

North Canaan Playground Ruling 'A Landmark' for ADA Nationally

By Robert Storace | November 21, 2017

Jessica McCue fought for years to ensure that daughter Sasha had a playground that was accessible to all children. She won that battle and soon Sasha's elementary school playground will be handicapped accessible to all students.

In what some American with Disabilities Act attorneys see as a landmark case, the U.S. Department of Justice and the small northwestern town of North Canaan have come to an agreement regarding making the town's elementary school playground handicapped accessible.

"This is federal law and it has national impact," said Bonnie Roswig, senior staff attorney with the Center for Children's Advocacy, attorney for the McCue family and a longtime advocate for those with disabilities. "A settlement of this kind relating to a playground is very rare. It will affect children in Kansas, Illinois and California as much as it affects children in Connecticut. I definitely expect other municipalities around the country to be contacting me once the word gets out."

The settlement between North Canaan and the U.S. Attorney's Office for the District of Connecticut requires the North Canaan Elementary School's playground, which is in two sections, be fully ADA compliant by Aug. 31, 2019.



Jessica McCue first notified school officials about the lack of accessibility at the playground for her daughter Sasha in 2012. McCue asked Roswig, a senior staff attorney for the Hartford-based Center for Children's Advocacy, to help her legally soon after. Roswig filed a complaint with the U.S. Attorney's Office in 2015. The two sides settled on a plan about three weeks ago. It will cost about \$200,000 for the town to make the entire playground handicapped accessible. That includes, among other things, changing how steep the slope of the walking surface can be; leveling the ground; having a wheelchair space at the picnic table.

For McCue, the settlement is a victory for her 11-year-old daughter, who has cerebral palsy. North Canaan's elementary schools goes from pre-K through 8th grade. The school has less than 300 students.

McCue said her daughter, who is in the 5th grade, and her friend Walter, who is in the 6th grade and has cerebral palsy and spina bifida, are the only two students in the school who will personally benefit from the new design.

When there is recess or students get to play outside in the playground on nice days, McCue said, Sasha feels isolated from her peers.

"We get a daily log and I'd see my daughter was sitting in a wheelchair watching other kids play," McCue said Tuesday. "I just want her to be with the other kids. Now, she is sitting on the sidelines and is kind of like the odd man out. She is a very social and outgoing girl."

Sasha, her mother said, uses a cane and sometimes a wheelchair to get around. Specifically, McCue said, the ground is very inaccessible to her daughter because of the elevations. "The playground is up and down and she gets unsteady on her feet." The playground, she says, offer monkey bars, slides, swings and benches.

Several years ago, McCue said, the school made accommodations for a swing for Sasha and put in some benches she

can access. "But, as far as taking the old equipment out and replacing it, that they have never done."

The social aspect of mingling and spending time with her peers is vital for Sasha's development. Roswig said.

"She needs to be able to interact with other kids," Roswig said. "These are important social skill developments that children need in a nonacademic setting."

North Canaan school board member Dorothy Cecchinato said the McCues enjoy a great deal of local support.

"Making the playground accessible to all is something I support," Cecchinato said Tuesday. "Young people need plenty of exercise. They need to play games and be social together. Today many young people have their iPhones. They need to understand the importance of doing physical things. The playground is a social place, but it's also about being physically fit."

McCue said when the playground is finally updated and completed, she will have "a victory party. This has been years in the making."

Sasha, McCue said, "is not phased by all of this. She is in her very magical mystical world. She'd be happy to see the changes, but she really does not get it all."

In announcing the settlement, the U.S. Attorney's Office for Connecticut wrote in a release: "The Americans with Disabilities Act ensures that children are able to access and enjoy school playgrounds. Our office is committed to enforcing the ADA, which requires our schools to allow equal access to every child."

Under the settlement agreement with the government, the town must file periodic status updates of the project.