



How to Respond when Mental Health Affects School Attendance

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G-CASE

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Disclaimer

This information is accurate as of the date of this presentation, is for information purposes only, and is not a substitute for specific legal advice.



Roadmap

- School refusal trends
- Recent case law on school refusal
- Strategies to avoid and respond to school refusal
 - Identification
 - Placement
 - FAPE
- Questions



Current Trends

- Students who refuse to come to school, stay at school, or participate in certain or all aspects of the school day
- Students who are diagnosed with depression and/or anxiety which is exacerbated by school
- Students who appear “fine” during the school day but struggle with academic expectations at home
- Students who are overwhelmed with maintaining straight “A”s or a high GPA
- Students who struggle socially

What is the district's responsibility?

- All students with disabilities have the right to FAPE regardless of whether it is their disability that is causing the school refusal.
- Students whose school refusal is manifested from a disability—such as anxiety, depression, etc.—are entitled to supports and services aimed at addressing their school refusal.
- Key questions:
 - Are placement and services needed to support the student's education, or is there a social, medical, or emotional problem that is separate from the learning problem?
 - Is the student's mental health interfering with the student's ability to learn?

Legal Decisions addressing School Refusal from 2020-2022



(And lessons learned to avoid ending up in a hearing with multiple exhibit notebooks.)

Peters Township School District v. B.B., 81 IDELR 106 (W.D. Pa. 2022)

- Student refused to leave home.
- The district did “all that a school district should do”:
 - School psychologist went to the home to evaluate;
 - District sought information from private providers;
 - Provided services through a truancy support program;
 - Three goals to address coping skills and work completion;
 - Conducted an FBA;
 - Developed a school attendance improvement plan;
 - IEP team met often (almost monthly);
 - Recommended a partial hospitalization program affiliated with the district;
 - Conducted a reevaluation within one year; and
 - Implemented a modified schedule.



Peters Township School District v. B.B., 81 IDELR 106 (W.D. Pa. 2022) (cont.)

- Other steps the district took:
 - IEP team met to determine if changes to IEP were needed after a bullying incident;
 - Conducted another FBA;
 - Provided an additional period of academic support;
 - Convened an intra-agency meeting with representatives from educational and community-based agencies; and
 - Arranged for an outside psychological evaluation.

Peters Township School District v. B.B., 81 IDELR 106 (W.D. Pa. 2022) (cont.)

- The only issue on appeal was whether the district should have evaluated the student for autism sooner.
- The court found it did not need to.
- The teen was “entirely unavailable” and barricaded himself in his room during attempts to evaluate.
- None of the multiple professionals who worked with him voiced any indication of autism.
- Parents did not raise it.
- IEEs dispelled it.
- Once the district learned he was getting private services for autism, it sought PCE.

Teters v. Peoria Unified School District, 77 IDELR 162 (D. Ariz. 2020)

- Student was overwhelmed with school work and missing school, so in February 2018, the district reduced student's courses from four to two.
- The student's attendance improved, but he failed both courses.
- The family argued the February IEP was inadequate because beyond the reduction in schedule, there were only minor changes.
- The court held "the most pressing issue" was getting the student to physically attend school, and a reduction in schedule was reasonably calculated to do that before making more substantive changes to his social goals.

Teters v. Peoria Unified School District, 77 IDELR 162 (D. Ariz. 2020) (cont.)

- The family also argued that the district should have convened an IEP meeting sooner when the student was not making progress.
- The court found that any IEP beyond the required annual review is up to the district's discretion.
 - But if there is a sudden change, convene an IEP meeting!
- It was reasonable for the district to allow from February to the end of the school year to see if the reduced schedule was successful.

Teters v. Peoria Unified School District, 77 IDELR 162 (D. Ariz. 2020) (cont.)

- In August, the family requested a private placement.
- The IEP team considered alternative school options (homeschooling and private placements) but believed they would not help or be too drastic a change.
- The IEP team made new changes to recreate the desired private school's atmosphere and agreed to a ten-day trial period.
- But the family unilaterally privately placed the student.
- The court denied reimbursement.
- It was in the student's best interest to try the general education environment and collect data before placing him in a more restrictive environment.

A.P. v. Pasadena Unified School District, 78 IDELR 139 (C.D. Cal. 2021)

- District created a Section 504 Plan for a new-to-the-district twice-exceptional 9th grader in September 2017.
- Two psychologists diagnosed the student with social anxiety disorder and depression triggered by school pressure and which would result in school avoidance.
- The district did not seek PCE until January after the student attempted to commit suicide.
- The district argued that student did well when she attended, so special education was not needed.
- The court held the district could not ignore her disability just because she was not currently suffering from an acute anxious or depressive episode when it created the 504 plan in September.

