

# The Catholic Lawyer

---

Volume 24  
Number 3 *Volume 24, Summer 1979, Number 3*

Article 16

---

April 2017

## Implementation of Wolman

Edward J. Leadem

Follow this and additional works at: <https://scholarship.law.stjohns.edu/tcl>



Part of the [Catholic Studies Commons](#)

---

### Recommended Citation

Edward J. Leadem (1979) "Implementation of Wolman," *The Catholic Lawyer*. Vol. 24 : No. 3 , Article 16.  
Available at: <https://scholarship.law.stjohns.edu/tcl/vol24/iss3/16>

This Diocesan Attorneys' Papers is brought to you for free and open access by the Journals at St. John's Law Scholarship Repository. It has been accepted for inclusion in The Catholic Lawyer by an authorized editor of St. John's Law Scholarship Repository. For more information, please contact [selbyc@stjohns.edu](mailto:selbyc@stjohns.edu).

# IMPLEMENTATION OF WOLMAN

EDWARD J. LEADEM

I do not think you could hear a more dynamic presentation than you have just heard, because Dave Young has been totally absorbed and totally dedicated in this endeavor. I do think we do owe him a lot. As you are going to hear in my short presentation, and as Leon also has said, we really are riding and have ridden on the coattails of the great State of Ohio.

In the current issue of the *Christopher News Notes*, the topic seems to be creativity. It has an article with a little reference that a priest asked a young boy, "Can you tell me who made you?" And the little boy said, "God made part of me." And the priest said, "What do you mean part of you?" And the little boy answered, "God made me little. I grew the rest myself." I do not think there is a more fitting expression for what the good people in the State of New Jersey did, except to say that they followed the creativity of the great State of Ohio in coming up with some type of meaningful legislation for our nonpublic school kids. I do not want to sound too deifying, if you will, of the great State of Ohio, because they also have to, every once in a while, be humbled. So we say they are so exalted because they have been now blessed by the Supreme Court.

In New Jersey, we got a little bit gutsy, I suppose, when one looks back at the dates. I wrote down a couple of them. Dave Young argued the *Wolman* case on April 25, 1977. In New Jersey, we introduced two bills on May 16 about which I will talk in a minute. So before Dave heard from the great Court down here, we had put the fat in the fire in New Jersey. Both of our bills passed the lower house of the Assembly in May, and then, under date of June 24, the Supreme Court came down favorably, as Dave Young just reported, in the Ohio case of *Wolman v. Walter*. Then, just three days later, the Senate of New Jersey approved our bills. And then the bills, after having passed both houses, were signed by the governor in August. We patterned the two bills that we have in New Jersey to that of Ohio. The only thing that we did, we sort of bifurcated them into the Diagnostic Speech Services Bill, and an Auxiliary Services Bill for the other, and that was because we had in mind some sort of severability, as might possibly occur down the road.

The opposition—of course you know what the opposition is, has been, and always will be—manifested itself. However, one of the nicest things that the Supreme Court did to us in ruling in Dave's favor on the 24th of June of last year was that it completely robbed the opposition in the state house halls of its contention, "Why don't you wait until the United States Supreme Court rules on this. They're about to come down and we know they're going to go against it, so why don't you wait?" You can imagine how nice it was for us on the floor of the hall then to be able to go in on

June 27th, which was a Monday, the Supreme Court having come out on the Thursday before, coming down in favor of this legislation! Other than that, the opposition is traditional and I don't have to bore you with it because you live with it every day. To talk about what we did do, then, concretely, we tried to do something in the wake of what the Court said is permissible in *Wolman v. Essex*.

The first bill that we had passed was what we called an Auxiliary Services Bill, which really delivers four types of services. The first type is compensatory education, which is described as preventative or remedial programs in basic communication and occupational or computational skills. The second one is supportive services for acquiring communication proficiency in English, translated as English as a second language for those children who have a limited English-speaking capacity. Third is what is called supplementary instruction services. This would be instruction provided for a pupil classified as handicapped, which is given in addition to the regular instructional program. And then the fourth type of service is home instruction service, which is really bringing the school to the home of the child because that child has a handicap or temporary physical disability that prevents him from attending school by virtue of illness or injury. These services following the mandate, if you will, of the United States Supreme Court, are all delivered off premises; they cannot be had on the premises of the school. So we have language that says that those services are to be provided with the consent, or upon the consent, of the parents, and provided in a location as determined by the local board of education, except that no such services shall be provided in a church or a sectarian school. There is provision under our statute for a contract to be entered into between the local school board and educational improvement centers or other services commissions—anything other than a sectarian school.

It is difficult to tell you how well this bill and the next one that I will talk about are working, because they have just gotten underway. By the terms of the bill, there was some crankup time to do the testing and the compilation of statistics, the apportionment of monies, and those time limits went six months. So, the bill having been signed by the Governor with an effective date in August, we are just about ready to parcel out some services. Thus, I have no concrete data to give you. I can tell you that as far as the aspect of implementation is concerned regarding cooperation of the public school people, while they were there with their traditional opposition at the time the legislation was being proposed and taken through the houses, we find that they are now cooperating and abiding by the law. We have really found on the basis of our very close scrutiny that they are now trying to do what has to be done. We do hope that we will have something more fruitful to report after it gets underway.

The second piece of legislation that we adopted the same date was the bill called Diagnosis of Handicapped and Speech Correction Bill. That legislation is to identify and provide remedial services for handicapped children in both public and nonpublic schools. So we are getting nothing

more, as is the tradition of the Court, nothing more than that which is afforded to a public school student. We have on-premises diagnosis which turns up one who is mentally retarded, visually handicapped, auditorially handicapped, communication handicapped, neurologically or perceptually impaired, orthopedically handicapped, chronically ill, emotionally disturbed, socially maladjusted, or multiply handicapped. As I say, these diagnostic services are done on the premises. Then our law provides that if a disability is turned up, there is just one that, under our present law, can be treated by way of remedial therapy, and that is speech correction. This is all we thought we could get at this time because of budgetary constraints. So if that diagnosis turns up a child who is in need of speech therapy, that is provided. But then, of course, it has to go off premises in the same way as do the other types of services.

These are the services that we have started in New Jersey. As I have said, they are just about to be kicked off by way of actual delivery to a child—in the next week or so. Implementation-wise, it has not been easy. Money has always been tight, and we do not seem to have the interest in spending in New Jersey that Dave Young's state has. But we have tried our best, of course, to conform with the Supreme Court decision, and that is where New Jersey stands right now.