DIFFICULT CONVERSATIONS
&
CONFLICT MANAGEMENT

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AGENDA

- Role of District Representative
- Resolving Parent Conflicts
- Manifestation Determination Review
- Change of Placement
- Least Restrictive Environment
- Tricky Scenarios

ROLE OF DISTRICT REPRESENTATIVE

- Mandatory IEP team member.
- This person must be:
  - qualified to provide or supervise the provision of special education,
  - knowledgeable about both the general curriculum and district resources, and
  - authorized to make decisions on behalf of the district and commit its resources.
- Responsible for monitoring procedural compliance.
- Ensure meaningful parent participation is occurring.

ROLE OF DISTRICT REPRESENTATIVE

- The goal in an IEP or an ETR meeting is to arrive at a consensus decision of the team members.
- The goal is cooperative educational planning with educators and parents coming together to develop an agreeable educational plan.
- However, where the team members are unable to reach a consensus, the district makes the decision and provides parents with prior written notice of the district's proposals and refusals.
- The district representative is the ultimate decision-maker when there is disagreement amongst the team.

SCENARIO 1

Parent selects administrators who will interact with student

NAVIGATING PARENT DISAGREEMENT & CONFLICT

What to do when an IEP team meeting starts to go south?

PRACTICAL TIPS FOR CONFLICT RESOLUTION

- **Plan ahead.**
- **Have an agenda (include parent participation).**
- **Avoid jargon.**
- **Understand the parent's position.**
- **Seek compromise.**
- **Tell the difficult truth.**
- **Use *A Guide to Parent Rights in Special Education*.**

PRACTICAL TIPS FOR CONFLICT RESOLUTION (CONT.)

- **Take a break.**
- **Have a planning meeting to strategize.**
- **Gather information.**
- **Make a decision.**

THINGS TO SAY AT AN IEP TEAM MEETING

- I have data on that.
- Let me explain what the documentation is telling us about your child's performance.
- Research supports the current type and level of intervention.
- Let's discuss the options that are available.
- I want to understand your position, Ms. Jones. Are you saying _____?
- It appears we are not going to reach consensus on this issue. The educators on the team have made a decision and we will provide you with prior written notice on this issue.

THINGS NOT TO SAY AT AN IEP MEETING

- I have 20 other students.
- I didn't know he was on an IEP
- That would take too much time.
- We can't afford to do that.
- I've never had a student with _____.
- I'm not a special education teacher.

THINGS NOT TO SAY AT AN IEP MEETING (CONT.)

- Your child will never learn to _____.
- I don't have any data on that.
- She never asked for extended time.
- We've already decided not to do that.
- I can't make a decision on that.

THINGS NOT TO SAY AT AN IEP MEETING (CONT.)

Our Lawyer said.....

The Superintendent won't allow it.

We don't do _____ in this district.

SCENARIO 2

The Parent demands 1: 1 aide support for the student.

SCENARIO 3

Following the IEP team meeting, the Parent emails the Special Education Coordinator and demands that the District change several of the statements in its Prior Written Notice and resend it.

SCENARIO 4

The Parent disagrees with the District team members on the appropriate disability category.

What if the Parent refuses to sign the ETR?

MANIFESTATION DETERMINATION REVIEW

- 34 C.F.R. 300.530(e)
- (1) Within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the LEA, the parent, and relevant members of the child's IEP Team (as determined by the parent and the LEA) must review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine—
  - (i) If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or
  - (ii) If the conduct in question was the direct result of the LEA's failure to implement the IEP.
- (2) The conduct must be determined to be a manifestation of the child's disability if the LEA, the parent, and relevant members of the child's IEP Team determine that a condition in either paragraph (e)(1)(i) or (1)(ii) of this section was met.
- (3) If the LEA, the parent, and relevant members of the child's IEP Team determine the condition described in paragraph (e)(1)(ii) of this section was met, the LEA must take immediate steps to remedy those deficiencies.

MANIFESTATION DETERMINATION REVIEW

- 34 C.F.R. 300.530(f)
- If the LEA, the parent, and relevant members of the IEP Team make the determination that the conduct was a manifestation of the child's disability, the IEP Team must—
- (1) Either—
  - (i) Conduct a functional behavioral assessment, unless the LEA had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the child; or
  - (ii) If a behavioral intervention plan already has been developed, review the behavioral intervention plan, and modify it, as necessary, to address the behavior; and
- (2) Except as provided in paragraph (g) of this section, return the child to the placement from which the child was removed, unless the parent and the LEA agree to a change of placement as part of the modification of the behavioral intervention plan.

SCENARIO 5

The Parent argues the student's behavior is a manifestation of his disability and we disagree. Who decides?

CHANGES IN PLACEMENT – DISCIPLINE-RELATED

- 34 C.F.R. 300.536
- (a) For purposes of removals of a child with a disability from the child's current educational placement under §§ 300.530 through 300.535, a change of placement occurs if—
  - (1) The removal is for more than 10 consecutive school days; or
  - (2) The child has been subjected to a series of removals that constitute a pattern—
    - (i) Because the series of removals total more than 10 school days in a school year;
    - (ii) Because the child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals; and
    - (iii) Because of such additional factors as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another.
- (b)(1) The public agency determines on a case-by-case basis whether a pattern of removals constitutes a change of placement.
- (2) This determination is subject to review through due process and judicial proceedings.