A.P. v. Pasadena Unified School District, 78 IDELR 139 (C.D. Cal. 2021) (cont.)

- Child Find
 - The court found the district could not claim it didn't know why the student was absent when the student's private psychologists had said her anxiety and depression would lead to school refusal.
- Placement
 - By the April 2018 IEP meeting, the family privately placed her.
 - The district recommended two private placements and offered to schedule tours but did not identify the schools in the IEP.
 - The court found the district made a proper offer of placement.
 - But the court ordered the district to reimburse for the entire 9th grade year.
- Takeaway: Delays can be costly.

District of Columbia Public Schools, 123 LRP 1265 (Oct. 27, 2022)

- District did not refer Section 504 student with long history of severe depression, anxiety, and suicidal ideation beginning in 2018 for special education evaluation until parent requested when student was in residential placement in 2021.
- District argued it did not want to jump to special education eligibility when student was in mental health crisis.
- SEA found the district should have requested PCE when student was initially hospitalized in 2018.

The Parts of the IDEA to Consider



Child Find

Placement

FAPE

Things to Look for

- Changes in attendance
- Hospitalizations
- Suicide attempts
- Statements of self-harm/loathing
- Perfectionism
- Lack of friends
- Withdrawal/crying
- Sudden drop in work completion/grades
- Difficulty entering the school building
- Increased requests to leave class
- Increase in requests to contact parents during school day
- Trips to nurse for headache, stomachache, etc.

How often is the student refusing to come to school?

- Look at the Attendance Records
 - Full day absences
 - Which classes is the student missing if it's a partial day absence?
 - Tardiness
 - Skipping/leaving class early
 - Not participating in class (e.g. sleeping, going to bathroom for extended time, etc.)
 - Are the absences excused or unexcused?
- How many absences are “too many?”
- What is the educational impact?

Look for a Pattern to the School Refusal

- Does the student miss certain class subjects?
- Certain times of the day?
- Certain days of the week?
- Around test time?
- Have a hard time waking up?
- Have a hard time managing time and catching the bus?
- Embarrassed to change clothes for PE?
- Intimidated by a particular teacher or group of students?

Practical Advice for Evaluations

- Be willing to evaluate the student in the home if possible.
- Develop rapport with the student before beginning the evaluation.
- Be creative.
- Seek the parents' and private evaluators' input on how to evaluate.
- Schedule at a time most likely to be successful.
- Seek private providers' information.
- Document all efforts.

Practical Advice for Amending the IEP

- BIP
- Safety/Crisis Plan
- Attendance incentives
- Grade/credit recovery plan
- Placement considerations
- Accommodations
 - Modified day
 - Communication with parents
 - Extended time

Going into the Home

- Courts want to see school districts evaluating and offering services in the home when necessary.
- Some or all of these may need to happen in the home:
 - Observations
 - Evaluations
 - Parent training
 - Home-based services (academic, behavioral, mental health)
 - In-home behavior support
 - Work with the parent to ensure the most success.

Best Practices for Home-based Services

- The parent must be in the home.
- Involve multiple employees if possible.
- Assume the parent is listening at all times.
- If the parent is interfering, document efforts to resolve the issue. Call an IEP meeting if necessary.
- Find a time that works best for everyone.
- Notify parent of changes in schedule.
- Document. Every. Visit.

What Does a Strong Reintegration Plan Look Like?

- Gradual Steps to reenter a school building
 - Leave the student's home.
 - Go to a non-school setting outside of the home (i.e. library, cafe).
 - Go to school and work at a bench or a setting outside the building.
 - Go to a setting inside the school building that is not the classroom.
 - Go to an actual classroom.
- Increase duration at school (1 period, 2 periods, etc.).
- Increase task and assignment completion and credit recovery.
- Timeline/measure of when to move to the next step or reconvene.

Stay Flexible, Vigilant, and Responsive.

- Monitor
 - Attendance
 - Participation
 - Work completion/grades
 - Behaviors
 - Progress on goals and objectives
- Reconvene
 - Balance allowing the plan time to work and adjusting when needed.
 - Continue to invite experts to the table.

Key Steps When Responding to a School Refusal Situation

- Evaluate the student— Have a full and comprehensive understanding of the student and the issues.
- Involve the parents - Ensure the parents can meaningfully participate and document frequent communications.
- Hold multiple IEP meetings.
- Involve experts in the IEP meetings.
- Support the student in multiple ways.
- Be flexible in responding to the student's needs.

Questions?

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