



Best Practices to Avoid Compliance Pitfalls: School Psychologists Concerns Panel

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This Afternoon's Panel

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Setting the Stage For this Afternoon

- Today's presentation will not give legal advice nor is it a substitute for legal advice when discussing scenarios or specific situations/students that might be specific to your district. Please make sure you consult with your district's attorney.
- Become familiar with and knowledgeable about:
 - *Ohio's Operating Standards.*
 - *Your District's special education policies and procedures.*
 - **Whose Idea Is This?** :sets out the procedural requirements for IDEIA commonly associated with what parents need to know. **However**, this document also.....Can be your quick reference when special education issues arise.



Planning For an Evaluation/Reevaluation

- It's required!
- This should be a very thoughtful process that engages all of the evaluators.
- The Planning form documents what the team has decided will be the contents of the ETR.
- Parental involvement is necessary. Make sure they are active participants and that they understand the process. Watch acronyms!

Medication: BEWARE

3301-51-09 (L) Districts are **prohibited** from requiring parents to obtain a prescription for substances identified under schedules.....as a condition of attending school, receiving an evaluation or receiving services under this rule.

- *When is it okay to discuss it at an ETR/IEP meeting?*
- *What can be discussed regarding medication?*
- *When does discussing medication get close to being a legal issue?*
- *If a student is “under the influence” can a district complete a drug evaluation and refuse to serve the student?*



Evaluating Students Whose Native Language is Not English

Steps to minimize the over-identification of ethnically diverse students who are LEP:

- *Test materials must be selected and administered so that they are not discriminatory or culturally/racially biased.*
- *Tests must be administered in the child's native language or other mode of communication that will yield accurate information unless it is clearly not feasible to do so.*
 - The language normally used by the child in the home or learning environment.
- *Eligibility should be determined by disability deficits and needs and NOT their ability to speak English.*



Practical Stuff About Meetings!

- Look at the educational needs section in the ETR. Does it reflect the child's educational needs based on evaluation data?
- Use an agenda for meetings.
- Set the length of the meeting and be sure to record it in the IEP notes/PR-01.
- Start eligibility meetings by reading the definitions of the disability under consideration.
- Know your district's policy re: tape recording meetings.
- If meetings get tense and tempers flare, take a break.



More Practical Stuff about Meetings

(Good deeds can come back to haunt you.....)

- Answer questions simply and truthfully.
- Think about how you preface your remarks. Saying things like:
 - *You don't understand.*
 - *That's an odd request.*
 - *I have no idea.*
 - *We don't do it that way here.*
 - *We are only required to provide a "Chevy" for your child, not a "Cadillac".*

are sure to get you in trouble. These phrases leave parents cold....and devalued.

Still More.....

Failing to make sure an IEP team is reconvened when:

- *A child isn't making progress on his IEP and/or in other curricular areas;*
- *A student is having behavior problems, but behavior has not been addressed on his IEP.*
- *A student has met most/all of the goals;*
- *Additional evaluation results are received;*
- *Additional information needs to be shared with and/or obtained from parents;*
- *At annual review time; and*
- *At the request of a parent and/or teacher.*
- *After a suspension, even if it is not at the 10 day mark.*

Parent Advocates: Yeas and Nays

- A good parent advocate can bring a lot of information to the table, and a poor parent advocate can stir up emotions and be destructive.
 - *Parent advocate is a third party;*
 - Get parent consent if you want to talk with advocate about child. There is no requirement to communicate directly with the advocate. You must communicate with the parents
 - *Parent advocates do not run ETR or IEP meetings.*
 - *Don't let advocate hinder parent participation;*
 - Direct questions to the parents. If parents allow their advocate to speak for them, document that in the meeting notes. ▪
 - *Don't tolerate bad behavior (Challenging staff credentials; yelling; finger-pointing).*
 - *Do not question their credentials.*

Difficult Issues Involving Parents

- Give parents time to digest difficult news before working on an IEP plan; you may have to reconvene the IEP team.
- Don't sugarcoat difficult news; be honest and empathetic. Don't mask disability labels.
- Define and use special education terminology consistently, especially when determining eligibility or writing IEPs i.e. Sped. teacher/intervention specialist; classroom aide/paraprofessional; resource room/special class learning center (*case law supports this issue*).
- Don't use email to answer complex questions when a meeting is really what is needed.



