Understanding the Basics of Special Education Law

Tim Schwarz
www.educationlawgeorgia.com

Links

Georgia Special Education Law Blog
www.educationlawgeorgia.com/blog

GA Dep’t of Edu. Rules
http://www.doe.k12.ga.us/Curriculum-Instruction-and-Assessment/Special-Education-Sections/Pages/Special-Education-Rules.aspx

Legal Resources
http://www.wrightslaw.com/

IEP Meeting Advice
http://www.connecticutspedlawyer.com/

Disclosure: Tim Schwarz is the founder of the Law office of Tim Schwarz, which represents students with legal issues such as: tribunal hearings, civil rights, bullying, IEP & 504 execution.

Evaluations

Homer
We are worried about Bart because he doesn’t make eye contact or interact with other kids his age.

Marge
And Lisa has a lot of trouble reading her assignments.

Krabapple
Let’s enroll them both into the SST program.

Marge
Can we skip straight to writing an IEP?

Marge
The school’s evaluation is really insightful about Lisa’s cognitive processes and reading difficulties. Do you have diagnosis?

Chalmers
The district is not required to determine medical diagnosis.

Homer
The report does not say anything about Lisa’s hearing loss.

Skinner
You didn’t tell us about hearing issues.
IDEA, Section 504, ADA

IDEA
• Intellectual Disabilities
• Hearing Impairment
• Speech or Language Impairment
• Visual Impairment
• Specific Learning Disabilities
• Other Health Impairment

Section 504
Any otherwise qualified individual with a disability in the United States... shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance... Americans with Disabilities Act

No qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of, or be subjected to discrimination by any such entity.

Free Appropriate Public Education
20 U.S.C. § 1401(9)


"Typical Classroom:
Progressing smoothly from grade to grade"

Special Education Classroom:
"appropriately challenging"

Assessing the Special Education Plan

Marge
We just want what is best for Lisa.

Krabapple

Homer
We think that Bart needs some more staff support during transitions.

Chalmers
I hear you saying that you want what is best for Bart.
Individualized Education Program

Mandatory IEP Team members
1. Parent
2. Regular Education Teacher
3. Special Education Teacher
4. District Official (Program & Resource)
5. Evaluation Interpreter

Purpose:
Prepare students for:
(a) Further education,
(b) Employment, and
(c) Independent living
20 U.S.C. § 1400(d)(1)

Krabapple
Bart seems to be doing fine with his fine motor skills. Should we end his occupational therapy sessions?

Skinner
If you want to add time with the SLP, your insurance could pay for it.

IEP Drafting

Marge
Given Lisa’s present levels, I think she needs additional reading tutoring.

Skinner
That’s not available at Springfield Elementary

Homer
Can we set the goal to raise her reading level by two grades?

Krabapple
I don’t think that is realistic to achieve over the next school year.

Krabapple
I recommend three additional goals for Bart
(1) Engage Appropriately with Peers
(2) Transfer between classes with three physical prompts
(3) Reduce Physical Aggression towards school staff to 50% of interactions

Homer
Can we include some ABA therapy to achieve those goals

Chalmers
Our highly trained teachers use a variety of techniques to address Bart’s goals

School Discipline

Marge
I know that Bart’s aggressive behavior is a problem, but this is the fifth out-of-school suspension he received. And he’s already had seven in-school suspensions.

Chalmers
The district is allowed to impose punishments of less than ten consecutive days at our discretion.

Homer
There must be something else that can be done to reduce the frequency of the attacks on teachers.

Chalmers
I have a duty to protect the teachers and students in Bart’s class

Skinner
School staff implement Lisa’s IEP correctly. Further, she knew what she was doing was wrong when she yelled and cursed at the teacher.

Homer
When can she return to school?

Skinner
At the end of the school year. Until then, she’s your problem.
**Litigation**

**Skinner**
We are ending Bart’s BIP & Social Skills classes.

**Homer**
We don’t agree with that decision.

**Skinner**
The IEP team’s decision is final.

**Marge**
What about his right to LRE?

**Homer**
We don’t agree that the school’s evaluation identified Bart’s problem. Can we get Dr. Hibbert’s opinion?

**Krabapple**
No. The district doesn’t pay for private evaluations.

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**Meeting Tips**

**Homer**
Can we start planning extended school year for Lisa?

**Krabapple**
This is an amendment meeting, not an ESY meeting.

**Skinner**
Superintendent Chalmers would need to approve ESY

- Inviting Witnesses

- Transition Plan
  Must plan for post-school needs - no later than age 16

- Review before Signing
- Get it in Writing

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