

AUTISM ONE

May 24, 2007

*Pre-Conference Law Day
Special Education Track*



PRESENTERS

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Lynne Arnold, MA

Mitchel Perlman, PhD

PRESENTERS

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Lynne Arnold

Lynne Arnold is the meeting organizer for Talk About Curing Autism (TACA) of Visalia, CA and an Autism One parent mentor. Through community activism and advocacy as well as conference presentations and mentoring, she helps parents to understand their child's rights to appropriate interventions and education. Lynne is the editor of *Autism: Asserting Your Child's Rights to a Special Education*, by David Sherman.

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5. Under the IDEA 2004, Congress has expressly found that the implementation of the IDEA has been hampered by low expectations for children with disabilities. 20 U.S.C. § 1400(c)(4). Congress further found that research demonstrated that effective programs include having high expectations for children. 20 U.S.C. § 1400(c)(5)(A).

- Congress noticed a tendency for Districts to give goals with low expectations that were easily achieved.

6. Pursuant to the Implementing Regulations of the IDEA 2004, Title 34, Section 300.518(c), effective October 13, 2006, a local education agency is no longer responsible to continue implementing a child's Individualized Family Service Plan (IFSP) when the child turns 3 years old.

- The law now reflects that when a child's status changes from IDEA Part C (Early Intervention) to IDEA Part B (Local Education Agency / School District), the services the child received under Part C as part of an IFSP, do not remain in "stay put" pending resolution of a dispute between the parents and the local education agency regarding an Individualized Education Program (IEP) for the child.

SESSION 2:

Introduction to IEP Strategy

I. Prior to the IEP meeting:

- (1) All communication of any kind must be in writing. Remember, if it's not in writing, it never occurred.
- (2) Give the District deadlines for responses to your correspondence (letters or emails).
- (3) Keep a copy of all letters and notification of any kind you send to the District or receive from the District.

II. Familiarize yourself with the structure of the IEP meeting:

- 1) District must give prior written notice of proposed date of IEP to allow attendance by parents.
 - Parents must be able to meaningfully participate in the IEP process. If you are unable to attend on a proposed date, indicate that in writing and propose new dates.
 - Be sure to tell the District that you DO NOT consent to the IEP team convening a meeting without your attendance (or your representative).
- 2) Parental Procedural Rights.
 - The District must give you a copy of this at least once a year at your child's annual IEP. Review the "parents rights" provided and ask any questions if you don't understand.
- 3) Determination of Eligibility / Assessments.
 - The District is responsible to assess in all areas of suspected need / disability and design an educational program that's tailored to meet the child's unique needs.

4) Review of Child's Unique Educational Needs.

- Review all reports by District assessors. The District must establish a basis for all conclusions and recommendations.

5) Discussion of student's present levels of academic and functional performance.

- Assessments should reveal for IEP discussion the present levels of academic and functional performance, also known as "present levels of performance."
- Present levels of performance will provide the baseline for all annual goals (and objectives—not all Districts use objectives), thus you cannot begin a discussion of goals without knowing your child's present levels of performance.

6) Discussion of Goals.

- Goals drive placement and services, therefore the more goals, the greater service or the more intense the program needs to be for the child to achieve those goals in a year's period of time.
- Goals must be reasonable and objectively measurable; not subjective such as the following social/emotional goal: "Bobbie will express happiness 4 out of 5 times per week."

7) Offer of Placement and Services:

- Don't put the cart before the horse; if you haven't discussed goals, it's difficult if not impossible to determine an appropriate placement and services. Goals provide a foundation for the child's IEP placement and services. If the school District has (illegally) predetermined its IEP offer, ask the basis for the placement and level, frequency and duration of services they've offered.
- You do NOT need to agree to the IEP at the IEP meeting. In fact, don't sign consent to the IEP until you are certain the school District's offer is appropriate

for your child.

- The IEP must indicate a projected start date for program; as well as the anticipated frequency, location, and duration.
- The IEP must also indicate the extent to which the child will participate in any state- or District-wide assessments and accommodations (if any) the child requires to participate in the testing.

8) IEP must specify research-based instructional methodologies.

- Many school Districts are not aware of or do not fully understand their legal obligation to identify in the child's IEP instructional methodologies to be used that have been shown to be effective based upon peer-reviewed research.
- Keep in mind, the law does not require a school District to agree to any particular instructional methodology. Even your independent assessor's recommended methodology need not be accepted by the school District members of your child's IEP Team. However, the school District MUST identify in the IEP methodologies that have been shown by peer-reviewed research to be effective.

9) High Expectations.

- Be prepared—many school Districts set IEP goals as low as possible or offer very few goals. Insist on goals that are challenging.

10) Highly Qualified Staff.

- School Districts are required by law to use staff that are highly qualified; so don't be afraid to ask lots of questions regarding the qualifications or credentials of a teacher, therapist, instructional aide or other service provider. This can be done at an IEP meeting or by requesting Prior Written Notice (see appendix).

11) Accommodations/ Modifications.

- Inquire which types of modifications and accommodations are appropriate given your child’s unique needs.

12) Least Restrictive Environment (LRE).

- Your IEP meeting should contain a discussion regarding the extent, if at all, your child will be educated with their typically developing peers (non-special education children). Each child, regardless of their disability, is entitled to daily interaction with and exposure to children without disabilities to the maximum extent possible. This is known as the Least Restrictive Environment or LRE.
- The more restrictive your child’s learning environment, the less opportunity your child will have to learn from and interact with typically developing peers. The District is obligated to FIRST consider a regular education classroom with support services BEFORE considering placing a child in a more segregated setting, commonly called a Special Day Class (SDC).
- Before an offer outside of regular education is proposed, there should be a discussion regarding the full range of supplementary supports and services that could facilitate your child’s placement in a general education classroom.
- Ask the District: “Why can’t my child be in a general education setting with proper aide support and services?”

SESSION 3:

Assessments/Evaluations

1. District's Legal Obligation to Assess:

- A District must locate, identify, and evaluate all children with suspected disabilities regardless of whether they are receiving their education in a public school setting.
- This is often referred to as "Child Find."

A. Assessment Plan:

- In order to perform these assessments the school District must propose a written assessment plan, which includes all areas of suspected disability to be evaluated.
- A parent must sign a consent form, and return the plan to the District before assessments can occur.
- The District has 60 days from its receipt of your written consent on its proposed assessment plan to complete the assessments and to hold an IEP meeting to discuss the results.
- It's important that you send a letter or email to the District administrator who is listed as the "contact person" on the assessment plan, asking for copies of the reports upon their completion.
- You should request the reports be provided to you at least one week in advance of the IEP meeting to give yourself enough time to review them.
- When you receive the assessment reports, read them carefully with a pen or pencil in hand. Add your notes, comments and questions in the margins of reports. Be prepared to discuss your questions and add your comments at the IEP meeting.
- If you have concerns about the accuracy of information contained in the report, you may want to include your

comments/concerns in a letter or email to the District staff member who did the assessment, even before the IEP meeting.

B. Frequency of Assessments:

- If a child already has an IEP, the District typically will only conduct an assessment in preparation for a triennial IEP meeting, every 3 years.
- However, if a need for services arises, or a change in circumstances occurs, an assessment sooner than every three years may be appropriate. A change in circumstances may be, but is not limited to: lack of progress, regression or tremendous progression.

C. Disagreeing with a District Assessment and Requesting an Independent Educational Evaluation (IEE):

- After Parents have reviewed an assessment prepared by the District, they may disagree with the assessment. Parents must specifically inform the District that they are in disagreement with the assessment, and request an IEE at public expense from the District. Parents may disagree with the District's assessments in one of two ways:
 - (1) Parents may state at the IEP meeting where the District assessment is presented that they do not agree with the results of the District assessment and request an independent assessment be conducted at District expense. Make sure your disagreement with the assessment and request for IEE at District expense is reflected in the IEP notes.
 - (2) The other option is to write a letter to the District that you disagree with the District's assessment and request an independent educational evaluation at District expense.
 - (3) See appendix for statute.

D. You've disagreed with their Assessment in writing and requested an IEE in writing, now what?

- Once parents have made a request, the District has a reasonable time in which to respond. Depending on your state, the interpretation of "reasonable time" may vary. You should similarly request in writing that the District provide you with the protocols for any tests they performed so that your assessor may review their protocols to ensure the District conducted their testing properly.

E. When the District agrees to fund the IEE:

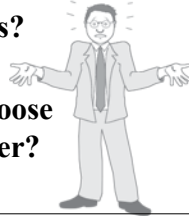
- If the District chooses to fund the IEE, the District has a legal obligation to provide a list of suggested assessors. However, a parent is under no obligation to be limited to these assessors. The only requirement for an assessor conducting an IEE is that he or she be an assessor with sufficient expertise in the particular area to be assessed.
- Consult with an independent assessor regarding the tests previously conducted by the District, because if your independent assessor performs the same tests within a year or less of their prior administration, it may invalidate the results of the test.
- Once the assessment is completed, an IEP meeting will convene, in which the District shall consider the results of the IEE in relation to the placement offer of services.
- Make appropriate arrangements to ensure the attendance of your independent assessor at the IEP meeting at which their conclusions and recommendations will be shared with the IEP team.



Genetically Engineered to Challenge My Parents

Covering ...

- Why Assess?
- How to Choose an Examiner?





Covering...

- What to Share With the Examiner?
- What is a *Gud* Examiner/Examination?

Why Assess ...

- Ammunition
- To Answer Questions



... to answer questions

- Why does my child ...
- What does my child ...

Why Assess ...

- Identify Problem Areas
- Differential Diagnosis
- Target Interventions



... target interventions

- Shot-gun Approach
- Firing Order



... target interventions

- Shot-gun Approach
- Firing Order
- Most Bang for the Buck

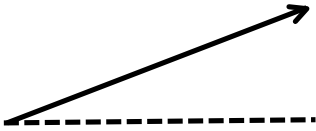


Why Assess ...

- Ammunition
- To Answer Questions
- ID Problem Areas
- Differential Dx
- Target Interventions
- Response to Intervention

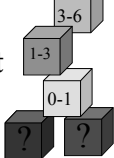
Why Assess ...

- **Response to Intervention**

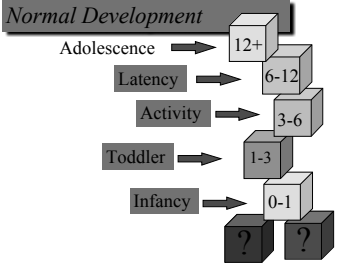


Why Assess ...

- **Response to Intervention**
- **Major Change in Development**




Normal Development




Covering ...

- **Why Assess?**
- **How to Choose an Examiner?**




Choosing an Examiner...

- **Access Your Parent Network (in California – TACA)**



Choosing an Examiner...

