The hearing lasted nine days, but those nine days were spread over seven months.

The wheels of justice turn slowly, but turn they did. On May 3, 2012, we received the decision from the administrative law judge. Hank would receive Braille instruction!

The judge found our evidence to be more research- and data-based than that presented by the NJCBVI and that it was supported by evaluations geared toward Hank's specific disability. She found that both the district and the NJCBVI had a bias against Braille. "The comment that H.M. has to stay in a sighted world shows a bias against Braille because it infers that Braille is a lesser medium than the technology that she recommends," the judge said in her ruling. "H.M. is a legally blind student who has functional vision. He can live in the sighted world, learning and using Braille as an alternative reading tool, along with assistive technology. It is more logical that doing so will enhance his learning rather than thwart it."

The ruling ordered that Hank receive Braille instruction ninety minutes per day, five days a week. This is very important, because studies show that frequent and intense

Braille instruction is critical for a student to master the code. Hank will also receive three years of compensatory education. This will take the form of summer instruction, including attendance at the Buddy Program at the Louisiana Center for the Blind.

On July 10, 2012, nearly four years after we made our initial request for Braille, Hank had his first official Braille lesson. We cannot wait to see how his reading takes off from here. He is such a smart, inquisitive boy, and it was terrible to watch him avoid reading because it hurt his eyes.

We cannot begin to express how deeply thankful we are to everyone involved in Hank's case. Even though we knew we were right, we did not have the resources to prove it on our own. Without the NFB behind us, Hank never would have gotten Braille instruction. It is our greatest hope that other families can use our case as an example with their schools, avoiding the need to bring legal action.

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Deborah Kent Stein, *Editor*

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For more information about blindness and children contact:
National Organization of Parents of Blind Children
200 East Wells Street at Jernigan Place, Baltimore, MD 21230 • (410) 659-9314
www.nfb.org/nopbc • nfb@nfb.org • dkent5817@att.net