

August 18, 2003

Douglas Hardy  
Midway Elementary School  
225 South 100 East  
Midway, Utah 84049  
(435) 654-0472

**RE: Brianna Broadhead**

Principal Hardy,

It has come to our attention that students in your school have continuously harassed Brianna Broadhead because of her disabilities resulting from a brain tumor surgery that took place nearly two years ago. We would like to take this opportunity to remind you that the administration and staff at Midway Elementary School are under an affirmative duty to not only stop this behavior but to take all necessary measures to avoid this type of appalling student conduct from reoccurring.

Rule R277-112, Prohibiting Discrimination in the Public Schools, requires all schools to “adopt policies and rules prohibiting discrimination on the basis of race, creed, color, national origin, religion, age, sex, or handicap.” Further, Rule R686-103 Professional Practices and Conduct for Utah Educators requires among other things that an educator not participate in emotional harassment towards any student or “knowingly allow the harassment to continue.” The rule also requires that educators “not knowingly fail to protect a student from any condition detrimental to that student’s physical health, mental health, safety, or learning.” Violations of this rule may result in a disciplinary letter, letter of reprimand that would be placed in the educator’s certification file and in the personnel file, probation, suspension of the educator’s license or the revocation of the educator’s license for a minimum of five years.

Jamie Shaw, Brianna’s mother has contacted you several times regarding the harassment her daughter faces at your school because of her disabilities. She has urged you to take measures to prevent students from harassing Brianna. Specifically, she has asked that two students, Dillon Haines and Meagan Luke not be placed in the same class as Brianna. These two students are responsible for most of the harassment Brianna has endured at your school. Because of this harassment, Brianna has been physically ill, has nightmares about going to school and has been placed in counseling. At this time it appears your school has not complied with the requirements of Rule R686-103. Ms. Shaw brought the issue to your attention on several occasions last school year and

Brianna was still harassed. Further, little or no disciplinary action has been taken against the offending students.

As Brianna enters her fifth grade year at your school we encourage you to take the necessary steps to ensure that the harassment ends. Please be aware that the ACLU of Utah will be monitoring the actions you take concerning Brianna's harassment. We hope that you will take the necessary steps to protect Brianna and ensure that her last year at your school is an enjoyable one. Please call my office if you have any questions or concerns with the issues I have raised in this letter at (801) 521-9862 ext. 103.

Sincerely,

Janelle P. Eurick  
Staff Attorney