

Special Education Legal Updates: State Perspective

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Greetings!

Jamila C. Pollard, Esq. is the senior program manager/legal officer for the Dispute Resolution Unit in the Division for Special Education Services and Supports at the Georgia Department of Education (GaDOE). Jamila oversees GaDOE dispute resolution processes of mediation, formal written complaints, and due process hearing requests. Prior to joining the GaDOE, Jamila was a staff attorney with the U.S. Court of Appeals for the 11th Circuit and a middle grades mathematics and language arts teacher in Georgia.



It's all about the kids...



Acronyms

- IDEA – Individuals with Disabilities Education Act
- AU – Autism Spectrum Disorder
- IEE – Independent educational evaluation
- IEP – Individualized education program
- ALJ – administrative law judge
- AT – assistive technology
- MID – Mild Intellectual Disability
- SI – Speech-Language Impairment
- SLP – Speech Language Pathologist
- OHI – Other Health Impairment
- SLD – Specific Learning Disability
- EBD – Emotional Behavioral Disorder

Acronyms

- ELA – English Language Arts
- OT – Occupational Therapy
- SDD – Significant Developmental Delay
- RTI – Response to Intervention
- ADHD – Attention Deficit Hyperactivity Disorder
- MTSS – Multi-Tiered Systems of Support
- LEA – Local educational agency
- OSS – Out of school suspension
- ISS – In school suspension
- FERPA – Family Educational Rights and Privacy Act

Purpose of IDEA (34 C.F.R. § 300.1)

- To **ensure** that **all** children with disabilities have available to them a **free appropriate public education (FAPE)** that emphasizes special education and related services designed to meet their **unique needs** and prepare them for **further education, employment, and independent living**;
- To **ensure** that the **rights of children with disabilities and parents** of such children are **protected**;

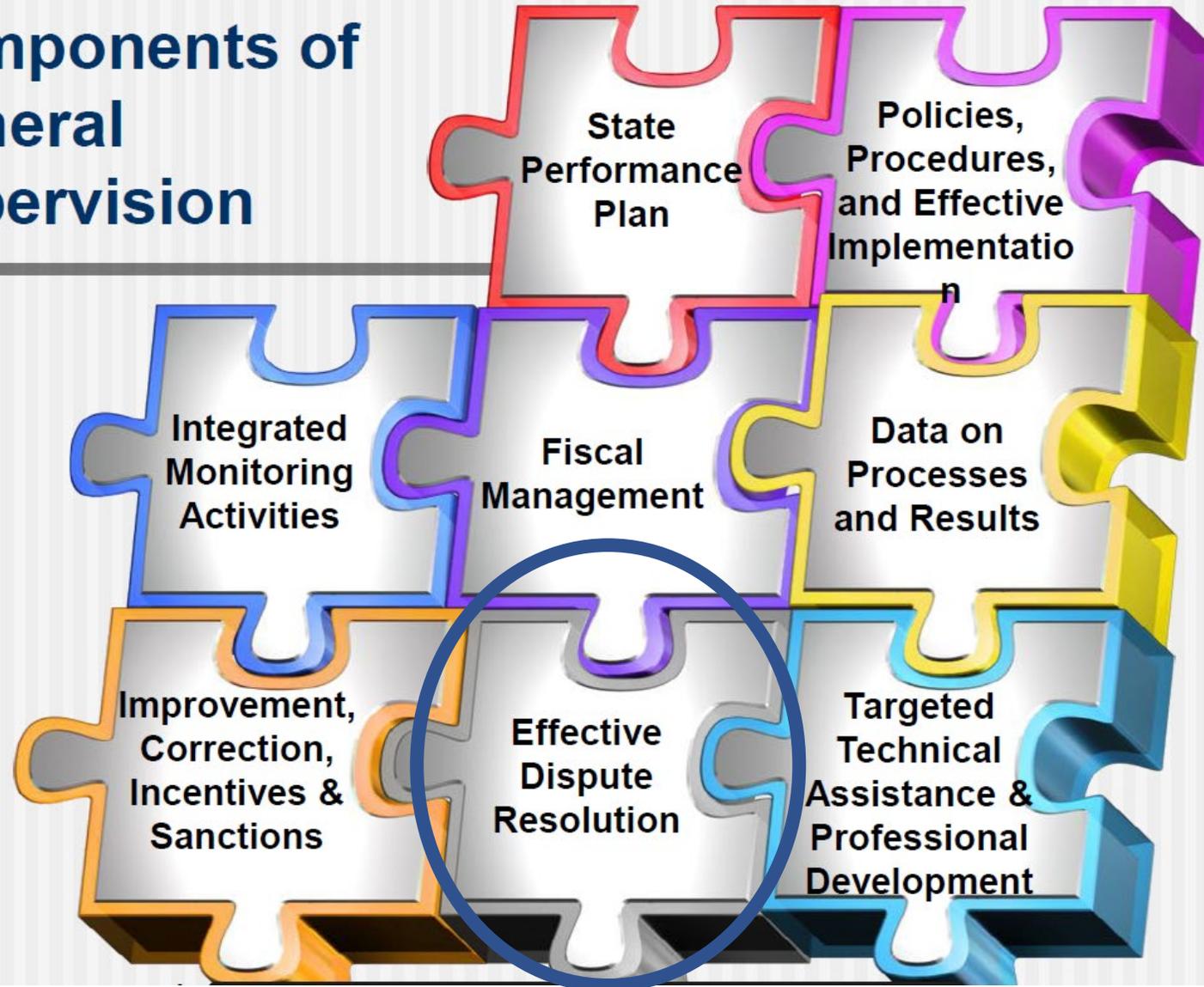
Purpose of IDEA (34 C.F.R. § 300.1)

