

**January
2012**



In This Issue

- ✦ *Work Strategically!*
- ✦ *Budget Cuts, Round 2*
- ✦ *Wyandanch (NY) Union Free School District*
- ✦ *Falsification of documents*
- ✦ *Upcoming Webinars*



Education Services Division, PSEA (800) 944-7732
400 North Third Street, P.O. Box 1724
Harrisburg, PA 17105-1724

Work Strategically!

Baker's Dozen of Strategies on Placement for the New Year

Have you ever had a parent, building administrator, or advocate try to leapfrog to placement decisions during an IEP meeting? Here are some strategies to help to stay on course so you go through the proper sequence, and tips on how to deal with those that want to undermine the process, innocently or by design.

1. Clearly state that the team will get to placement section of the IEP, but that there are multiple sections the team has to discuss before making a placement decision. The team needs to know the present education levels, goals, SDI, related services, and any need for a behavior plan before deciding where they can be implemented successfully.
2. Special Education teachers who bring draft IEPs to the meeting should leave the placement decision and LRE decision sections blank. This eliminates the assumption on the part of other members of the team that you have predetermined placement. You are entitled to your opinion and can recommend a level of LRE.
3. Share with the IEP team that LRE is of critical importance and will be taken seriously when the team gets to that page of the IEP.
4. Ask the parents why they have "selected" a specific placement option for consideration by the IEP team. It is helpful to understand where they are coming from. Are their points meaningful, emotional, data driven, or scheming? Are they talking about specific services they want for their child or do they state the program or school building? This information is useful in determining if meaningful conversations can take place.

If you would like to subscribe to PSEA's *Current News in Special Education*, please go to www.psea.org/currentnews

Click on *Current News in Special Education* and follow the directions for the *Stay Connected Section*.



Comments or questions about the items in this newsletter may be directed to: bmiller@psea.org

5. Get information from the parents on what they see as the student's progress and challenges. This should occur at every stage of the IEP process.
6. Discuss the student's progress in both academic classes and specials. Do the accommodations or modifications help the student to access the curriculum? What should be kept and what should be eliminated from this new plan?
7. Sometimes organizing a site visit so the parent gets a visual can be helpful. As they always say - a picture is worth a thousand words. Who would be the logical person to go with them to describe the program or be there to answer questions?
8. Observe the body language of those at the table. Can you tell if the stress level is going up during the discussion? Are all people participating or are some people receding from the discussion? Would it benefit to ask others for their opinions?
9. What other information would be helpful to share with the team so they make the most informed decision? Can you get that information immediately or does the IEP reconvene once the information has been gathered?
10. Sometimes outside agencies come in and seem to feel they know what is best for the child and make recommendations. This can be frustrating because it is not their area of expertise. Sometimes posing questions can be insightful for parents who have brought this person with them to the meeting. Questions such as: What do you know about the current program the child is participating in? How did you determine that this program does not meet the student's needs? What do you know about the academic content being covered in the current program? What services would be different in the program you are supporting? What are the academic and social aspects that we addressed in the IEP that would be addressed by both placement options?
11. Signing the attendance sheet for the meeting does not signal agreement with the entire document. It reflects that those people who signed were in attendance for at least a portion of the IEP meeting. This can help resolve one compliance issue to document who attended the meeting so in case you go to due process, you will have the proof that the full team was in place.
12. Never say "All students with X disability go through this program." This is the kiss of death in a due process hearing. That means that the "I"



If you use Twitter, you can receive updates on special education when new information becomes available. Information will be sent as it is received rather than on a daily or weekly schedule. You can sign on to follow at www.twitter.com/bernie_miller



Many current updates and other helpful information on Special Education can be found on the PSEA website- go to www.psea.org Teaching and Learning > Special & Gifted Education

in IEP has been eliminated. Placement decisions are made on an individual basis. You can have recommendations that specific programs or activities will be appropriate for the child based on your experience and background. Please do not “pigeonhole” students based solely on their disability category.

