

Dr. Beattie- Legal Issues Continued- Transcripts

Least Restrictive Environment (LRE)

(Refer to slide) This is all that LRE is about. As much as possible and appropriate kids with disabilities will be educated with general ed kids, this does not mean they have to be. (Refer to slide) The first day we talked about this stuff we talked about the cascade of services from the general ed classroom to the residential setting. That top rung is the LRE.

LRE is a relative concept...

(Refer to slide) Every kid is considered as an individual, which is what the IDEA is all about. Not all kids have to be educated in a regular classroom all the time. As a special educator, my career goal is to be out of a job because my goal is for all kids with disabilities to be in a general environment, but that won't happen. Education with kids without disabilities to the maximum extent possible.

Americans with Disabilities Act (1990)

Also known as ADA. In addition to the IDEA of 1990, also another big chunk of legislation was passed, the ADA. The ADA is concerned with individuals with disabilities but not so much with kids in school situations as individuals who are in the real world. IDEA is for kids in school, that is its whole focus. ADA and other laws look beyond that and are equally as important in that respect. Many of the laws that exist in special ed are essentially civil rights acts, because they are guaranteeing equal treatment as the normal person. I am very appreciative that laws like ADA exist, yet I am very frustrated that we need to have laws that mandate what we are supposed to do the right thing. (Refer to slide) If the person warrants and is justified to get whatever it may be that person cannot be denied just because they have a disability. From 1990 on, remember this public transit vehicle was written in 1990. So, from 1990 on vehicles had to have the opportunity for people with disabilities to have access. (Refer to slide) How can telephones be accessible to those who are deaf? You call a service, and it is essentially like email that allows that service to those who are hearing impaired.

1997 IDEA Updates

After ADA was put in place, and again those civil rights were enforced in the public sector, 1997 comes along and IDEA is updated, adding something too what was already in place. In 1997 when IDEA was reauthorized, one of the mandates was kids with disabilities must be provided with services if they are suspended or expelled. In addition to services for students who were expelled or suspended...(refer to slide). The same argument could be made, I think these are wonderful services and I think they should be available to all kids in that situation.

IEP's must include...

We are continuing with the 1997 updates, IEP's (individual educational programs). (Refer to slide). This is another one of those things that looks insignificant, but it is huge in that previous

to this you had to really justify why the kid would be in a general classroom, and in this update the opposite happened. They said if the kid is not going to be in the general classroom setting you need to explain why.

Parents are really powerful folks in schools. Parents with kids with disabilities have access to all records that exist. Before this the schools only gave the parents what they saw necessary.

IDEA 2004

IDEA is once again updated. This is the start of the art as to where we are now. Everything up to this point continues in addition from the previous mandates plus the 2004 changes. Paperwork is one of the biggest and most frustrating parts of special education. 15 states are currently trying to find changes in the amount of paperwork.

(Refer to slide) That will not be very applicable to the majority of people in this room. If you are on a committee you will rarely see this kind of thing, because very rarely will someone in an alternative assessment program be in a general ed setting.

Refers to definitions...

2004 IDEA starts to focus on the highly qualified teacher thing that has been apart of what is going on in every element of education since No Child Left Behind was passed. Essentially every special ed kid in middle and high school graduates with a license in special ed and essentially a minor in academic concentration so they are qualified to go into an inclusion class and teach science or math and so on. This is a little bit ahead of where we are but there are different ways to identify kids with learning disabilities. (Refer to slide)

The Individualized Education Program (IEP)

Now we get to this thing called the IEP. The IEP is a document that is mandated. (Refer to slide) It is essentially a contract between the parent and the school that says this is what we are going to do for your kid. It is at the heart of the frustration that special education people feel. There is a high turn over rate for special ed people and a reason is for the volume of paper work there is. (Refer to slide) The IFSP is essentially an IEP but for little kids. Special education runs the gamut from birth through high school. If you get a license in special education it is good for k-12. There is a program called birth to kindergarten where you get a license to teach from birth to about 3-5 years old. When the IEP is developed, and everyone who is in education will be involved in an IEP meeting at some point, because it has to include everyone involved in the situation. (Refer to slide) It is mandated that the child is invited if they are 14 years or younger, but they do not have to come.

Components of the IEP

The IEP has to include a bunch of different things. The first component is (refer to slide). So, on January 29, 2008 this is where John is, this is the level to which he has achieved or mastered.

That statement of current level is mandated to be in the IEP. So, from January 29, 2008 to January 28, 2009 the annual goals for John are... Those annual goals have to be listed as well

IEP cont.

This is where the kid is and this is where we want him to be and so here are the services we will use to get him to that goal. Once again the new consideration as far as the IEP is concerned is it must have a statement as to why the kid will not be in general ed. The IEP must include the modifications that are appropriate for a kid, for example a child may have a scribe or books on tape. Another couple of dates and those are when those services begin and how long those services will run.

We have done three slides on the components of the IEP do you have some since as to the volume that is involved in this process. There must be a statement as to how this kid will be evaluated. In addition to classroom evaluation, maybe extended time.

I finished yesterday testing a person who is a teacher in a surrounding school district and this person is going to begin their work toward national board licensure. This person asked me to evaluate her to identify the presence of some kind of disability going on so she could get extended time and be in a private setting. That is the first time I have heard of anyone doing that for the national board. I have a learning disability in reading and if I am taking a test it will take me longer to get through a test, so extended time makes it fairer for me.

Transition will always be a factor in what is going on, but at the age of 14 transition services needs must be included in the IEP. At that point regardless of if the child will go on to a 4 or 2 year school, these transition services need to be stated to make the transition a smooth one.

A parent can say they don't want their kid to have an IEP and they can disagree and not sign it. If the IEP does not exist and the attempt of implementing an IEP has occurred then the kid ends up in a regular classroom setting. This does not happen very often, and when it does it usually comes back to haunt the parents. I know a child whose parents did not want a label to be put on their kid, but now they are trying to do their speech to graduate high school and they failed, so essentially they can not graduate high school because of it.

So at 14 the statement of the needs are in place, at 16 an individual transition plan must be developed. Again the goal is to ensure when kids leave school they are as ready as they can be for the real world.

So those are the components for the IEP we talked about the laws and acts, but one thing we didn't talk about before any of the laws were passed in special education, a lot of what happened in getting all of these things to pass for special education were court cases. There have been many many many court cases over the year pertaining to kid with disabilities and typically the opportunity for kids to receive an appropriate education. What impact do court cases have relative to law? They set precedence for what will typically happen. So, here is this court case and it says my kid with a learning disability didn't receive appropriate services because of whatever it is, and the court favors the parent suing the school, and all of a sudden schools start

saying we have this kid that looks like this kid that was in court so lets provide those services so we do not get sued.

Going through this is tedious, but fascinating. There are lawyers who specialize in special ed litigations.

The IEP Form (Sample)

(Refer to slide)

You have the purpose, the duration and related services.

Related services are not classroom specific necessarily but are related to what is going on with the kid, such as speech or occupational therapy. So, the duration of those services.

Areas of Eligibility

The next thing involves the area of eligibility. It is just a check off list. (Refer to slide) So we have all of these factors that need to be in place.

Consideration of Special Factors

Then some special factors. (Refer to slide)

Present Level(s) of Educational Performance

(Refer to slide)

Annual Goal

(Refer to slide)

It is an incredibly laborious process.