- To assist **States, localities**, educational service agencies, and Federal agencies **to provide** for the education of all children with disabilities
- To assess, and ensure the **effectiveness** of, efforts to educate children with disabilities.

SEA responsibility for general supervision (34 C.F.R. 300.149)

- The State Educational Agency (SEA) is responsible for **ensuring**:
 - (1) That the **requirements of IDEA Part B** are carried out; and
 - (2) That **each educational program** for children with disabilities administered within the State, including each program administered by any other State or local agency
 - (i) Is **under the general supervision** of the persons responsible for educational programs for children with disabilities in the SEA; and
 - (ii) **Meets the educational standards of the SEA**

Components of General Supervision



Dispute Resolution Data



Mediation Data (as of March 1, 2024)

	FY2021	FY2022	FY2023	FY2024 YTD
Mediation Withdrawn	17 (14%)	28 (22%)	47 (32%)	5 (6%)
No Mediation Agreements	60 (49%)	50 (38%)	57 (39%)	17 (21%)
Mediation Agreements	45 (37%)	52 (40%)	43 (29%)	17 (21%)
Pending	--	--	--	42 (52%)*
Total	122	130	147	81

Formal Complaint Data (as of March 1, 2024)

	FY2021	FY2022	FY2023	FY2024 YTD
Complaints Denied	22 (14%)	32 (15%)	40 (15%)	28 (16%)
Complaints Withdrawn	44 (28%)	51 (23%)	67 (25%)	27 (15%)
Complaints with Resolution Letters Issued with one or more finding of non-compliance	40 (26%)	78 (36%)	82 (30%)	49 (27%)
Complaints with Resolution Letters Issued with no findings of non-compliance	50 (32%)	57 (26%)	74 (28%)	21 (12%)
Pending	--	--	5 (2%)	54 (30%)
Total Complaints Filed	156	218	269	179

Due Process Hearing (DPH) Data (as of March 1, 2024)

	FY2021	FY2022	FY2023	FY2024 YTD
DPHs Withdrawn	17 (23%)	18 (16%)	23 (19%)	6 (7%)
DPHs Dismissed	54 (74%)	81 (70%)	85 (71%)	35 (39%)
DPHs Held in Favor of Parent	0 (0%)	3 (3%)	2 (2%)	0 (0%)
DPHs Held In Favor of District	2 (3%)	12 (10%)	9 (8%)	7 (8%)
Pending	---	1 (1%)	---	41 (46%)
Total	73	115	119	89

Due Process Hearings



23-23998

- 12-year old (AU); high functioning, anxiety, sensory integration dysfunction; difficulty with transitioning and changes in routine
- Enrolled in district from Kindergarten through 3rd grade and parents withdrew and enrolled him in special needs private school
- During the student's second year in private school, the parent contacted district for an IEP Team meeting and requested an IEE; District denied the IEE as untimely and scheduled an IEP Team meeting

23-23998 continued

- District observed student at private school and communicated with private school about student's educational performance
- Parent obtained IEE at private expense and provided report to district the day before the IEP Team meeting
- Minutes of IEP Team meeting state the purpose was "to develop an IEP as [the student] prepare[s] to transition back to [district] from [private school]." LEA representative restated the purpose and said that the student's least restrictive environment in the district was [a specific district middle school]."

