Understanding the Basics of Special Education Law

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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.connectionspespecialeducationlawyer.com/

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.

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

Marge
Can we skip straight to writing an IEP?

Homer
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.

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

IDEA
• Intellectual Disabilities
• Hearing Impairment
• Speech or Language Impairment
• Visual Impairment
• Serious Emotional Disturbance
• Orthopedic Impairments
• Autism
• Traumatic Brain Injury
• Specific Learning Disabilities
• Other Health Impairment

Section 504
No otherwise qualified individual with a disability in the United States shall, solely by reason of her or his disability, be excluded from 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 the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.

Free Appropriate Public Education
20 U.S.C. § 1410(g)

First, has the State complied with the procedures set forth in the Act? And second, is the individualized educational program developed through the Act's procedures reasonably calculated to enable the child to receive educational benefits? If these requirements are met, the State has complied with the obligations imposed by Congress and the courts can require no more.

1. Procedural rights
2. Substantive standard

"The state must provide the child only with 'a basic floor of opportunity.'"

Drew P. v. Clarke County Sch. Dist., 877 F.2d 927, 930 (11th Cir. 1989)

"maximum improvement is never required"

JSK v. Hendry County Sch. Bd., 941 F.2d 1563 (11th Cir. 1991)

Assessing the Special Education Plan

Marge
We just want what's 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.

Lisa
It seems like Bart isn't doing well in this school.

Krabapple
He's doing fine in his classes, making appropriate academic progress. There's not much else we can do.
Individualized Education Program

**Mandatory IEP Team members**
1. Parent
2. Regular Education Teacher
3. Special Education Teacher
4. District Official (Programs & Resources)
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 these 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.

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

Meeting Tips

• 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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