- **Ammo: Ask Your Atty**
- **Needs: Ask 3 SpEd Attys**



Choosing an Examiner...


- **Intervention: Ask . 3 Special Ed Attorneys . Community Specialists**

Choosing an Examiner...

- **Clinics Remediating Processing Deficits**
- **SLPs & OTs**
- **ABA Agencies**

Covering ...

- **Why Assess?**
- **How to Choose an Examiner?**
- **What to Share With the Examiner?**



What to Share...

- What **YOU** Want From the Evaluation. Be Clear!



What to Share...

- Going to Due Process



What to Share...

- Going to Due Process
- Shopping for a Diagnosis
- Question Diagnosis

What to Share...

- My Spouse is depleting our IRAs & home equity. Which remedies do we really need?

What to Share...

- I want a 1:1 Aide



What to Share...

- What **YOU** Want From the Evaluation.
- Stop the Clock!



Covering ...

- Why Assess?
- How to Choose an Examiner?
- What to Share With the Examiner?



The gud Evaluator and The gud Evaluation


The gud Evaluator ...

- ... as a Detective




The gud Evaluator ...

- as a Detective
- as a Scientist-Clinician




The gud Evaluator ...

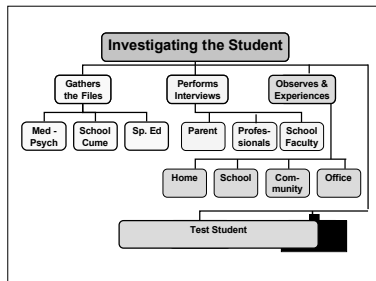
- as a Detective
- as a Scientist-Clinician
- as a Maverick



... as a Detective


- By Investigating the Student
- By Investigating the Data





Investigating the Data


- Less Dependent on Test/Subtest Names
- Less Dependent on the Scores



Investigating the Data

Less Dependent on Subtest Names

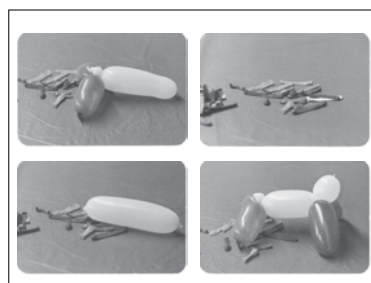
Reading Decoding	Word Attack
on	nat
to	tiff
in	zoop
cat	lish
dog	driht

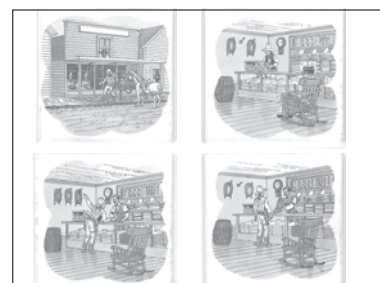


Investigating the Data

Mary	Toni	Bill
24	24	24
<u>+17</u>	<u>+17</u>	<u>+17</u>
41	14	7

Less Dependent on the Scores







the Scientist-Clinician understands that ...

THE BURDEN IS ON TEST USERS TO BE BETTER THAN THE TESTS THEY USE

... as a Scientist-Clinician

- Must come to the Interpretive Task Armed
- With Research Knowledge
 - With Theoretical Sophistication
 - With Clinical Expertise



the Scientist-Clinician understands that ...

- Tests (including IQ tests) are **Samples of Behavior & are not Exhaustive.**
- Tests Assess Functioning Under **Fixed, Experimental Conditions.**



the Scientist-Clinician understands that ...

- Scores Should be Used as a **Helping Agent.**
- **Strict Adherence to the IQs** (e.g., Verbal, Performance, or Full Scale) **can be Entirely Misleading.**



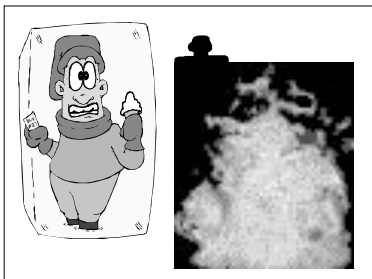
the Scientist-Clinician

WISC-III			
Verbal IQ	130	Performance IQ	85
Information	16	Picture Comp	7
Similarities	16	Coding	7
Arithmetic	16	Picture Arrange	7
Vocabulary	16	Block Design	7
Comprehension	16	Object Assembly	7



the Scientist-Clinician

WISC-III			
Verbal IQ	130	Performance IQ	85
Information	17	Picture Comp	8
Similarities	17	Coding	2
Arithmetic	10	Picture Arrange	8
Vocabulary	19	Block Design	10
Comprehension	17	Object Assembly	7





the Scientist-Clinician understands that ...

- **If an Interpretive Approach Relies Strictly on One View, it is Doomed to Fail for Some Children.**
- **One Must Shift Among Interpretive Approaches to Find the Best Explanations for a Child's Profile.**

Subtests	St Sc	%tile
Visual Discrimination		
Receptive Attention – CAS	75	5%
Visual Matching – WJ-III	85	16%
Matching Numbers – CAS	80	9%
Planned Codes – CAS	70	2%
Pair Cancellation – WJ-III	65	1%
Number Detection – CAS	75	5%
Visual Spatial Processing		
Verbal-Spatial Relations – CAS	120	91%
Figure Memory – CAS	115	84%
Nonverbal Matrices – CAS	130	98%



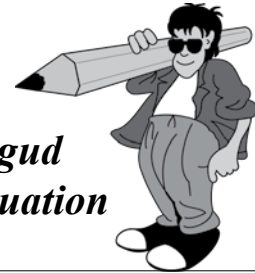
The Examiner as a Maverick

An independent individual who
does not go along with a group.

... as a Maverick

- It is not the examiner's assignment, responsibility, or intention to assist parent or district in *winning*.
- The examiner must not approach the assessment with any bias or investment in the results.
- The source of funding is entirely irrelevant to the outcome.
- While under direct-examination and cross-examination, the examiner must testify to his/her findings.





The gud Evaluation

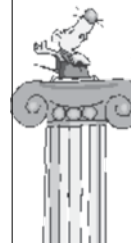
The Files



The Files ...

- A Good Part of the Story has Already Been Told
- Told Incorrectly
- Told Incompletely

The Files ...



- Retelling the Story Can be Time-Consuming & Expensive

The Files

Academic - Special Ed
Previous Assessments
- protocols

- Mis-scoring
- Mis-administrations
- Raw scores of zero
- Scores/Tests not reported
- Discontinuous scores






The Files

IEP Notes
The School Psych
reported ...
"behaviors were
within the normal
range"

The Files




SST meeting notes




The Files

- displayed impulsive behaviors;
- rushed through assignments;
- stated he was tired and that he did not want to work;
- sought attention inappropriately;
- chose not to follow rules, telling his teacher "no, no, no" repeatedly;
- acted-out when made to do an activity that he did not want to do; and
- acted-out when other students invaded his personal space.




The Files

Later that month the teacher penned a letter to mother explaining that in class, child "is still only working when he chooses and is still hitting/touching others. Time out is not working, because I cannot pick him up and put him there. Sorry."



The Files

- "[Child] hit another student, made another student cry ... In the future, he may be suspended."
- "[Child] kicked [another child] in the back and punched him in the chest."




The Files

Medical-Psychiatric Records

"Statements by two RNs that the profusion of psychotropic medications prescribed for the boys has not left enough time to determine how effective the medications really are before they are changed for another."

Date	Psychiatric				
	#1	#2	#3	#4	#5
10/1995				Clonidine	Dexedrine
3/1996	Pamelar				Ritalin
10/1996	Pamelar				
11/1997	Pamelar	Risperdal			
4/1998	Prozac				
2/1999	Prozac	Risperdal			
5/2000	Prozac	Risperdal			
12/2000	Prozac	Risperdal	Denakote		




The Files

Academic Cum – Other Goodies

Communiqués Between Faculty School Nurse to School Principal


"She [mom] is now convinced that [child] is Bipolar, her other son has developed petit mal seizures, the family dog has Grand Mal seizures, etc., etc."



The Files

Academic Cum – Other Goodies

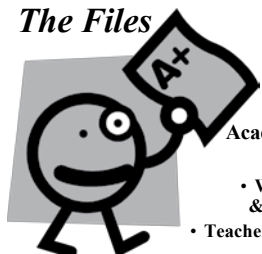
- 42-days earlier, the child was so out of control at a psych intake, the psychiatrist immediately hospitalized him.
- Son #2 was diagnosed with a seizure disorder 2-years earlier by his pediatrician, later confirmed by EEG.



The Files

Academic Cum – Other Goodies

"[Dog's name] has been a patient of mine for 3 years. I initially saw [dog] because his epilepsy was worsening despite appropriate treatment with the anticonvulsant Phenobarbital. He was having multiple seizures frequently. ...Epilepsy is recognized as an inherited disorder in many breeds including the Labrador Retriever."



The Files

Academic Cum

- Grades
- Work Habits & Citizenship
- Teacher Narratives

Two Psychiatrists Blamed Family

- K - "Mary has great skills, but needs to change her attitude & become more cooperative."
- 1 - "Mary has excelled in both Math & Reading this qtr! WOW! Now, if we could only keep the talking down."
- 2 - "Mary tries to finish assignments too quickly! Capable of doing better if were more attentive. Needs to use time more wisely. Interested in doing her best and tries to please but could concentrate more on HER work rather than others."

The Files

Academic Cum – Other Goodies



Group-Administered Achievement Tests

Father Blamed Mother

- K - "We Have been working on Johnnie's self-control and listening skills"
- K - "We're working on more smiles and cooperation!"
- 1 - Group Testing Revealed Math Application = 82nd % compared to Math Computation = 1st%

The Interviews



- Parent
- Professionals
- School Faculty

The Interviews

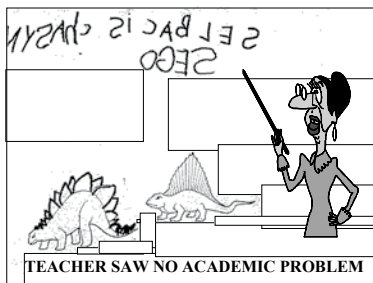
Interventions – Parent Accommodations
 - ABA
 - 3 to 4 hours of homework per night
 - Parent does work for/with child



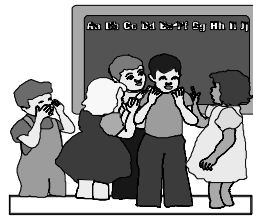
The Interviews



- do not understand mental disorders
- do not understand processing nuances
- do not understand the etiology of the current behavior
- not necessarily good observers



Observations



Observations

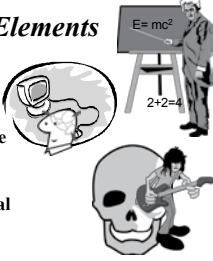


Becoming Derailed

"This is a graph showing the temperatures of the first ten days in August. What is the difference in temperature between the hottest and the coldest days?"



