

## Case Law re: compensatory education after age 21

### Pihl v. Massachusetts Department of Education

In Pihl v. Massachusetts Department of Education, the First Circuit also held that compensatory education may be awarded to students older than twenty-one, but its rationale was more detailed than the Breen court's. The school district in Pihl, citing the Supreme Court decision in Honig v. Doe, argued that because the plaintiff-student was beyond the age of twenty-one, he was no longer entitled to IDEA's protections. In Honig, the Court ruled that a twenty-four-year-old man could not require a school district to comply with the requirements for discipline of disabled students in EHA, because only disabled students between the ages of three and twenty-one are protected by the act. Similarly, the school district in Pihl argued, the plaintiff should not be able to receive compensatory education once he has passed IDEA's age of eligibility.

42

The court rejected that argument, ruling that the rationale in Honig was inapplicable to claims for compensatory education. Because compensatory education is a remedy for past deprivation of services, the student's current eligibility for services under IDEA was irrelevant. Compensatory education must be an available remedy even when a student is beyond the age of twenty-one "[i]n order to give meaning to a disabled student's right to an education between the ages of three and twenty-one." IDEA's "time-consuming review process" further justified awarding compensatory education; otherwise, school districts could simply stop providing services to students nearing the age of twenty-one without facing any later obligation to them. Therefore, awarding compensatory education for a student older than twenty-one was appropriate if the student proved that the school district had denied him a FAPE.

43

Since Pihl and Breen, all the courts of appeals to address the issue have held that a court may award a student compensatory education beyond the age of twenty-one