Parent Revocation of Consent For ALL Special Education Services

- Parents need to understand the full ramifications of revoking consent under IDEA (do you have a master cheat sheet from which to talk?)
- Parents need to revoke consent in writing; signed and dated.
- Districts cannot require parents to give reasons for revocation of consent.
- District needs to provide parents with written notice (PR-01) **before** ceasing IDEA services
 - *Clearly describe services revoked and impact on child's education.*
- Child find requirements still apply.



When There is Disagreement.....

- Has the district done everything it can to resolve disagreements?
 - *With parents*
 - *With administrators*
 - *With teachers*
- Have district members/others refrained from destructive chatter regarding the child? The parents? Others who might disagree? i.e. “that parent has Munchausen’s for sure!” or “These parents need to get a life.”
- Have the IEP team members made IEP decisions based on **data** as it relates to the SWD?

Can a Parent Request My E-Mail/Text Messages?

- If a parent/eligible student requests access to **all** educational records, they must be provided with e-mails/text messages that are educational records.
 - *This includes e-mail messages sent between two staff members about a student.*
 - *“Double deleting” a message does not mean it no longer exists – it will still be on the district’s server!*
 - *Text messages count!*
- If you send an email about a work matter from your home computer or personal cell phone, it still is an educational record.
- **Rule of Thumb:** *If you would not want others to see the message, **don’t** send it!*



What is an Education Record?

- Education records are defined as those records that are ***directly related to a student and maintained by an educational agency.***
 - ***Beware – “Education records” and “public records” are different and different rules apply to disclosure.***
 - Example – An e-mail may be either a public record or an educational record **depending on the content.**

Can Parent Advocates/Attorneys Request Records?

- What about requests for records received by parent's attorneys/advocates
 - *The District has no legal obligation to permit a parent's attorney/advocate access to education records. The District "may" disclose those records with prior written consent from the parent. (Letter to Segura, 113 LRP 7194 (FPCO 10/2/12.))*
 - *The 45-day requirement to produce records only applies to requests by the parent/adult student.*



Recent Records Request Trends

- Requests for **all** educational records by parent who is unhappy with the District.
- Requests for written communications between the District and state/federal agencies.
- Requests for records between District and legal counsel.
- Requests for text messages.
- Requests for records using personal cell phones and personal electronic devices.



Most Common Formal Complaints (General)

- Prior Written Notice***
- IEP Service/Accommodation not provided
- Staff (Reg. Ed.) not knowing/following IEP
- Lack of progress – failure to revise IEP
- Child not included: specific classes/special events
- Goals on IEP not meeting child's needs



Most Common Complaints (Evaluation Related)

- District refusal to evaluate
- Specific to disagreement with disability
- Specific to wanting a re-evaluation (additional concerns, not addressed)
- Evaluation and found no longer eligible
- Outside evaluations or sources of information not considered in evaluation



Best Practices to Reduce Complaints on Evaluations

- Progress monitoring systems and procedures
- “Consider” additional information and document carefully if an area of disagreement
- Maintain good documentation from meetings and interventions
- Provide parents with information on:
 - *Evaluation process and instruments*
 - *Differences between medical diagnosis and educational identification*
 - *Identification does not determine location of services*

Points to Ponder.....

- Get in the habit: Email during work hours...not outside of work hours. You can prepare emails and put them in your “draft” folder so that you can send them out the next work day.
- Remember your role (the one you are getting paid to do)..... “Don’t worry about it. We’re friends too.” can get you in trouble.
- When situations START to get sticky (irate parents; teachers/administrators who don’t think they need to follow the law), *be sure you inform the special education administrator in your district.....sooner rather than later.*

Questions to Ponder

- Should the ETR be sent home ahead of time?
- Should the IEP meeting immediately follow the ETR meeting?
 - *For Initial evaluations?*
 - *For re-evaluations?*
 - *What is the difference between “legally required” and “best practice”?*
- Should the evaluation meeting continue if the parents walk out?

A Good Reminder.....

- It's all about the data!
 - *Do you/does your team have it to make educational decisions?*
 - *Do you have it to show progress?*
 - *Can you interpret it?*
 - *Is it quantifiable?*
 - *Does it fit with the IEP goals?*
 - *Does it reflect the educational needs identified in the ETR?*



A Last Thought...And A Challenge

- What will you do with this information when you leave here today?
 - *Please think about who needs to know what you have learned and how you will share the information with them.*
 - Intervention specialists
 - Related Services Personnel
 - Building level leaders
 - Guidance counselors



Questions?

Pre-submitted

From the floor