

Felix Consent Decree

Jennifer Felix

- Jennifer Felix, a child with intellectual disabilities, epilepsy, and speech and visual impairments, moved with her family to Maui in 1983
- Problems started in high school
 - Spent most of days **in time out in school restroom**
 - On **waiting list for mental health services**
- Placed in a residential facility for children with brain damage **in Texas** from 1989 to 1998 at the state's expense

Jennifer Felix competing in special Olympics at UH pool,
and after winning race in 2000



Court Case

- On May 4, 1993, the governor, Supt. of Education, and Director of Health were sued on behalf of Jennifer Felix and 6 other students for **violating Section 504 and IDEA**
- In March 1994, the suit expanded into a **class action suit**
- On May 24, 1994, Judge Ezra ruled that the state had “**systematically failed** to provide required and necessary educational and mental health services to qualified handicapped children”
 - Ezra said special education in HI was in “the **Dark Ages**”

Consent Decree

- “A consent decree is governed by federal and state laws ... It is generally a **voluntary agreement** worked out between two or more parties to a dispute. It generally has the **same effect as a court order** and can be enforced by the court if anyone does not comply with the orders.” (uslegal.com)

Felix Consent Decree

- At the recommendation of the Attorney General to preserve state control over education, the state of HI did not appeal and entered into a settlement called the **Felix Consent Decree**
- On October 25, 1994, the Court approved state's plan to create and implement the principles of the **Hawaii Child and Adolescent Service System Program (CASSP)**

CASSP Principles

- Among the principles of the CASSP:
 - The system of care will be **child-centered** and **culturally sensitive**
 - All children will have full access to a **comprehensive array of services**
 - All children will receive services within **LRE**
 - **Families** will be **full participants** in all aspects of planning and delivery of services
 - **Early identification** will be promoted

Felix Timeline

- **Extensions for compliance** requested and granted in August 1996 and February 1998
- State Auditor Higa concluded, “the state has not made much progress in meeting the requirements of the consent decree” (1998)
- In May, **2000**, the **state was found in contempt** for failing to comply with the Felix consent decree
- Judge Ezra granted another requested **extension** until December, 2001 for the state to reach full compliance

Felix Timeline

- Judge Ezra gave Superintendent and Director of Health “**super-powers**” to bypass state procurement laws as well as collective bargaining laws to meet 56 benchmarks
- On November 30, 2001 Judge Ezra announced that “we no longer need be embarrassed about special education in Hawaii” and that he would not appoint a federal receiver to take over the educational system

Felix Timeline

- In December, 2001, Auditor Higa released a report that the state “has not achieved the expected results”
 - “The system of care **focused more on procedural compliance** rather than on an effective system to help the children”
- In April, 2004, Judge Ezra announced a plan to end court supervision of special education in HI, stating that the state was in “substantial compliance” with federal law
- On May 27, **2005**, the case was officially **closed after 12 years of court oversight**

Ongoing Problems in Resolving Felix

- Identified by state
 - **Undefined, unclear, and costly compliance requirements**
 - “money is no object approach”
 - From 1994-2002, state estimated it had spent \$1.5 billion on Felix
 - **Inadequate oversight and accountability**
 - **Abuse of court granted superpowers**
 - “fostered an environment of waste and profiteering”
- **Also conflicts between HI DOE and court-appointed personnel**
 - “The DOE culture is poisonous to outsiders” (Groves, federal monitor, 2002)

Impact of Felix

- **Funding** for special education increased 500% from 1993 to 2001 (Wataoka, 2002), or from app. \$75 million in 1994 to \$306 million in 2005/6 (Martin, 2005)
 - Has drawn criticism for disproportionately increasing sped budget
- **Percentage of students classified** as having a disability rose from app. 7% before the decree to app. 12%
- Created more than 300 **student services coordinator positions**
- **Quality of education**, while not perfect, increased

Ongoing Effects

- "This is **not the end** of the journey. In many ways it's just the beginning. Our obligation is continuing and will continue" (Attorney General Mark Bennett, 2005)
 - Funds for UH training special education teachers has been reduced but continues