



7800 Shoal Creek Blvd., Ste. 171-E  
Austin, TX 78757  
v/tdd: 512.454.4816  
intake: 800.315.3876  
infoai@advocacyinc.org  
www.advocacyinc.org

## Testimony on SB 673 March 6, 2007

Advocacy, Inc. joins the Arc of Texas and the other statewide disability groups (see attached list of Disability Policy Consortium members) in supporting **SB 673** by Senator Zaffirini.

This bill, which costs neither the state nor local school districts extra money to implement, is very important to a small group of students with disabilities and their families because it allows them to experience what, for most of us in this room, was a very important time—high school graduation and all the pomp and circumstance that goes with it.

These are students who because of the significance of their disabilities need the additional years allowed to them by federal law to complete their education. Most have mental retardation, autism, or multiple disabilities. In many districts, this additional instruction will be provided in a work setting or on a community college campus where they can be around others their age. In looking at participation in graduation, it is unfair and not accurate to group them with students who for some other reasons have not met the state or the school district's expectations for graduation. The students covered by this legislation ARE doing exactly what their individualized education plans (IEP) call for.

As you consider this bill, remember that you are not deciding whether or not students graduating at ages 19-21 CAN participate in graduation ceremonies. They can. The only pending issue is WHEN. Can they walk with the students they went through school with and consider their friends and peers, or do they have to come back several years later and participate with students they do not know and who do not know them?

We wouldn't be here today if a law weren't needed. It is. Several other states have already passed similar laws. Without a state law, these students and their families will continue to be at the mercy of local superintendents and school boards whose positions change as their membership changes. Sometimes what is right cannot be left to local whims. This is one of those times.

Thank you for your support.

Kay Lambert



## DPC Issue Brief

...promoting progressive public policy  
for Texans with disabilities.

**Title:** Participation of Students with Disabilities in Graduation Ceremonies with their Same-age Peers

**Background:** In Texas, participation in high school graduation ceremonies is governed by local school district policies. Some school districts have policies restricting participation in graduation to only those students receiving a diploma.

Students with disabilities who still need special education services are allowed to continue receiving services from the school district through the school year in which they turn 21. Typically these services are provided at a setting other than a public school, such as a community college or job site. However, these students often want to participate in graduation activities with the students their age who have been their high school classmates. Some school districts are not allowing them to do so.

**Impact of Legislation:** Advocacy, Inc. represented a student on this issue several years ago. He had already ordered his cap and gown, as well as invitations. The district then told him he couldn't participate, but could instead come back at age 20 or 21 (whenever he finished services) and participate with those students. Advocacy, Inc. lost the due process hearing, and again in federal court because no federal or state law had been violated.

**Recommendation:** The Disability Policy Consortium (DPC) recommends that the Texas Legislature supports state legislation requiring school districts to allow students with disabilities to participate in graduation ceremonies with their same-age peers, even if they will continue to receive special education services from the district after high school.

**Contact Information:** Kay Lambert, Advocacy Inc., 7800 Shoal Creek Blvd., Suite 171-E, Austin, Texas 78757, (512) 4545-4816 Phone, email: [klambert@advocacyinc.org](mailto:klambert@advocacyinc.org).

**MEMBER ORGANIZATIONS:** *Statewide Members:* Advocacy, Incorporated, Brain Injury Association of Texas, Coalition of Texans with Disabilities, Epilepsy Coalition of Texas, The Institute for Disability Access/ADAPT, Lone Star Association for Persons in Supported Employment, Mental Health Association in Texas, National Alliance for the Mentally Ill of Texas, National Multiple Sclerosis Society of Texas, Texas Advocates, Texas AIDS Network, Texas Association of Centers for Independent Living, Texas Association of the Deaf, Texas Center for Disability Studies/ Texas Technology Access Project, Texas Council for Developmental Disabilities, Texas Federation of Families for Children's Mental Health, Texas Legal Services Center, Texas Mental Health Consumers, Texas State Independent Living Council, Texas State Sickle Cell Disease Association of America, The Center on Disability and Development at Texas A&M University, Council for Families for Children, United Cerebral Palsy of Texas, The Spina Bifida Association of Texas, Inc., and the Depression and Bipolar Support Alliance of Texas. *Local Members:* Epilepsy Foundation Central & South Texas. REACH Resource Centers on Independent Living – Dallas, Fort Worth and Denton, Corpus Christi Committee for Persons with Disabilities, Goodwill of Central Texas and Coastal Bend Center for Independent Living

**Allies:** The Arc of Texas and Unlocking Autism

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06/28/06 - Posted from the Daily Record newsroom

## White House supports Hanover Park student

### Bush aide: Allow teen with Down syndrome to walk at graduation

BY LAURA BRUNO  
DAILY RECORD

EAST HANOVER -- The White House has jumped into the debate over whether Alicia Vitiello, a Hanover Park High School student with Down syndrome, should be allowed to walk with the Class of 2007 when it graduates next spring.

Olegario "Ollie" Cantos VII, the Bush administration's associate director for domestic policy and former general counsel for the American Association of People with Disabilities, has sent the case to the U.S. Department of Education for review and has pledged to personally follow Alicia's story.

"I believe that Alicia should be allowed to participate (in graduation), enjoying one of the rites of passage to adulthood as others her age do," Cantos wrote in a June 26 letter to Alicia's parents, Janice and Tom Vitiello. "I take great personal interest in seeing this situation resolved."

Cantos first contacted the Vitiellos on Thursday, two days after a Daily Record story detailed the family's clash with the school district. Hanover Park Regional School District policy does not allow students who have not completed their education to take part in a graduation ceremony.