Essential Elements



- Neuro-Cognitive
- Academic
- Social-Emotional


Information Processing

INPUT MEDIATE STORE OUTPUT

- Verbal
- Visual
- Smell
- Taste
- Touch

Essential Elements

Neuro-Cognitive



- Attention
- Cognitive Flexibility
- Planning
- Abstract Reasoning

Executive Functioning

Information Processing


INPUT MEDIATE STORE OUTPUT

- Verbal
- Visual
- Smell
- Taste
- Touch

Executive Function →
← e.g., Attention

Essential Elements


Neuro-Cognitive



- Sequential – Simultaneous
- Crystallized – Fluid Intelligence
- Verbal – Visual
- Visual Spatial – Visual Discrimination

Essential Elements


Neuro-Cognitive



- Attention
- Planning
- Abstract Reasoning
- Cognitive Flexibility

Essential Elements


Neuro-Cognitive




- Processing Speed
- Fine-Motor (Planning, Precision, Speed)
- Memory & Learning
 - . Immediate
 - . Active
 - . Working
 - . Delayed (Short-term/Long-term)

Essential Elements

Neuro-Cognitive



- Language
 - . Receptive
 - . Expressive
 - . Supralinguistic
 - . Related to Reading



Genetically Engineered to Challenge My Parents

SESSION 4:

Overcoming Objections

1. ASSESSMENTS:

A. The District has recently assessed, parents have disagreed and requested an IEE. The District has told Parents: “We understand you didn’t agree with that assessment done by Ms. X., but, why don’t we have Mr. Y perform another assessment? If you still disagree with the assessment Mr. Y performs (who, by the way, is very good) then we’ll agree to fund your IEE.”

- If the District has already performed an assessment with which you disagree, do not agree to allow the District to conduct a second assessment by its staff.

B. Parents have disagreed with the District assessment, requested an IEE in writing and District has agreed to fund an IEE. District lawfully provides a list of suggested assessors. Upon receipt, the District tells Parents: “That list we gave you of assessors, none of them actually work for the District, so they ARE independent.”

- Using an assessor who regularly contracts with the District is contrary to the intent of finding an independent educational assessor.
- Parents have NO obligation to choose from among their suggested assessors.

C. After your last assessment and IEP, you have identified a suspected area of need. You tell the District about the suspected area of need. The District tells you: “We just assessed your child last year and the triennial is not for another two years, so we don’t need to assess again. If you wish, YOU can pay for your own assessment.”

- Once you, as Parents, have given the District a reason why you suspect that

your child has an additional area of need that requires further assessment, the District has an obligation to investigate through assessment by qualified staff.

D. The District assessor has performed an assessment. The assessor has determined that your child meets the eligibility criteria and is eligible for speech and language therapy, for example. However, the assessor indicates that the amount of speech and language therapy sessions should be “in an amount to be determined by the IEP team.”

- Ask the assessor what his/her recommendation is. The assessor has the responsibility and professional duty to make a recommendation. The IEP team ultimately determines what placement and services is appropriate for your child, but it must necessarily rely on the assessor’s recommendations to do so.

2. PRESENT LEVELS OF PERFORMANCE (“PLOP”):

A. The District tells you that your child’s teachers will determine the present levels of performance after they begin working on the goals because, “We know you child needs a goal in this particular area, so we’ll give them the goal and let the teacher start working on the goal to develop the PLOP.”

- Progress on a goal is not truly measurable if you do not know what the starting point or baseline is for the goal at the time the goal is created.

B. “Obviously the baseline was zero, because we would not have given your child a goal in an area if he did not need it, or for a task he could already complete.”

- Make sure the baseline states at the time the goal is written what your child can do with respect to that particular goal.

C. The District tells you that the baseline is that Johnnie has delays in social pragmatics. The

goal is: "Johnnie will walk up to a peer and greet the peer, ask the peer a question, ("Hi, How are you today?" Or "Hi, How was your weekend?") and stay near the peer long enough for the peer to respond in 8 of 10 attempts.

- There is no baseline because you do not know how many times he can currently walk up to a peer, greet, ask a question and wait for the peer to respond.

3. GOALS:

A. The District tells you at the IEP, "We do not need a task or skill for [fill in the area of need, such as reading comprehension] because our curriculum is specifically designed to address that area of need for all students."

- If you do not have goals in an area of need, you will not be able to measure whether your child is making any progress toward remediating that deficit.

B. The District tells you we do not need goals for [fill in the area of need, such as attention], because our accommodations in the classroom sufficiently address this area of need.

- Again, you will not be able to track progress in a deficit area if there is not a goal in that area.

C. The District tells you that the goals your private assessor drafted are far too challenging for your child and will likely result in your child becoming "too frustrated."

- Remember, the more goals, and the more challenging the goals are, the more services and the longer the duration of services need to allow your child to successfully accomplish that goal.
- Your child's goals must be written with high expectations for your child's progress in mind.

4. PLACEMENT AND SERVICES:

A. The District tells you that its offer of placement and services "is all that's available

in our District.” Or the District tells you:
“We have general education or special education classes as the ONLY two choices in our District. Since your child is not a good candidate for general education, she must therefore be placed in the special education class.”

- This is an unlawful “cookie cutter” approach, a one-size fits all attempt to providing an education. The District’s IEP offer MUST be tailored to meet your child’s unique needs.
- If the District does not have the appropriate program for your child, then it MUST locate a program outside the District or in some cases, pay for a private program.

B. The District tells you that your child is eligible for special education and related services as a child with autism and as a result the District is recommending that she be placed in an “Autism Special Day Class.”

- Inquire specifically what about your child’s unique needs makes the Autism SDC “appropriate” in the District’s opinion.
- Inquire what opportunities your child will have to learn from and interact with typical peers in this “Autism SDC. “

C. The District tells you that your child is “not severe enough to warrant the services and placement you are requesting.” Or “Your child is too severe for the placement you are requesting.” For example, “In our District, the children who have a 1:1 applied behavior analysis trained aides have much more severe behavioral issues, and although your child’s behavioral incidents disrupt the class and she has difficulty remaining on task without redirection, she’s just not severe enough to warrant the District providing an aide to assist her in the classroom.” OR “Your child’s behaviors are too severe for him to be placed in the general education classroom. He will disrupt the learning experience for

SESSION 5:

The Big Ticket – 1:1 Behavioral Services

1. The Need for an Independent Assessment.

- If your school District has already declined your request for 1:1 behavior intervention services and you have doubts as to whether your child’s current IEP is appropriately addressing your child’s behavioral needs, consult with a qualified independent behaviorist who can perform a thorough evaluation of your child, and write a report with specific recommendations on how to structure an appropriate behavior program. If the District has already completed its own behavioral evaluation, you have a right to disagree with that assessment and ask for an independent educational evaluation at the school District’s expense. (See Sessions 2 and 7 for more details on how to do this.)

2. The independent behavior assessment should specifically identify how your child’s behavior invention program will look.

- Your assessor needs to describe with as much specificity as possible all components of their recommended behavior intervention program:
 - Setting
 - In-home / community based program
 - Clinic-based program
 - School-based program
 - Services delivered in one or more of the above referenced settings.
 - Type, Duration and Frequency
 - If the recommendation is for a 1:1 behavior intervention program, how many hours of direct service will be provided to the child?
 - Should there be a certain number of “supervision” hours provided by a

senior level behaviorist, if so, how many hours?

- What about “progress meetings?” How often will you meet with your child’s behavioral aides/therapists/tutors, the supervisor of your behavior intervention program and/or other therapists or service providers to review your child’s progress in the program or make appropriate adjustments to the program?

3. Present the recommendations of your assessor at an IEP meeting.

- Provide a copy of your assessor’s report to the school District in advance of the IEP meeting.
- Ask the District if they are in agreement with the recommendations.
- If the District indicates they are not willing to adopt the recommendations, go over each recommendation and ask the basis for their disagreement.

4. Be prepared to file a due process complaint.

- Many Districts take the approach that the IEP is just the beginning of the negotiation and they will not change their IEP offer until you file a request for due process, or in some cases, unless you proceed through an entire due process hearing.
- Because due process is stressful and expensive, many school Districts count on the fact that most parents will do nothing further after that IEP meeting once the District has told them “NO.”
- It’s often helpful to make it clear that you are willing to take your request for behavioral services all the way to a due process hearing if necessary. REMEMBER, if you threaten due process, BE PREPARED to act. The school District may just call your bluff and if you’re not prepared to at least file for due process, it’s less likely the school District will take you seriously.

SESSION 6:

Building a Framework for Educationally Necessary Services

Overview of IDEA Basics

A. Substantive Protections. The IDEA requires:

1. All children with disabilities are to be given a free appropriate public education (FAPE).
2. Education and Related Services must be provided to children up to the age of 21.
3. Education includes academic as well as self-help and vocational skills.
4. Education must be provided in the "Least Restrictive Environment" (LRE).
5. Education must be individualized and appropriate to the child's needs.

B. Qualifying for Special Education as a Child with Autism. To qualify as a child with autism under the IDEA, the child must exhibit any combination of the following "autistic-like behaviors"

1. An inability to use oral language for appropriate communication
2. A history of extreme withdrawal or relating to people inappropriately and continued impairment in social interaction from infancy through early childhood
3. An obsession to maintain sameness
4. Extreme preoccupation with objects or inappropriate use of objects or both
5. Extreme resistance to controls
6. Displays peculiar motoric mannerisms and motility patterns
7. Self-stimulating, ritualistic behavior

C. Special Education

1. Definition. Special education is defined as: specifically designed instruction, at no cost to the parent, designed to meet the unique needs of a child with disabilities. Instruction can include classroom and home instruction as well as instruction provided in hospitals and institutions.
2. Individualized and Appropriate. One of the major principles of the IDEA is that the education of a child must be individualized and appropriate to the child's needs. In order for a school to receive federal funding and support under IDEA, the state must have a policy that ensures that all children with disabilities receive a Free Appropriate Public Education ("FAPE"). The IDEA requires that the development of an appropriate special education program and related services occur through a vehicle known as an individualized education program ("IEP").

D. APPROPRIATE EDUCATION

1. What Is An Appropriate Education?
Unfortunately the term "appropriate" as written in the statute is subjective and difficult to define. This is because the IEP is to be developed to meet the specific needs of the individual child, supported by the services necessary for that child to benefit from the instruction. Noticeably absent in the language of IDEA are substantive definitions related to what levels of instruction are necessary.
2. Different Standards Of "Appropriate."
Some states require that a child meet their maximum potential. Other states only open the door and make access meaningful. California does not require a child to meet maximum potential. Instead, California follows the federal standard as set forth in *Board of Education v. Rowley*. The Rowley standard holds that the state must provide the child with specifically designed instruction and supportive services necessary for that child to obtain some educational benefit from that instruction. Two good measures to determine whether a child is receiving an appropriate education under this

standard are:

- If the child is mainstreamed in a typically developing classroom, the child should be progressing through grades with a grade average of at least a "C;" or
- The second, and more common method, is if the child is meeting the annual goals as set forth in their IEP.
- However, in many cases children may meet the two above-referenced criteria and still not be receiving FAPE. For a number of reasons, such as inappropriate goals and objectives and differential grading, the program does not address the child's specific areas of need.