23-23998 continued

- At meeting, parent proposed continued placement at private school or some combination of private and public placement and district staff told parents that “private school was not on the ‘continuum of placements’ available to [the student].”
- District’s proposed placement was in regional autism unit on 7th and 8th grade campus of a middle school all day with exception of one elective; majority of students in unit had significant cognitive impairments
- Parent sent notice of private placement at public expense and student remained enrolled in private school for rest of the school year (2021-2022) and enrolled in another private school the next school year (2022-2023)

23-23998 continued

- Parent filed due process hearing request in April of 2023
- ALJ heard expert testimony from private evaluator, director of programming at first private school, and principal of second private school
- ALJ held that district's decision to place student in regional autism unit at district middle school was predetermined.
 - Defined as “when an educational agency preliminarily decides material aspects of a child’s education program without parental input.”

23-23998 continued

- How?
 - District staff repeatedly and emphatically pronouncing the purpose of the meeting as transitioning the student to a public school setting
 - District staff repeatedly insisting that private placement would not be considered in any form
 - District staff continuously rejecting parent's suggestions for alternative placement or offer of compromise based on the student's needs
 - District's commitment to their proposed placement "did not waver even slightly" despite hearing concerns from parents and educators familiar with his needs

23-23998 continued

- ALJ also said the district's IEP was not reasonably calculated to enable student to make progress appropriate in light of his circumstances
- ALJ looked at the student's progress at private school and how district's proposal bore no resemblance and how district failed to offer an appropriate placement in a public setting
- ALJ ordered district to reimburse parent for tuition expense at both private schools, tuition for current school year at second private school and related transportation costs - \$77,566.56



Formal Complaints

Formal Complaint Trends

- Number of complaints filed are surpassing pre-pandemic levels
- More complaints filed by current school staff
- More complaints filed in districts who have not historically had complaints
- More complaints filed on behalf of more than one student (systemic)

FY21 Findings of Non-Compliance in Formal Complaints (68 Findings against 18 districts)

- **Implementation of IEP (13)**
- **Development, review, and revision of IEP (12)**
- **Evaluations and Reevaluations (10)**
- **Free, Appropriate Public Education (8)**
- Child Find (6)
- Prior Notice by public agency (5)
- Least Restrictive Environment (4)
- Parent Participation (3)
- Access Rights (3)
- Parental Consent (1)
- IEP Team (1)
- Procedural Safeguards Notice (2)

FY22 Findings of Non-Compliance in Formal Complaints (121 Findings against 28 districts)

- **Implementation of IEP (29)**
- **Development, Review and Revision of IEP (16)**
- **Evaluations and Reevaluations (12)**
- **Free, Appropriate Public Education (20)**
- Personnel Qualifications (8)
- Least Restrictive Environment (10)
- Prior Notice by Public Agency (4)
- Child Find (3)
- Procedural Safeguards Notice (2)
- Access Rights (2)
- IEP Team (1)
- Parent Participation (3)
- Confidentiality (3)
- Related Services (2)
- Discipline Procedures (1)
- Amendment of Records at Parent Request (1)
- When IEPs must be in effect (1)
- Physical Education (1)
- Equitable Services (1)
- Dispute Resolution (1)

FY23 Findings of Non-Compliance in Formal Complaints (164 Findings against 40 districts)

- **Implementation of IEP (32)**
- **Free, Appropriate Public Education (31)**
- **Development, Review and Revision of IEP (23)**
- **Evaluations and Reevaluations (21)**
- Least Restrictive Environment (10)
- Prior Notice by Public Agency (9)
- Discipline Procedures (7)
- Child Find (6)
- Parent Participation (4)
- IEP Team (4)
- Access Rights (2)
- Related Services (3)
- When IEPs must be in effect (3)
- Opportunity to examine records; parent participation in meetings (3)
- Personnel Qualifications (2)
- Confidentiality (1)
- State Monitoring (1)
- Service Plan (1)
- Independent educational evaluation (1)

FY24 YTD Findings of Non-Compliance in Formal Complaints (80 Findings against 24 districts)

- **Implementation of IEP (22)**
- **Free, Appropriate Public Education (17)**
- **Development, Review and Revision of IEP (15)**
- **Evaluations and Reevaluations (9)**
- Least Restrictive Environment (2)
- Procedural Safeguards Notice (2)
- Personnel Qualifications (2)
- Prior Notice by Public Agency (2)
- Child Find (1)
- Discipline Procedures (1)
- Parent Participation (1)
- Access Rights (1)
- Related Services (1)
- When IEPs must be in effect (1)
- Opportunity to examine records; parent participation in meetings (1)
- Independent educational evaluation (1)
- Parental Consent (1)

Implementation of IEP

Implementation of IEP (34 C.F.R. § 300.320)

- This regulation defines an IEP and details the required components of an IEP.
- “Each public agency must ensure that, **as soon as possible** following development of the IEP, special education and related services are made available to the child **in accordance with the child’s IEP.**” 34 C.F.R. § 300.323(c)(2)
- **Overarching issue: Students not receiving the special education and related services required in the IEP**