Alicia, a 17-year-old from East Hanover, is entitled by law to receive a public education until she is 21. However, she would like to walk at graduation next year, following her fourth and senior year at Hanover Park, with classmates she's known since kindergarten.

The Daily Record story was circulated on the Internet by advocacy groups across the country. It was forwarded to Cantos by Mary Troupe, director of the Mississippi Coalition for Citizens with Disabilities.

"The fact that this person at the White House picked up on the article is a miracle," Janice Vitiello said Tuesday.

#### 'No-brainer'

"I think it proves that this is an issue people feel strongly about and one that touched the hearts of many who don't understand why my daughter can't walk at graduation," Tom Vitiello said. "It reinforces that this thing is a no-brainer."

One school board member for the Hanover Park Regional School District, which operates both Hanover Park and Whippany Park high schools for students in East Hanover, Hanover and Florham Park, continued to defend the graduation policy Tuesday.

"I don't see any purpose in her walking," said Marguerite Lemongello, a representative from East Hanover. "Right now, I support our policy. That's not what I call inclusion -- satisfying the whims of parents or whomever. That's not part of an inclusive education. Inclusion means getting a full education. A graduation ceremony is not part of that."

Nevertheless, the state Department of Education last year asked districts to adopt inclusive graduation policies that would allow students like Alicia to walk at commencement. Graduation issues are controlled by local school boards, but the state

[Click Image to Zoom \(Opens in New Window\)](#)



#### DAILY RECORD

The White House has jumped into the debate over whether Alicia Vitiello, a Hanover Park High School student with Down syndrome, should be allowed to walk with the Class of 2007 when it graduates next spring. They are supporting the teen.

Advertisement

Education Department weighed in last spring on behalf of students. A strongly worded memo made clear that no state law or regulation prohibits districts from accommodating such students.

Many school districts across the state allow students to walk even if they will continue to receive services until age 21.

### **State laws**

In addition, Pennsylvania and Illinois recently passed laws allowing high school students with disabilities to walk at graduation following their fourth year, for the same reason Alicia wants to walk. If students wait until they are 21, they are likely to be surrounded by strangers and the ceremony has less meaning, advocates said.

In his letter to the Vitiellos, Cantos said Hanover Park's policy surprised him.

"I must admit a good deal of surprise to the extent that your local district is presently choosing not to allow your daughter with a developmental disability to participate in the commencement exercises ... it does not in my view seem unreasonable to allow her to be included."

Cantos said he is sending the matter to John Hager, assistant U.S. secretary of education, and expects the case to be reviewed by the Office for Civil Rights. Cantos wrote he believes there is a "potential violation of Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of disability by any entity receiving federal funds, including the school district whose graduation policy is presently in question."

Cantos, blind since birth, was appointed to the Bush administration in 2004, initially serving in the Civil Rights Division of the U.S. Department of Justice. His duties today at the White House are dedicated solely to serving the disability community at the national level.

### **No comment**

Hanover Park Superintendent John Adamus said he could not comment because he was not aware of Cantos' involvement in the matter.

"An official from the White House has not contacted me," Adamus said. "Until that person contacts me directly, I can't comment."

When Adamus spoke with Tom Vitiello earlier this month about the family's request, he said he was not prepared to make a recommendation in Alicia's case. Adamus said such matters must be decided individually and that a variety of issues, including the student's progress and family issues, must be weighed before he can recommend whether the board should waive its policy. He agreed to revisit the issue in September.

The final decision on whether to waive or amend the graduation policy rests with the Hanover Park Regional Board of Education. Several board members did not return calls seeking comment Tuesday, including board President John Crane and the board's two other East Hanover representatives, Corinne DeStefano and Stephanie Politi.

"Sometimes, families with children with disabilities are so overwhelmed with the struggles they face with school districts that they give up," said Janice Vitiello, a special education teacher who holds a master's degree in education with a concentration in special education. "Hopefully, this situation can be resolved for Alicia and all those students who follow her not only in Hanover Park, but in New Jersey."

Janice Vitiello said Hanover Park's graduation policy is a symptom of the district's outdated philosophy toward transition in special education. Allowing Alicia to walk at next year's graduation would be a good time to mark the transition from a traditional high school experience to preparing for life and work after school, she said. Typically, the final two years of special education services are focused on giving students job training in their community. Alicia is scheduled to finish all her graduation requirements by next spring, but her parents want her to continue to receive transition services.

"It's unfortunate this had to go all the way to D.C. and we can't take care of it in our community," Tom Vitiello said. "We'll reach out to anyone who has compassion and understanding for this young lady."

### **Legislators' views**

Tom Vitiello, the Republican township council president in East Hanover, said he was disappointed that no Hanover Park

school board members contacted him after the news story appeared, considering several know Alicia. The family has heard from local legislators, however, including Assemblymen Joseph Pennacchio, R- Montville; Alex DeCroce, R-Parsippany; and Sen. Robert Martin, R- Morris Plains.

"I offered anything I could do to help," Pennacchio said Tuesday. "It didn't seem like the right thing to do," he said of the district's policy.

"We'll put all our efforts into seeing this straightened out by next year," said Pennacchio, who has met Alicia several times through her father.

Pennacchio said he is willing to pursue legislation similar to laws passed in Pennsylvania and Illinois.

"This is something that has to be addressed," Pennacchio said. "With the move to mainstream disabled students, we need to be sensitive to these issues and we can start by being more flexible in such policies."

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Laura Bruno can be reached at (973) 428-6626 or [lbruno2@gannett.com](mailto:lbruno2@gannett.com).

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