E. Related Services

"Related Services" are defined as any service that is necessary to help a child benefit from her special education program. In other words, "to benefit from special education" generally means that the service must assist the child in making progress toward accomplishing the goals set out in the IEP. Examples of Related Services include:

1. Transportation (to and from school or alternative placement from the child's home)
2. Speech-Language Pathology
3. Applied Behavior Analysis ("ABA") or Intensive Behavioral Intervention ("IBI")
4. Psychological services
5. Physical and Occupational Therapy
6. Recreation (including therapeutic)
7. Counseling services.

F. Mainstreaming, Integration, Full Inclusion and Least Restrictive Environment

Legal Development. Another fundamental principle of the IDEA is the requirement that children with disabilities receive their education among their peers without disabilities to the maximum extent appropriate. While the term "mainstreaming" is not found in the language of either the statute or its regulations, the statute uses the phrase Least Restrictive Environment

(“LRE”) to ensure that children with disabilities are educated alongside typical peers.

1. IDEA 2004 provides, in part, that each local educational agency must ensure that: “[t]o the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.”

2. Definitions.

- a. “Mainstreaming” refers to placing students with disabilities into regular classrooms to do the same activities as typically developing peers. There is a strong congressional and judicial preference for mainstreaming. Children should be mainstreamed to the greatest extent possible, even if it means that doing so would require assistance from supplementary aides and/or special education staff.
- b. “Integration” generally refers to mainstreaming a student into a regular class as well as providing access to and participation in other activities within the school environment. For example, a student may spend part of his day in a special day class and another part of his day in a regular classroom with typically developing peers. The student should have access to non-academic activities with typically developing peers, such as recess, lunch, and dances. Integration is often used to describe the idea of integrating a student into both the special day class and the regular classroom as appropriately as possible. This term would differ significantly from the concept of full inclusion.
- c. “Full inclusion” refers to totally



**Genetically Engineered to
Challenge My Parents**

Covering ...

- **Examiner's Recs**
- **Placement Decisions**
(from Examiner's Perspective)
- **Services**
(Remediation & Accommodations)

Examiner's Recs...

- **In developing each child's IEP, the IEP Team ... shall consider**
 - . the child's strengths;
 - . the child's academic, developmental, & functional needs;
 - . the parents' concerns for enhancing their child's education;
 - . the evaluation's results. 20 U.S.C. 1414(d)(3)(A)

Examiner's Recs...

- **The Examiner Should Address *some/most* of Those in the Report**

Examiner's Recs...

- **The Examiner Must Be Prepared to Defend the Recommendations**

Examiner's Recs...

**But the Examiner
Does Not
Need to Make
Recommendations Only
Relating to FAPE**

Examiner's Recs...

as if
This Were
My Child

Examiner's Recs...

- **Whether a Rec is FAPE
Is Rarely
Part of the Report**

Examiner's Recs...

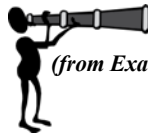
- **Whether a Rec is FAPE
Is Always Part of an IEP,
but Not Necessarily
Opined by the Examiner**

Examiner's Recs...

- Whether a Rec is FAPE
Is Always Part of a Due Process Hearing, and Almost Always Opined by the Examiner

Covering ...

- Examiner's Recs
- Placement Decisions



(from Examiner's Perspective)

Placement Decisions ...

- Present Levels
Drive Goals/Objectives
- Goals/Objectives
Drive Placement/Services



Placement Decisions ...

- Videos

Placement Decisions ...

- Before/After



Home/Community...

October2005	March 2006	June 2006
Jo attended aut-specific pre-K. By teacher reports & direct observations, Jo was aggressive, non-compliant, & he escaped.	Jo attended home program 40 hours per week and made great progress.	Jo attends a typical preschool 5 days/wk with ABA aide.

Home/Community...

October2005	March 2006	June 2006
Jo could not sit at table for meal at home or in the community, without eloping.	Jo could sit at table for meal but required heavy verbal prompting.	With minimal prompting, Jo sits/participates at meals at home & with peers at school's lunch.

Home/Community...

October2005	March 2006	June 2006
Jo was unable to be with parents in any store in parking lot without eloping. Jo would not respond to name when called or state desires.	For up to 30 min Jo was able to stay within 5' of parent in stores, and held adult's hand in the parking lot.	Same, but can also verbalize his desires and can wait for a desired object or activity for extended periods of time.

Maladaptive Behaviors...

October2005	March 2006	June 2006
Jo engaged in non-compliance 19x/hour (home tx). Jo's teacher (autism class) reports his behaviors were unmanageable.	Jo engaged in non-compliance approximately 8x/hr in home therapy.	Jo engages in non-compliance less than 1x/hr in home therapy & reg-ed preschool.

Self-Help...

October 2005	March 2006	June 2006
Jo could not go to the bathroom independently without playing with toilet, & could not wipe after a BM.	With verbal & gestural prompting, able to do those tasks.	Same, but totally independent in doing so.

Social-Emotional...

October 2005	March 2006	June 2006
Jo could play with therapists for 5 minutes with full verbal prompting.	Jo could play with therapists for up to 45 minutes with minimal verbal prompting.	Jo engages in interactive play with peers at his typical preschool for 45 minutes with minimal verbal prompting from aide.

Language...

October 2005	March 2006	June 2006
Jo could not respond to yes/no questions appropriately.	Jo could respond to yes/no questions appropriately for desires.	Jo can do all that & also to open-ended questions. Also, he has generalized all to across settings.

Pre-Academic...

October 2005	March 2006	June 2006
Jo could identify 8 uppercase letters expressively.	Jo could identify 17 uppercase letters expressively.	Jo can identify 24 uppercase letters and 12 lowercase letters expressively.

Fine Motor...

October 2005	March 2006	June 2006
Jo refused to copy a line, circle, or square. He bit the pencil, crayon, & markers, & ripped/ate paper.	Jo was able to copy a circle, & vertical & horizontal lines.	Jo can trace triangles, squares, and crosses, as well as draw a person with 7 features.

Gross Motor...

October 2005	March 2006	June 2006
Could not ride a tricycle using pedals.	Able to pedal a tricycle.	Puts on helmet independently; without training wheels, pedals, steers, & brakes his 2-wheel bike.

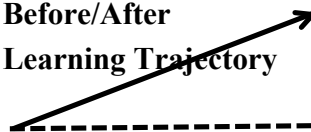
Placement Decisions ...

- Videos
- Before/After
- Learning Trajectory



Placement Decisions ...

- Videos
- Before/After
- Learning Trajectory



Learning Trajectory...

- Child's Capabilities?
- Capability = Trajectory?
- If "no", Why Not?
- If "yes", Since When?

Placement Decisions ...



- Videos
- Before/After
- Learning Trajectory
- Target Placement

Target Placement...

- Based on Testing, Can
 - . Child be Remediated
 - . Child be Accommodated

Rem/Acc...

- to Participate in Reg Ed?
- to Access Curriculum Standards Without Content Modifications?

Covering ...

- Examiner's Recs
- Placement Decisions
(from Examiner's Perspective)
- Services
(Remediation & Accommodations)

Services-Remediation ...

- ABA Home Program



ABA Home Program ...

- Mental Capacity
- Ability for Awareness



ABA Home Program ...

- Help Child Join by
 - . Eliminate Mal Behaviors
 - . Improving Attention
 - . Teach How to Interact

ABA Home Program ...

- Put on Track for Social Reinforcement



Services-Remediation...

- Speech
- OT
- PT-APE
- Processing



Processing...

- **Attention**

Processing - Attention...

**Attention is
not
a Unified Construct**

Processing - Attention...

- **Attention Involves
Several Key Elements
that Combine to Impact
the Effectiveness of Many
Cognitive Processes**

Processing - Attention...

- **Alertness**
- **Selective Focus**
- **Filtering**
- **Maintenance**

Processing - Attention...

- **Sound Therapies**
 - . **Samonas**
 - . **Therapeutic Listening**
 - . **Earobics**



Processing - Attention...

- **Movement Therapies**
 - . **Brain Gym**
 - . **Interactive Metronome**
 - . **Intercept**

Processing - Attention...

- **Others**
 - . **Fast ForWord**
 - . **PACE**

Processing...

- **Attention**
- **Dyslexia**



Processing - Dyslexia...

- **Classic Dyslexia**
- **Visual Dyslexia**



Processing - Dyslexia...

- **Classic Dyslexia**
 - . **Phonemic Awareness**
 - . **Speed of Lexical Access**

Processing - Dyslexia...

- **Classic Dyslexia**
 - . **Lindamood-Bell Progs**
 - . **RAVE-O**

Processing - Dyslexia...

- **Visual Dyslexia**
 - . **Vision Therapy**



Services-Accommodation

***Essential Standards
vs
Standards***

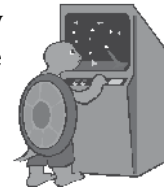
Services-Accommodation

**Aide
Consultation
Training**



Services-Accommodation

- **Technology**
 - . **Hardware**
 - . **Software**



Services-Accommodation

- **Word Processors**
- **Augmentative
Communication
Devices**
- **Scanning Pens**

Services-Accommodation

- **Wynn & Kurzweil**
- **Read:OutLoud
(grades 3 – 10)**

Services-Accommodation

- **Write:OutLoud** (gr 1 – 12)
- **Co:Writer** (gr 1 – 8)
- **DraftBuilder** (gr 3 – 12)

C. Understanding the District's obligations with respect to an IEP

1. Minimum components of an IEP

- A statement of the child's present levels of academic achievement and functional performance.
- A statement of measurable annual goals.
- A statement as to how the District will notify the student's parents about the student's progress toward meeting the annual goals as outlined in the IEP.
- A statement of the special education and related services, supplementary aids and program modifications based on peer-reviewed research to the extent practicable.
- A Statement of the extent, if any, to which the child will not participate with "nondisabled" children in the regular class.
- A statement regarding student's participation in any state or district wide assessments and any individual appropriate accommodations that are necessary to take the tests.
- A statement indicating the projected date for the beginning of the services and modifications described in subclause and the anticipated frequency, location, and duration of those services and modifications.

2. Following the terms of the last agreed upon and implemented IEP

- District must maintain your child's current program if there is a disagreement regarding the IEP. This is commonly called Stay Put if either the parent or the school has filed for due process.
- If your case is not in Due Process, you can enforce your child's right to keep the same services or program by filing a complaint through your State's Department of Education, using the Complaints Resolution Process (CRP).