13. The LEA will have to make the determination for the school district if they are willing to accept and review independent evaluation reports.



Budget Cuts, Round Two!!!!

PA Budget Secretary Charles Zogby is already saying that state revenues are not meeting expectations, so we may see level funding or additional cuts in Gov. Corbett’s proposed budget. This article will not debate the budget issue but brings up the issue of what will happen if you face another set of layoffs of some special education staff. We are already seeing cracks in the services provided to students. Staff are being spread too thin and some types of services have been eliminated.

Realize that one of the best defenses is having a good offence. Data collection is a very useful tool when dealing with budget cuts. Here are some considerations as you face the spring IEP season and possibly another round of pink slips.

Districts will look at one-on-one paraprofessionals and see this as a potential cost savings. How will you be able to present a case to preserve this position for a specific student? Data is the answer. Collect data on student behavior when the paraprofessional is within a specific proximity to the student and then collect data when the paraprofessional is either out of view or at a greater distance. Data may show that the closer the proximity, the more time spent on educational tasks and less time off task. Take two worksheets, one with paraprofessional support and one without to show worksheet completion rate. You should be getting a flavor for what we are suggesting. You want to demonstrate that with paraprofessional support the student is accessing his or her curriculum.

Next it is time to load up the present education level with information on the data collected. State that specially designed instruction that included the one-on-one paraprofessional was a successful approach and then list the data comparisons. This does require more typing but it can help you and the parents when you get to listing the supports in the SDI section. An administrator who says that the service is not going to be provided will have to face the data that you can reference in the present education levels. Sometimes facial expressions that show concern can also help the parent realize that there is a problem. I would make sure that parents get their procedural safeguards booklet and that you remind them as to why they are getting the booklet.

MW Region ESP training

Members volunteered to play the role of IEP team members in a mock IEP meeting.



You may not want to remove the paraprofessional from assisting the student just to make a case. Opportunities open up when the paraprofessional or teacher is absent and no substitutes are available. This is a perfect day to collect data on academics and behaviors!

Incident reports can be pulled for review or counted. This is another form of data collection and is required by the school policies. This information may support the need for paraprofessional support.

Bring your schedule or the schedule of the upcoming grade level staff. This is another form of data. The discussion of cutting services can be put into terms parents understand by showing a schedule and then asking how the child will be supported without the current supports being in place. All action plans require the following questions to be answered: who, what, when, how and why. You can be very respectful with the LEA and say that you are challenged to figure out how the services will be provided when there are no additional staff or the staff would be otherwise engaged.

Go back into the evaluation or re-evaluation information and have it available. There will probably be some good sentences to quote. Remember this document was approved previously and is the basis of current IEP development.

Wyandanch (NY) Union Free School District, 57 IDELR 234 (OCR 2011)

This is a case in which the United States Department of Education's Office for Civil Rights (OCR) determined that the District violated the rights of a student who had Attention Deficit Hyperactivity Disorder (ADHD) and Oppositional Defiant Disorder (ODD) in three ways.

First, the district violated the student's rights when a teacher failed to comply with the student's Section 504 Plan (in Pennsylvania this document is called a Service Agreement) and Behavioral Intervention Plan (BIP) when the student and teacher had an altercation in the cafeteria. Specifically, the BIP requires that when a student becomes upset, staff members must:

- Provide the student with a selection of optional activities to perform;
- Maintain a positive/calm environment;
- Deliver directions in a supportive manner;
- Allow flexibility in meeting the student's demands;
- Refrain from forcing the student to interact or remain in a group if he/she was likely to become upset;
- Be honest yet supportive when correcting the student;
- Permit the student to talk to the school psychologist when a problem begins to arise; and
- When a problem escalates, permit the student to talk to the school psychologist about what upset him/her after she calms down.