LEAST RESTRICTIVE ENVIRONMENT (LRE)

- 34 C.F.R. 300.114
- (a) *General.*
  - (1) Except as provided in § 300.324(d)(2) (regarding children with disabilities in adult prisons), the State must have in effect policies and procedures to ensure that public agencies in the State meet the LRE requirements of this section and §§ 300.115 through 300.120.
  - (2) Each public agency must ensure that—
    - (i) To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled; and
    - (ii) Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

PLACEMENT GENERALLY

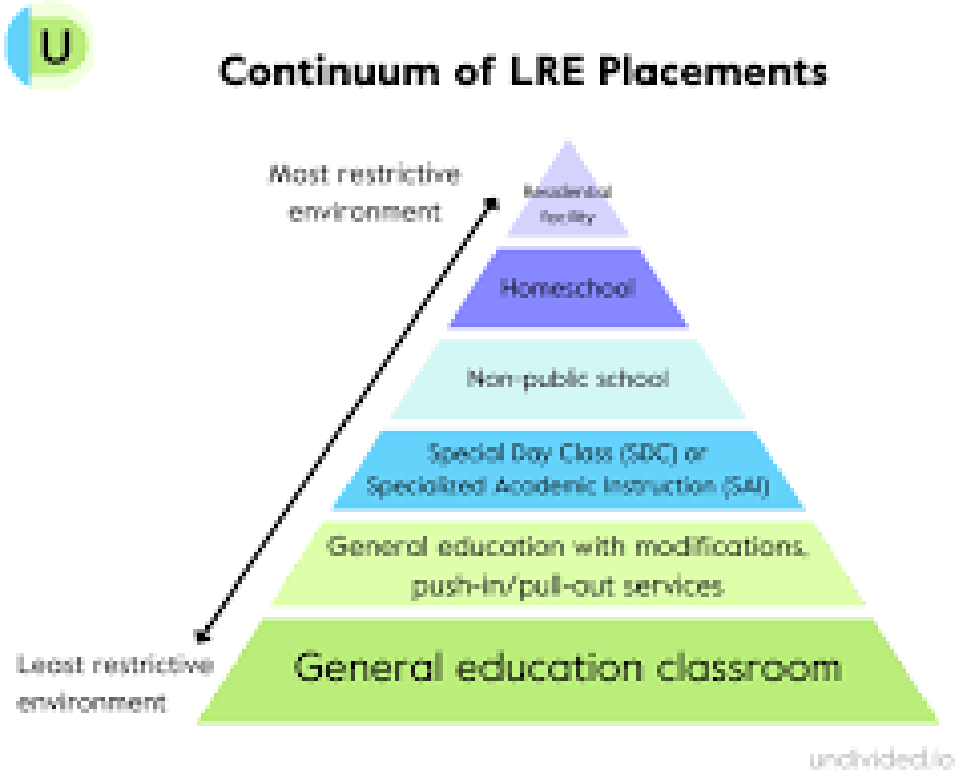
- 34 C.F.R. 300.116
- In determining the educational placement of a child with a disability, including a preschool child with a disability, each public agency must ensure that—
- (a) The placement decision—(1) Is made by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; and(2) Is made in conformity with the LRE provisions of this subpart, including §§ 300.114 through 300.118;
- (b) The child's placement—(1) Is determined at least annually;(2) Is based on the child's IEP; and(3) Is as close as possible to the child's home;
- (c) Unless the IEP of a child with a disability requires some other arrangement, the child is educated in the school that he or she would attend if nondisabled;
- (d) In selecting the LRE, consideration is given to any potential harmful effect on the child or on the quality of services that he or she needs; and
- (e) A child with a disability is not removed from education in age-appropriate regular classrooms solely because of needed modifications in the general education curriculum.

CHANGES IN PLACEMENT

The District must get parental consent before making a change in placement (except for discipline).

A change in placement is a change from one option on the continuum of alternative placements to another (e.g., regular classes, resource room, special classes, special schools, home instruction, hospitals, and institutions).

Question of fact.



NOT A CHANGE IN PLACEMENT

Moving a child from one building to another.

Changing the percentage of time a child spends in a particular setting (e.g., increasing the time spent in a resource room from 60 to 120 minutes).

Changes in related services (i.e., where provided and time spent in related services).

FACTORS TO CONSIDER

- Whether the educational program in the IEP has been revised.
- Whether the child will be educated with nondisabled children to the same extent.
- Whether the child will have the same opportunities to participate in nonacademic and extracurricular services.
- Whether the new placement option is the same option on the continuum of alternative placements.

SCENARIO 6

The Parent provides a private evaluation and/or doctor's note and demands that the IEP team implement the recommendations.

THANK YOU!