- d) Make your request for a changes to your child's IEP clear to the IEP Team;
- e) If the school district still won't agree to make changes to the child's IEP, even after your assessor has presented his/her IEE result, then retain a special education attorney and file for due process.

E. Know When to Move On:

- 1. Use your time at the IEP wisely. Don't spend hours trying to convince the school district to "correct" its IEP. Make sure your request is accurately reflected on the IEP document and move on. In many cases, the worse the IEP, the stronger your Due Process case will be.
- 2. Use the IEP Meeting as a Fact-Finding Opportunity:
 - Ask lots of questions, but Don't Make Any Commitments:
 - Ask the school District to tell you more about their conclusions and recommendations.
 - Some examples of questions you may want to ask:
 - (i) What is their experience using or implementing the interventions the school district is suggesting?
 - (ii) How effective is the proposed intervention the school district is suggesting?
 - (iii) Is the intervention too complex to implement?
 - (iv) Has the teacher had training in this intervention?
 - (v) Is the intervention based on peer-reviewed research?

F. Always Electronically Record Your IEP meetings: Some states have specific rules about providing notice in advance when a parent or school district seeks to

electronically record an IEP meeting. Check your state's education code to determine if, when and how you need to give notice.

G. Always Review the IEP Notes:

- Before you leave the IEP meeting, ask for a copy of the notes taken during the meeting and review them for accuracy. Remember, a school district official is taking the notes, so what is written may not be accurate or complete.
- If the IEP notes are not complete or inaccurate, ask the District to make corrections. If the District refuses, create your own "Comments" section and ask that your Comments be added to the IEP document.

2. BECOMING FAMILIAR WITH YOUR DISTRICT.

A. Talk to other parents in support groups about your District. By learning what other parents experienced during their IEP meetings, you can learn what to expect at your IEP meeting. Consider going with another parent to an IEP; both to provide support to that person and to learn more about the process.

B. Be familiar with the professionals the District is recommending assess your child. Talk to a special education attorney, parents and research the District's website.

C. How Litigious is your District?

1. Use the Internet to research how many times your school district has been to due process and either won or lost.
2. Look for cases that may be similar to yours. If you're asking for something similar to another parent on an issue that the district has already taken to Due Process and prevailed, it's unlikely that the District is going to offer what you're requesting. Conversely, if you're asking for something that your school district has lost at hearing, make sure your school district knows that you're aware of this.

DISTRICT'S TOP 16 COMMON AND UNLAWFUL RESPONSES AT IEPs:

1. *Only Ms. X, the District Autism Specialist has the authority to approve that amount of applied behavior analysis instruction/ an in-home ABA program. I'm not sure if we can offer that.*

A representative of the District who is knowledgeable about the availability of the District's resources and has the Authority to approve and/or offer appropriate programs and/or services MUST be present at the IEP meeting.

2. *We have now exceeded the time for this IEP, so let's wrap this up. You can review the remaining proposed goals and objectives/assessments on your own time after we conclude this IEP.*

Do not allow the District to limit your opportunity to participate by concluding the IEP if it exceeds their allocated time. Request an additional IEP meeting be scheduled to CONTINUE the IEP. Do not agree to conclude an IEP until all assessments have been reviewed, goals (and objectives) have been reviewed and a formal offer has been made.

3. *We did not provide you with a copy of our assessments or proposed goals because, well, isn't that why we are here, to discuss the reports and goals?*

Do not allow the District to erode your opportunity to meaningfully participate in the IEP process by asserting that you do not need to review the assessments in advance of the IEP. You need an opportunity to review any assessments or other documentation in advance of the IEP to prepare any questions about the assessments, and more importantly to allow your assessor an opportunity to prepare questions regarding their assessments and/or goals. Get copies of district assessments in advance of the IEP meeting and put your request in writing.

4. *It is 'our policy' to come to a conclusion at the end of the IEP regarding the offer of placement and services; therefore we need to know today whether you agree to our offer. It is 'District policy' that Parents have 48 hours to accept our offer.*

There is no requirement that you agree to an IEP at the IEP. Seldom is it in your best interests to agree to an IEP that day.

5. *You Do NOT need to take notes; we are taking notes that will reflect our discussion today.*

You must ALWAYS review the notation by the District administrative designee and you may also want to write a "Parents Comment Section" page on an additional sheet that accurately conveys your statements and requests.

6. *We can't offer that program and service, we simply lack the resources to do so.*

OR

It's not a matter of what the child needs; it's a matter of what the District can provide.

The District may either provide the placement or service necessary for your child to gain meaningful education benefit or open its checkbook and pay for a private program.

7. *Your child's needs would be best met in a special day class (SDC) with other students who have similar disabilities, rather than with an aide in the general education classroom (regardless of what your child's unique needs are).*

The District has an obligation to provide an appropriate education in the least restrictive environment (LRE). Oftentimes, placing a child in a special day class greatly restricts the child's ability to learn from and interact with typical peers.

8. *There is no need to do an independent educational evaluation, we just assessed your child, and you don't want your child going through the stress of another assessment, do you?*

Often your Independent Educational Evaluation can make or break your case. It's imperative that you have an accurate description of your child's needs so you can make an informed decision regarding what placement and services your child requires to benefit from his education.

9. *If we determine eligibility under Autism or Autistic-like characteristics, your child will be labeled for life, and you don't want that, do you?*

Don't let this emotional appeal get the best of you. In order to receive services that will allow your child gain meaningful educational benefit, of course there will need to be a determination of eligibility, and of course his or her cumulative file will continue to have documentation that your child qualifies under the category of Autism.

10. *That option is not in our drop-down computer menu, therefore it is not available.*

The District is NOT limited to what is in their latest IEP computer program. The District must make an offer that is appropriate based on your child's unique needs. If it's not in the computer, then tell them to write it in by hand!

11. *It is or is not "OUR POLICY" to (fill in the blank). It is not "OUR POLICY" to assess a child without first conducting a Student Study Team ("SST") meeting. "Our Policy" is to provide students with IEPs up to two hours of speech and language therapy per week. It is not "OUR POLICY" to fund private schools.*

Anytime you hear this, ask whether the policy is based on state or federal law, and ask for the District to provide you a copy of the legal citation in writing. They generally will not be able to do so because there is often NO legal basis for their "policy." Citing District policy as opposed to federal or state law is almost

always suspect and could be based on District convenience or preference.

12. *We believe a two-week or summer break between services is important because sometimes kids “just need time off.”*

Refer to your independent assessor’s report to determine whether extended school year services are appropriate based on your child’s unique needs. Inquire as to what data the District has the supports their contention that your child will not regress during any break from services.

13. *Despite the fact that our (District) assessment has not been finished or provided to you (Parents) we consider this assessment complete and are using it as a basis for our offer.*

Do not allow the District to rely on assessment conclusions for which you were not provided a copy.

14. *We are done hearing from you now.*

If you hear this, ask the District if it is their position a parent does not have the right to meaningfully participate in an IEP meeting.

15. *If you choose not to accept our IEP offer and put your child in a private school, then the school district is no longer responsible to provide your child a Free Appropriate Public Education.*

Parents who believe the school district’s IEP offer is not a FAPE for their child always have the right to privately place their child in an appropriate program after giving notice to the district and thereafter seek reimbursement for the cost of that program from the District.

****Note**** The parent has the burden to demonstrate at a due process hearing that the District’s program is NOT appropriate AND the program they selected for their child IS appropriate.

16. *Why don't you just try this program? You can always call another IEP.*

If it were that easy, parents wouldn't need special education attorneys. You can certainly call another IEP, but that doesn't mean the district will agree to change your child's placement or services.

Case Number 1

Ripley is a child with autism, age 7 who qualifies for special education services at City Unified School District ("CUSD"). CUSD recently convened an IEP meeting. Ripley is currently in a mild-to-moderate, non-categorical, special day class at a CUSD elementary school. Ripley also receives 10 hours per week of in-home Applied Behavior Analysis instruction by a non-public agency—Newt Autism Services, a 1:1 aide for 5 hours per day at school, occupational therapy for one hour per week in the clinic, two hours per week of speech and language therapy and one hour per week of social skills training. Parents' concerns at this IEP are Ripley's self-injurious behaviors. Ripley has begun biting his hand and hitting his head with much more frequency and intensity than is usually the case. Parents want an assessment to determine why Ripley is engaging in this behavior.

During the IEP, parents note that Ripley has had some of the same goals repeated for multiple years. The District indicates that the goals that are repeated are very challenging and Ripley has not mastered them yet, so until they are mastered, he should receive the same goals again. Parents also state they are not sure some of the goals are objectively measurable.

CUSD special education teacher, Mr. Hudson, says he can't figure out why Ripley engages in self-injurious behavior and is confused because Mr. Hudson sees Ripley exhibit these behaviors both when he wants to avoid a task, but also behaves this way when he appears happy and is smiling. The occupational therapist, Ms. Bishop, says the self-injurious behavior could be sensory seeking and therefore a sensory integration issue. The school psychologist, Carter Burke, says since Ripley has recently changed prescription medication she is going to "wait and see" what happens with these behaviors.

CUSD recommended the same level of services

and did not agree to do an assessment addressing his increase in self-injurious behaviors, instead odwaiting to see what the effect is of his “new meds.”

CUSD proposed to put Ripley in an Autism specific special day class (“SDC”) with children identified as having more severe behavioral concerns. Parents are concerned that this is an even more restrictive environment than his current placement. District also proposed terminating his in-home ABA program since his autism SDC will provide a more “intensive environment” using “ABA methodologies.” Newt Autism Services did not agree. Parents did not agree. Newt stated that even if the in-home program termination was appropriate, which they could NOT recommend at this time, a transition plan was necessary to do so. Newt conveyed to the District that you should never abruptly terminate a program for a child with autism. District psychologist Burke disagrees and refuses to offer a transition plan as part of the District’s IEP offer.

Selected Issues for Discussion:

1. The District proposed the same goal for a student that it had previously proposed for the past three years. The goal involved answering “Wh-” questions (who, what, where, when, why). Though Ripley made little to no progress, the District still refused to provide any service change to address the lack of anticipated progress over several years.
 - If a child is not meeting his or her goal, something is not working. The District must create a program that allows the child to progress. Failure to do so is a denial of FAPE.
2. The District provided a number of inappropriate goals and incremental objectives. For example, the following goal was included, “Ripley will understand ways in which personal health and well-being can be enhanced and maintained, by expressing a feeling to an adult three 3. times daily, three 3. of five 5. days, with no more than one 1. verbal prompt.” This goal is unclear, vague, and set to the subjectivity of the interpreter.
 - IEP goals must be measurable and objective, so that when anyone looks at

the goal, she is able to tell what is being measured. This is needed to ensure the child is progressing, and that the services are working.