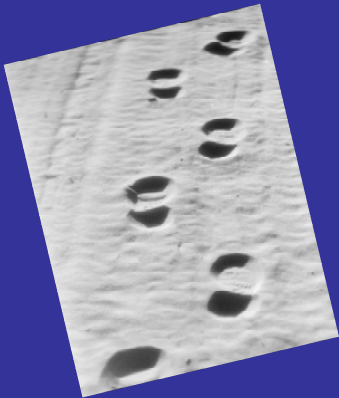


The teacher at issue admitted that she did not employ any of these strategies in connection with the altercation.

Second, the district violated the student's rights when this teacher refused to administer a state science exam to her class while the student was in her classroom.

Third, the district violated the student's rights by removing her from the teacher's science class after the teacher and the student had the altercation noted above. In this instance, the student actually refused to return to the teacher's science class after the altercation. Thus, from January through June 2010 the District placed the student in an administrator's office or a computer lab in an attempt to comply with the BIP because these were "calm environments" where the student could work.

Despite the district's good intentions, OCR found that the District violated the student's rights because her Section 504 plan required that science instruction occur in the regular classroom and the student's BIP provided strategies for dealing with the student only on a **temporary** basis. Moreover, OCR found that there was not any evidence that there was oversight of the work the student completed when she was in the office or computer lab.



In discussing this situation, OCR explained that students with disabilities must be educated with their non-disabled peers in a regular educational environment unless it can be demonstrated that education of the student cannot be achieved satisfactorily even with the use of supplementary aids and services. In addition, OCR explained that school officials must conduct an evaluation before any significant change of placement such as an exclusion from a designated placement for 10 consecutive school days. Thus the district should have maintained the student's regular education placement until it evaluated her.

This case serves as an important reminder about the rights of students with disabilities and provides examples of provisions which should be considered in designing a behavioral intervention plan for a student who becomes upset in school. The case also serves as a reminder that it is critically important that school employees be prepared to implement provisions of a student's Section 504 plan BIP.



Falsification of Documents



As staff is stretched due to budget cuts, we see an expanding trend which can be hazardous to your career. Do not sign the attendance page of the IEP unless you were in attendance at the meeting.

The law requires that at least one of the following people attend the meeting: Special Education Teacher, General Education Teacher, Parent, and



*Plan on attending
the Gettysburg
Leadership
Workshop
this summer!*

Local Education Agency Representative (LEA). The student is invited if he/she is 14 years or older; the parents determine the extent to which their child participates.

The law does not state that all members of the IEP team have to be in attendance for the entire meeting. Each member of the team brings specific information to the table and should be there for those components.

Decline to sign the attendance sheet when an administrator comes to you and asks that you sign the IEP for a child who you support if you were not involved in the meeting. There are administrators that use the trump card that they are the boss. You can ask them to place their demand for your signature in writing and when given the directive will sign. You do not want to be considered insubordinate. You will then have the documentation to take to your local union officers and UniServ representative as proof that the administrator demanded that you falsify documents.

What can happen if the state comes to monitor the school district? The school district, without the proper signatures on the IEP attendance sheet, will be placed in corrective action. The Bureau of Special Education will require that the district submit a plan stating how they will correct the situation. The district submits a plan and it is either accepted or rejected by the Bureau. Those plans that are approved are then followed up with return visits to the district to make sure that the action has been taken.

Upcoming Webinars

*You are welcome to join us from work or the comfort of your own home.
We will be hosting two webinars through the Education Services Department of PSEA.
Find more information at PSEA.org under "Teachers"*

SAS

February 15 and 16, 4:00-5:00PM

Presenter is Chris Budano

Available for Act 48 hours

To register:

2-15 <https://www2.gotomeeting.com/register/387417306>

2-16 <https://www2.gotomeeting.com/register/130781370>

Special Education IEP Predetermination

March 21 and 22, 4:00-5:00PM

Presenter is Bernie Miller

Available for Act 48 hours

To register:

3-21 <https://www2.gotomeeting.com/register/232777714>

3-22 <https://www2.gotomeeting.com/register/397916186>