3. The District's Autism Specialist stated that Ripley did not need an in-home ABA program anymore because the District was proposing he now be placed in an "Autism SDC." The District presented no data or objective information to support its position, there was no assessment, and the District didn't even invite the Autism SDC teacher to the IEP meeting to discuss whether she could properly address the Ripley's behavioral needs in her classroom. The District's recommendation to terminate Ripley's SDC was made despite Ripley's increase in self-injurious behavior as reported by his current teacher and in complete disregard of Newt's recommendation that the in-home ABA program continue.

- A child's IEP must be developed based upon an analysis of the child's needs. To terminate services, the District needs must show that the service is no longer needed through objective data. Additionally, the District should consider the current service provider's input.

4. When the District recommended terminating the in-home ABA program, they did not offer a transition plan. The ABA provider felt it necessary to have a transition plan if the ABA program were to be discontinued in favor of an Autism SDC. The District refused to offer a transition plan.

- In making its recommendation that a transition plan should be put into place, Newt was relying on its experiences working with children on the autism spectrum as well as peer reviewed research which demonstrates that children with Autism need continuity. Further, abruptly ending a service can be damaging to the child, and cause regression. A significant program change should always include gradual reduction of service as part of a transition plan.

5. With respect to Ripley's increase in self-injurious behaviors, the District is on notice of an identified area of need that requires

further assessment by qualified professionals. The District’s response unlawfully neglects determining the cause of the behaviors. District merely proposes to just place Ripley in a more restrictive environment.

- A District is required to identify and evaluate all areas of suspected need. If behaviors are occurring, a Functional Analysis Assessment (FAA) must be conducted and if necessary, a Behavior Intervention Plan (BIP) must be implemented to properly address these behaviors. The FAA should be completed before considering a change of placement.

Case Number 2

Luke is a 6 year old child living in Tattouine Unified School District (TUSD). Luke is eligible to receive special education and related services under the eligibility category of Autism. Luke also has expressive and receptive language delays. Luke is receiving Applied Behavior Analysis (ABA) instruction through the non-public agency, Kids Learning Center (“KLC”). KLC has been providing Luke’s ABA for almost 3 years through their contract with TUSD and also provides speech and language therapy to Luke.

KLC has just updated its assessment of Luke. Parents are concerned with some of the scores Luke received on his last assessment. KLC testing indicates that the The Expressive Language Test (TELT) was administered on January 1, 2006, and May 1, 2007. When the TELT was administered in 1/06 Luke’s score indicated his age equivalent for expressive language was four years and 3 months (4-3). When the TELT was re-administered this year, Luke’s age equivalent score was four years and 9 months (4-9). The KLC report also states that there is a concern Luke might have some sort of an auditory processing disorder, but there has been no testing to rule out an auditory processing disorder.

During an IEP meeting, the KLC supervisor, Mr. Vadar says, “Luke is making good progress, as evidenced by his increased score on the TELT. I am very pleased.” The District’s administrative designee, Mr. Sith, agrees that Luke is making progress and offers the same program and services as the prior school year. Parents respond that they are having a hard time communicating with their son and tell

the IEP Team that they expected to be better able to understand his speech after several years of speech therapy. They tell Mr. Sith they would like to further discuss his Luke’s speech. In response, Mr. Sith indicates he has to attend another TUSD meeting. Mr. Sith then states the IEP will necessarily need to come to an end, but tells Parents, he is always available to discuss their concerns, so they can call him later if they want.

Parents later send a letter to the District disagreeing with the KLC assessment and request an independent educational evaluation (IEE) in speech and language. Parents also request the District begin using a different agency to provide ABA and Speech services to Luke, specifically, Leia Autism Consultants (Leia). District says they do not have a contract with Leia and therefore will not agree to use that agency.

District agrees to fund the IEE and provides parents a list of experts: Boba Fett or Jabba T. Hut. Parent requests the IEE be performed by Han Solo or Lando Calrissian. Mr. Vadar tells the parents the District will only pay for the two “independent assessor” the District recommends. Parents relent and have Mr. Hut perform the assessment. Mr. Hut conducts testing, reviews the prior IEP goals and indicates that because Luke appears to be meeting his IEP goals, he recommends the same amount of speech and language services. No testing is done to rule out an auditory processing disorder.

Selected Issues For Discussion:

1. Luke is not making sufficient progress, in sixteen months, he only made six months of progress. He is not making adequate progress to even keep up with his peers and the gap between him and his peers will continue to increase.
2. Through KLC’s assessment, TUSD has notice of a suspected disability—potential auditory processing disorder—and has an obligation to further investigate, which it failed to do.
3. Ending a meeting based solely upon the District designee’s schedule violates parents’ right to meaningfully participate in the process of developing an appropriate educational program for Luke.
4. The District not having a contract with a service

- As discussed previously, make the District aware you are in this for the long haul and will take your case to a Due Process hearing if necessary.
- The Miranda Warning is also applicable in the educational context, “Anything you say can and will be used against you.” Realize that anything you say to a teacher, therapist, aide or other service provider may be taken out of context. Generally all communication, after you’ve had a moment to consider the intent and purpose of the communication, is best done in writing.
- Attend and participate in the IEP even if you know in advance from talking to teachers and other District personnel that the offer that will be made is not adequate.
- Take the time to observe any proposed placement even if you already believe in advance that it is not appropriate for your child.

need are to be performed by a qualified individual, refer back to Session Three.

2. Carefully review your IEP for the following red flags:

A. Is there an actual present level of performance for each goal?

- Assessments provide the basis for the present levels of performance which in turn must correspond to a particular goal. If your assessment is poorly done, your goals and their present levels of performance will be inaccurate.
- In a given number of attempts, how many times can your child complete the goal?
- "Doesn't comprehend reading content" is not a present level of performance.
- You must know the present level of performance in advance of drafting the goal to ensure the goal is appropriately tailored to your child's unique needs.

B. Are the goals objective, measurable and appropriate given your child's unique needs?

i. **Objective: not influenced by personal feelings, interpretations, or prejudice; based on facts; unbiased.**

- Objective: Jennifer will engage in 4 conversational exchanges (volleys), with a peer in 4 out 5 opportunities using therapist's data and supervisor observations across home and school settings.
- Not objective: Tim will demonstrate appropriate play skills.
Appropriate according to whom?
This is based solely on observer's subjective opinion.
- Not objective: Lynne will understand ways in which personal health may be maintained by expressing a happy feeling. If Lynne smiles has she expressed a feeling? If she says hello in a cheerful tone is that an expression of a happy feeling?
- Mitch will recognize and decode

words.

ii. **Measurable: capable of determining whether progress is being made.**

- Mitch will verbally greet three people in the morning in the first fifteen minutes of his being in the class with peers.
- Not measurable: Jennifer will appropriately consider the feelings of others in conversation. How do you measure this?
- Not measurable: Tim will, as a measure of improved fine motor skills, demonstrate effective tool control, with minimal verbal assistance. What does Tim need to do to demonstrate effective tool control? A mature tripod grasp to hold his pencil? Does he need to hold his scissors in a certain way while cutting?
- Lynne will use appropriate writing strategies.
- Mitch will read a paragraph and answer at least four wh- questions.

iii. **Watch out for complex and confusing goals.**

- Goal: Tim will understand ways in which personal health and well being can be enhanced by verbally expressing his need to use the toilet. Benchmark for the same goal: Tim will hand a “PECS” toileting card to a staff member before going to the restroom. – Wasn’t the goal to verbally express need to use the restroom?
- When given five problem situations, Jennifer will provide an appropriate solution for each by applying three behavior strategies (safety, consequences and timing) that help facilitate problem solving.
- Mitch will demonstrate 90% overall accuracy in his handwriting, as measured by work samples in three

Segregation vs. Integration

1. Treating a segregated SDC for students with Autism as an initial assumption is ridiculous. It should be a last resort after the possibilities for supporting inclusion in general education have been thoroughly considered and found inadequate.
2. Remember, your child has the right to peer-reviewed, research-based interventions, and a right to be educated to the maximum extent appropriate alongside nondisabled peers.
3. So, it may not be FAPE if your District's recommendation is their standard placement option of an eclectic preschool autism class with minimal amounts of reverse mainstreaming, and minimal opportunity to be educated alongside non-disabled students.
4. It may not be FAPE if your District's proposal also unnecessarily exposes him/her to behaviors that his educators and family have made great efforts to extinguish.
5. As an aside, the TEACCH model, in effect, essentially purports that the best way to interact with children with impaired language is to actually restrict that language exposure.

Research-Based Methodologies

1. Your child has the right to the benefit of peer-reviewed, research-based interventions, and a right to be educated to the maximum extent appropriate alongside nondisabled peers.
2. ABA is a research-based intervention. Is your District rejecting intensive applied behavior analysis, even though peer-reviewed research indicates that such a program is calculated to reach the targets of IDEA: i.e.,
 - access to the general curriculum,
 - ability to make functional gains,
 - capacity to be educated alongside nondisabled peers, and
 - ultimately to achieve personal independence?
3. Has your District failed to offer research-based interventions, and instead offered services calculated to produce a growing gap between your child and his/her peers?

- Ask, "Tell me the methodologies you use, and provide me the references to the peer-reviewed research that supports them."
 - Ask, "So, if I provide you with the peer-reviewed research that supports the intervention/s I'm requesting, and that research-base is equal to yours, it should be a consideration, correct?"
 - Ask, "So, ... and it significantly exceeds yours, you would change your recommendation, correct?"
 - Ask, (if they say no), "Help me then to understand why not."
 - Ask, "I'd like you to provide me with the data supporting your position, that is, data supporting short-term and long-term results/gains."
4. Regarding that data, your interest is not only in how many annual goals have been met and not met, as most goals are calculated to define successes as being only marginal gains. You want to know the specifics.
5. If they object, let them know they have provided you no information about your child's likely outcome if their approach/recommendation is followed. Instead, because their approach is not based upon peer-reviewed research, you believe that
- they are creating avoidable obstacles to participation in regular education settings now and in the future;
 - the gap will grow between your child and his/her peers, making huge obstacles to successful participation in a general education classroom, and to his/her ability to access a standards-based curriculum for the rest of his/her educational career; and
 - they are basically guaranteeing that the opportunities your child will have as an adult will be only those that correspond to placement in programs for severely handicapped students.

Failing to Consider Out-of-School Placements

1. If the District fails to consider programs outside of the school environment, let them know that you recognize
 - that some self-care and community adaptation skills can only be taught in natural environments;
 - that some can only be taught efficiently in these environments; and
 - that some need to be taught not only in table-top settings, but rapidly generalized to natural environments (i.e., efficient learning environments combined with generalization opportunities).
2. However, it is also your understanding that to make developmental and functional progress, a child needs to learn to navigate the real world. For a preschooler, the family needs to be an integral and well-informed part of your child's program.
3. Furthermore, make it known that despite Congress's recent reaffirmation that education is not just about academics and is not just about what happens at school, that the District continues to fail to consider needs for in-home programming, and to reject your request for this service. Furthermore, the District's denial is especially noteworthy in your situation, as the legislature has given special weight to the importance of the home as an environment of instruction.

Regarding quality of supervision:

Most of the time, the supervision offered by a District will reflect the availability of the teacher and District's behaviorist/specialist, in lieu of your child's needs. If you already have a program, and the District is recommending a different program without the same quality of supervision, your dissent should include the following:

- that your program uses trained behaviorists in lieu of aides;
- that the training and supervision of their untrained aides is below that of the supervision of your trained behaviorists;
 - that the training and supervision of their

non-trained aides would require far more training and supervision to adequately implement the program; and

- that you predict the outcome to be stagnation, regression, and/or a significantly reduced rate-of-learning.

An Actual Case

Background:

1. Child was in second grade at previous assessment, this was the Triennial IEP 3 years later (i.e., 5th grade).
2. At the IEP, District extolled praises on their program, bringing in behavioral data showing that the child had made “such amazing progress!”
3. Previously and at Triennial, tests included an IQ, WJ-III Achievement, Vineland for Adaptive/Functional, and VMI for visual-motor integration.

Testing

1. The IQs were virtually identical both assessments
2. The SIBS-R showed significant drops across all areas addressed
3. The WJ-III showed drops of 20 standard score points (and more) across board

The District provided Comparison Charts for the following.

1. IQ standard score to standard score
2. VMI standard score to standard score
3. WJ-III raw score to raw score

Reports

1. OT, of course, raves about increase in VMI standard score
2. Teacher raves about increase in raw scores

Dialogue:

Atty: (to teacher) Did you see Jo's prior scores on the WJ-III?

Teacher: Yes

Atty: Did you have a chance to compare those scores like the OT did with the SIBS-R?

Teacher: Yes. His raw scores show increases in all areas.

Atty: He has 20-points or more drops in all of his standard scores. Don't you think that's significant? Do you have any thoughts about that?

Program Manager (PM) steps in to rescue teacher

Tactic One: Blame Parent

PM: Isn't mom picking up student early several days a week? You know if he doesn't attend a full day, he is missing out on significant instruction.

Atty: But we are replacing that with private speech, OT, and music, things targeted to remediate his principal areas of deficit.

PM: But you are comparing apples to oranges. You are complaining about academics while pulling him from an academic program.

Atty: (to teacher) Can you share with us all the academic goals on which you are working during the afternoons that he is pulled-out by parent?

Teacher: Well, on Mondays we are doing personal grooming, on Tuesdays we are doing our chores, and on Thursdays we are doing art.

Atty: So, I think that we are clearly doing better for him by pulling him out to target his weaknesses in language and in sensory, while not giving up any

academic programming at all.

Tactic Two: Blame the Child

PM: But you forget, we couldn't even reach this child because of his dysregulation and emotional outbursts.

Atty: But he was worse three years ago, and at that time his WJ-III scores were 20+ points higher across the board. For the past three years, you have raved about how fabulous his progress has been in that regard. By YOUR data,

- he now comes to circle and group,
- he participates willingly,
- he attends for 15 minutes with minimal prompting, and
- he is down to no more than 3 meltdowns a week, from which he recovers in less than 6 minutes

Are you claiming that despite this massive improvement, the drop in scores is due to sensory dysregulation, which by YOUR data was significantly worse at the time he was tested to be academically higher?

Tactic Three: Blame the Test

PM: Ms. Atty, you know that this is just one test. We measure progress by multiple measures.

Atty: Yep, I know. But in EVERY objective measure, EVERY test you gave that tests academics, language, and social skills, Jo had significant drops in his objective measures: statistically significant drops. I'm trying to justify those significant drops with the claimed fabulous progress he is making in your program.

Psychologist (School Psych) to the rescue!

Psych: You have to realize that he has gotten older, by three years.

Atty: Yea, I'm aware of that, and I'm aware that the tests are normed for age: hence, we compare

standard scores and not raw scores.

Psych: Well, if you look at the standard scores, they are all within the confidence level.

Atty: You've got to be joking! Let's just look at the first on the list, the 'Letter-Word Identification' subtest. Jo had a standard score of 104 three years ago. The 95% confidence level would have been plus/minus 5, I believe: about 99-109. Now he has a standard score of 80. So, I guess what you're saying is that we should all assume that 3 years ago, he really tested at the low end of the confidence level on EVERY measure and now he tested at the high end on EVERY measure, and as long as they are within an additional 5-10 standard score points difference, no biggy, right?

PM: Well, maybe what they are testing is not what is being taught in the class?

Atty: Well, the WJ-III tests reading, writing and arithmetic. If you aren't teaching those in the class, what the heck are you teaching?!?

Appendix: Selected CFRs

Independent Educational Evaluations

TITLE 34--EDUCATION

REHABILITATIVE SERVICES, DEPARTMENT OF
EDUCATION

PART 300_ASSISTANCE TO STATES FOR THE EDUCA-
TION OF CHILDREN WITH
DISABILITIES

Sec. 300.502 Independent educational evaluation.

(a) General. (1) The parents of a child with a disability have the right under this part to obtain an independent educational evaluation of the child, subject to paragraphs (b) through (e) of this section.

(2) Each public agency must provide to parents, upon request for an independent educational evaluation, information about where an independent educational evaluation may be obtained, and the agency criteria applicable for independent educational evaluations as set forth in paragraph (e) of this section.

(3) For the purposes of this subpart--

(i) Independent educational evaluation means an evaluation conducted by a qualified examiner who is not employed by the public agency responsible for the education of the child in question; and

(ii) Public expense means that the public agency either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent, consistent with Sec. 300.103.

(b) Parent right to evaluation at public expense.

(1) A parent has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the public agency, subject to the conditions in paragraphs (b)(2) through (4) of this section.

(2) If a parent requests an independent educational evaluation at public expense, the public agency must, without unnecessary delay, either--

(i) File a due process complaint to request a hearing to show that its evaluation is appropriate; or

(ii) Ensure that an independent educational evaluation is provided at public expense, unless the agency demonstrates in a hearing pursuant to Sec. Sec. 300.507 through 300.513 that the evaluation obtained by the parent did not meet agency criteria.

(3) If the public agency files a due process complaint notice to request a hearing and the final decision is that the agency's evaluation is appropriate, the parent still has the right to an independent educational evaluation, but not at public expense.

(4) If a parent requests an independent educational evaluation, the public agency may ask for the parent's reason why he or she objects to the public evaluation. However, the public agency may not require the parent to provide an explanation and may not unreasonably delay either providing the independent educational evaluation at public expense or filing a due process complaint to request a due process hearing to defend the public evaluation.

(5) A parent is entitled to only one independent educational evaluation at public expense each time the public agency conducts an evaluation with which the parent disagrees.

(c) Parent-initiated evaluations. If the parent obtains an independent educational evaluation at public expense or shares with the public agency an evaluation obtained at private expense, the results of the evaluation--

(1) Must be considered by the public agency, if it meets agency criteria, in any decision made with respect to the provision of FAPE to the child; and

(2) May be presented by any party as evidence at a hearing on a due process complaint under subpart E of this part regarding that child.

(d) Requests for evaluations by hearing officers. If a hearing officer requests an independent educational evaluation as part of a hearing on a due process complaint, the cost of the evaluation must be at public expense.

(e) Agency criteria. (1) If an independent educational evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria that the public agency uses when it initiates an evaluation, to the extent those criteria are consistent with the parent's right to an independent educational evaluation.

(2) Except for the criteria described in paragraph

(e)(1) of this section, a public agency may not impose conditions or timelines related to obtaining an independent educational evaluation at public expense.

(Authority: 20 U.S.C. 1415 <<http://www.specialed-connection.com/LrpSecStoryTool/servlet/GetReg?cite=20+USC+1415>> (b)(1) and (d)(2)(A))

Prior Written Notice:

TITLE 34--EDUCATION

REHABILITATIVE SERVICES, DEPARTMENT OF EDUCATION

PART 300_ASSISTANCE TO STATES FOR THE EDUCATION OF CHILDREN WITH DISABILITIES

Sec. 300.503 Prior notice by the public agency; content of notice.

(a) Notice. Written notice that meets the requirements of paragraph

(b) of this section must be given to the parents of a child with a disability a reasonable time before the public agency--

(1) Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or

(2) Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.

(b) Content of notice. The notice required under paragraph (a) of this section must include--

(1) A description of the action proposed or refused by the agency;

(2) An explanation of why the agency proposes or refuses to take the action;

(3) A description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action;

(4) A statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained;

(5) Sources for parents to contact to obtain assis-

tance in understanding the provisions of this part;

(6) A description of other options that the IEP Team considered and

the reasons why those options were rejected; and

(7) A description of other factors that are relevant to the agency's proposal or refusal.

(c) Notice in understandable language. (1) The notice required under paragraph (a) of this section must be--

(i) Written in language understandable to the general public; and

(ii) Provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.

(2) If the native language or other mode of communication of the parent is not a written language, the public agency must take steps to ensure--

(i) That the notice is translated orally or by other means to the parent in his or her native language or other mode of communication;

(ii) That the parent understands the content of the notice; and

(iii) That there is written evidence that the requirements in paragraphs (c)(2)(i) and (ii) of this section have been met.

(Authority: 20 U.S.C. 1415 <<http://www.specialedconnection.com/LrpSecStoryTool/servlet/GetReg?cite=20+USC+1415>> (b)(3) and (4), 1415(c)(1), 1414(b)(1))

Appendix:

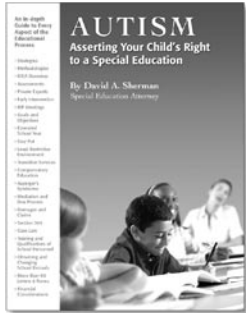
Acronyms

504.....	Section 504 of the Rehabilitation Act
ADA	Americans with Disabilities Act
ADHD.....	Attention deficit hyperactivity disorder
Assistive Technology Device.....	Equipment used to maintain or improve the capabilities of a child with a disability
BD.....	Behavior Disordered
Behavior Plan.....	Plan of positive behavioral interventions that is part of an IEP for a child whose behaviors interfere with his/her learning or that of others
BIP	Behavior Intervention Plan
Case Law	Judicial opinions issued by a court
CDE.....	California Department of Education
DIS.....	Designated Instruction and Services
Disability	Under the ADA, an impairment that substantially affects one or more major life activities, record of having such impairment, or being regarded as having such an impairment
Discovery.....	Pre-trial process by which parties to a lawsuit exchange information with the other party
Due Process Hearing	Administrative hearing before an impartial hearing officer
Early Intervention	Special education and related services pursuant to the IDEA provided to children under the age of 5 years
ED.....	Emotionally Disturbed
EI.....	Early Intervention
ESY	Extended School Year
Expert Witness.....	Person called as a witness to testify because he/she has a recognized competence and expertise in a subject area
FAPE.....	Free Appropriate Public Education
FBA.....	Functional Behavior Assessment: process of identifying factors associated with the occurrence (and non-occurrence) of specific behaviors
FERPA	Family Educational Rights and Privacy Act. FERPA deals with confidentiality and access to student records
IDEA.....	Individuals with Disabilities Education Act
IEP	Individualized Education Program
Inclusion.....	Educating children with special needs in regular education classrooms in their neighborhood schools

IQ.....	Intelligence quotient. An IQ score is an artificial number that is used to indicate levels of mental development
LD.....	Learning Disabled
LEA.....	Local Education Agency
LRE.....	Least Restrictive Environment
Least Restrictive Environment	Concept of educating children with disabilities in an educational environment that exposes the child to children without disabilities to the maximum extent possible
Mainstreaming.....	Placing children with disabilities in regular education classrooms to the maximum extent possible
MDE.....	Multi-Disciplinary Evaluation
MR.....	Mentally Retarded
NCLB.....	No Child Left Behind
NPA.....	Non Public Agency
NPS.....	Non Public School
OAH.....	Office of Administrative Hearings
Occupational Therapy.....	Therapy to remediate motor skills
OHI.....	Other Health Impaired: a category of eligibility pursuant to the IDEA
OT.....	Occupational Therapy
Physical Therapy.....	Therapy to remediate gross motor skills
PT.....	Physical Therapy
Reasonable Accommodation.....	Adoption of a facility or program for a child with a disability that can be accomplished without undue administrative or financial burden
Related Services.....	Services provided pursuant to the IDEA to supplement special education, such as counseling services, occupational therapy, and physical therapy
Resource Room.....	Special education placement that is provided in conjunction with or as a supplement to a child's regular education program
Section 504.....	Part of the Rehabilitation Act of 1973 that provides that program recipients of federal financial assistance may not discriminate on the basis of a child's disability
SED.....	Seriously Emotionally Disturbed
SEHO.....	Special Education Hearing Office
Specially Designed Instruction ...	Modification or changes to the general curriculum instruction necessary to implement the goals, benchmarks, and objectives of a child's IEP
Special Education.....	Educational programs and placements provided pursuant to the IDEA
Transition Services.....	A component of the IDEA to facilitate movement from school to the workplace or high education

Appendix:

Educating Children with Autism



The following categorization of excerpts from *Educating Children with Autism*, a report issued by the Committee on Educational Interventions for Children with Autism, National Research Council (Division of Behavioral and Social Sciences and Education) was provided by David A. Sherman and appears in his book, *Autism: Asserting Your Child's Right to a Special Education* (available at www.aboutautism.com). *Educating Children with Autism* can be downloaded for free or a hard copy can be purchased at <http://books.nap.edu/catalog/10017.html> or Amazon.com.

Accurate Assessment

Educating Children with Autism, "In general, the perspectives of various professionals are required as part of the diagnosis process. This may involve the efforts of special educators, general educators, psychologists, speech pathologists, occupational and physical therapists and physicians" (p. 23).

All of these professionals should have education, training and experience with autism. It is rare for a school District to have professionals in the various disciplines qualified in autism. "The level of expertise required for effective diagnosis and assessment may require the services of individuals, or a team of individuals *other than those usually available in a school setting*" (emphasis added, p. 26)

Definition of "education" (includes socialization)

Educating Children with Autism defines education as the "fostering of acquisition of skills or knowledge... including not only academic learning, but also *socialization*, adaptive skills, language and communication, and reduction of behavior problems—to assist a child to develop independence and personal responsibility." (*Educating Children with Autism* p. 12 emphasis added)

Early intervention

For young children with autism, the National Research Council's (NRC) *Educating Children with Autism*,

a study sponsored by the US Department of Education, recommends early intervention services of a minimum of 25 hours a week for 12 months a year.

"The consensus across programs is generally strong concerning the need for: early entry into an intervention program; active engagement in intensive instructional programming for the equivalent of one full school day, including services that may be offered in different sites, for a minimum of five days a week with full-year programming; use of planned teaching opportunities, organized around relatively brief periods of time for the youngest children (e.g., 15-20 minute intervals); and sufficient amounts of adult attention in one to one or very small group instruction to meet individualized goals." NRC *Educating Children with Autism*, p. 6, 219. There should be repeated planned teaching opportunities organized around brief periods of time for the youngest children in one-to-one or low student/teacher ratios, inclusion of a family component including parent training and low student to teacher ratio—no more than two to one.

The NCR also advises that the personnel who implement the program "need familiarity with autistic spectrum disorders and the range of possible outcomes and with the many methods that fit into best practices." The committee found that it is important for teachers and other professionals to have multiple exposures, opportunities to practice, and active involvement, as well as ongoing consultation, hands-on opportunities to practice skills, and building on the knowledge of teachers.

Extended School Year

Note that the National Research Council says the program should be for the full year. This does not mean 50 weeks, or that the longer holidays are excluded.

The NRC also advises that the service providers “need familiarity with autistic spectrum disorders and the range of possible outcomes and with the many methods that fit into best practices.” The committee goes on to recommend that it is important for teachers and other professionals to have multiple exposures, opportunities to practice, and active involvement, as well as ongoing consultation, hands-on opportunities to practice skills, and building on the knowledge of teachers.

Thus, the personnel who provide extended school year services should be qualified, just like the personnel who provide services during the regular school year.

Fewer than 10% of children with autism have appropriate services

Dr. Catherine Lord, the Committee Chairwoman of the National Research Council that published *Educating Children with Autism* said that “fewer than 10% of children with autism are getting the recommended level of therapy.” By using the strategies in this book and effective advocacy, you can put your child in the fewer than 10% of children with autism who have appropriate services.

Gilliam Autism Rating Scale and Autism Behavior Checklist

Both the GARS and the Autism Behavior Checklist (ABC) have been described as having “more questions regarding the degree to which their scores reflect accurate diagnosis,” according to the National Research Council (in *Educating Children with Autism*, p. 196). Parents have a right to approve the administration of specific tests and refuse others. There are discrepancies among experts regarding the usefulness of certain tests for children with ASD.

Integration of various methodologies needed to obtain appropriate education

In some cases, a child with autism needs an integration of several methodologies to obtain an appropriate education. For instance, the Picture Exchange Communication System (PECS) can be taught using principals of applied behavior analysis and discrete

trial training. Thus, teachers and parents of children with autism need to have knowledge of the various methodologies so that they can determine how to address the unique needs of the child. (*Educating Children with Autism*. P. 187, 225)

Intervention program should show progress within 2-3 months or different teaching approaches should be considered

In *Educating Children with Autism*, for instance, the National Research Council says, “Educators and clinicians could provide extremely useful data by documenting the effectiveness of intervention programs on a child-by-child basis. Based on the available research with this population, progress on language and communication goals should be evident within two to three months, or different teaching approaches should be considered. In order to determine whether an individual child is benefiting from a particular education program, measurement of that child’s progress using methods of single-subject design research are helpful.” (p. 64)

Need for teacher to be familiar with alternative sets of curricula and various methods of implementing them

According to the National Research Council, “The consensus across programs is generally strong concerning the need for: early entry into an intervention program, active engagement in intensive instructional programming for the equivalent of one full school day, including services that may be offered in different sites, for a minimum of five days a week with full year programming, use of planned teaching opportunities, organized around relatively brief periods of time for the youngest children (*e.g.*, 15-20 minutes intervals) and sufficient amounts of adult attention in one-to-one or very small group instruction to meet individualized goals.” (National Research Council, *Educating Children with Autism*, p. 6.)

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The NRC also advises that the service providers “need familiarity with autistic spectrum disorders and the range of possible outcomes and with the many methods that fit into best practices.” The committee goes on to recommend that it is important for teachers and other professionals to have multiple exposures, opportunities to practice, and active involvement, as well as ongoing

consultation, hands-on opportunities to practice skills, and building on the knowledge of teachers.

Thus, the personnel who provide extended school year services should be qualified, just like the personnel who provide services during the regular school year.

While there is little case law that addresses the training, education, and experience required to teach children with autism, the National Research Council (NRC), *Educating Children with Autism*, addresses the issue of education of teachers who work with children with autism. The NRC found that while many special education teachers and early intervention teachers may have received strong instruction in some aspects of autistic spectrum disorders, they may have received little or no instruction in other aspects.

The NRC goes on to say that *even if they have received solid training in general special education or special early intervention, they may have had little or no instruction about such important strategies as applied behavior analysis (ABA), the use of physical structure and visual systems in teaching, or appropriate use of alternate and complementary methods of communication, such as sign language or picture systems... Because these children have diverse needs and learn best in diverse contexts, most of well established comprehensive intervention programs use many different curricula to design highly individualized programs for students. The need to address many different goals requires that teachers be familiar with alternative sets of curricula and various methods of implementing them.* (NRC, *Educating Children with Autism* Chapter 14, Personnel Preparation, p. 186)

According to the NRC, a teacher must be able to identify an autistic child's needs and to use appropriate methods to address those needs. The NRC found that teachers cannot acquire these skills through classes alone, but need to have experience with models or working classrooms and effective teachers (NRC p. 187). Additionally, teachers must be *familiar with theory and research concerning the best practices for children with autism, including methods of applied behavior analysis, naturalistic learning, assistive technology, socialization, communication, inclusion, adaptation of the environment, language interventions, assessment, and the effective use of data collection systems.* (NRC p. 225)

Educating Children with Autism, a study funded by the US Department of Education, often cited by hearing officers, determined that teachers cannot acquire the skills that they need through classes alone, but need

experience with models or working classrooms, and effective teachers. They should be familiar with ABA, naturalistic learning, assistive technology, socialization, inclusion, adaptation of the environment, language intervention, assessment, and the effective use of data collection systems.

Progress of child? New teaching methods required?

In *Educating Children with Autism*, for instance, the National Research Council says, "Educators and clinicians could provide extremely useful data by documenting the effectiveness of intervention programs on a child-by-child basis. Based on the available research with this population, progress on language and communication goals should be evident within two to three months, or different teaching approaches should be considered. In order to determine whether an individual child is benefiting from a particular education program, measurement of that child's progress using methods of single-subject design research are helpful." (p. 64)

Socialization

Educating Children with Autism defines education as the "fostering of acquisition of skills or knowledge... including not only academic learning, but also **socialization**, adaptive skills, language and communication, and reduction of behavior problems—to assist a child to develop independence and personal responsibility." (*Educating Children with Autism* p. 12 emphasis added)