Categories of Implementation Violations

- Incorrect service model
- Lack of documentation that student received special education and related services required in the IEP
- Lack of documentation that parent received periodic progress on goals
- Absence of certified personnel (e.g., teacher/provider vacancies and absences)
- Lack of fidelity and/or consistency in provision of IEP/behavior intervention plan (BIP)/student supports

Incorrect service model

- High school student was not enrolled in co-taught Advanced Financial Algebra class until October
- High school student was not enrolled in co-taught Geometry class until October

Lack of documentation that student received special education and related services required in the IEP

- While school staff received training on student's AT, the parent did not receive such training as required in the IEP

Lack of documentation that parent received periodic progress on goals

- Court-issued parenting plan provided joint custody and joint decision-making rights; Custodial parent had final decision-making authority if the parties could not come to an agreement on major decisions; District provided timely IEP progress reports to custodial parent, but not to non-custodial parent
- Student's IEP required progress reports every nine weeks; only one progress report provided the entire school year and this report included only 2 of the student's 24 annual goals and no progress was reported on either goal

Absence of certified personnel (e.g., teacher/provider vacancies and absences)

- Seventh-grade student (MID, SI) did not receive two, 30-minute sessions weekly of speech therapy November 1, 2022, and August 31, 2023, due to SLP vacancy
- Fifth-grade student (AUT, OHI, SI) did not receive 14 hours per week of supportive services for last 26 days of school due to paraprofessional vacancy.
- Eleventh-grade student (SLD) did not have a mathematics special education co-teacher and ELA general education co-teacher in Spring 2023

Absence of certified personnel (e.g., teacher/provider vacancies and absences)

- Second grader (SI) did not receive one hour weekly of speech from beginning of school year through October 22, 2023, when SLP was out on family medical leave
- Fifth grader (AUT, SI) did not receive 30 minutes weekly of OT for Fall semester when district was unable to hire an occupational therapist
- Kindergartener (SDD, SI) did not receive one hour weekly of speech in August, October or November due to SLP vacancy

Lack of fidelity and/or consistency in provision of IEP/behavior intervention plan (BIP)/student supports

- Student's middle school IEP stated "during pre-planning a conference will be offered to parents to met with all of [the student's] teachers (Case manager will contact parent to offer dates). All student supports will be reviewed prior to the beginning of each semester with all teachers and service providers who will be working with [the student
- Student granted hardship transfer to a different high school; Parent emailed lead teacher on first day of school noting that no meeting took place; Meeting was held on fourth day of school

Lack of fidelity and/or consistency in provision of IEP/behavior intervention plan (BIP)/student supports

- No documentation that high school student (SLD) received “copy of notes” as required in the IEP
- Seventh grader (EBD, SI) has classroom testing accommodations including, audio text to speech and read directions and items in English only; on four math tests, the district made the accommodation available but noted that student did not request the accommodation, so it was not provided
- Same student had accommodation to check in with a “familiar adult special education teacher in the morning” but check-ins did not start until October

What you need to think about...

- Procedures for checking IEPs before start of school year (especially the transition years from elementary to middle and middle to high)
- Procedures when special education teachers and related service providers are absent and when there is a vacancy (also, missed IEP services)
- How to document services and accommodations
- Ensuring all teachers are aware of students' IEPs
- Collecting sufficient progress monitoring data
- Providing timely progress reports
- Procedures for transfer students with IEPs

Free Appropriate Public Education (FAPE)

§300.17 Free appropriate public education

- Free appropriate public education or FAPE means **special education and related services** that—
 - (a) Are provided at **public expense**, under public supervision and direction, and without charge;
 - (b) Meet the **standards of the SEA**, including the requirements of this part;
 - (c) Include an **appropriate preschool, elementary school, or secondary school education** in the State involved; and

§300.17 Free appropriate public education

- (d) Are provided in conformity with an **individualized education program (IEP)** that meets the requirements of §§ 300.320 through 300.324.
 - 34 C.F.R. § 300.320 – Definition of IEP
 - 34 C.F.R. § 300.321 – IEP Team
 - 34 C.F.R. § 300.322 – Parent Participation
 - 34 C.F.R. § 300.323 – When IEPs must be in effect
 - 34 C.F.R. § 300.324 – Development, review, and revision of IEP

What is a FAPE?

FAPE

- Must be available to all eligible children, even if:
 - They are suspended or expelled from school
 - They have not failed or been retained in a course or grade
 - They are advancing from grade to grade
- Individualized
 - **Reasonably calculated to enable the child to make progress appropriate in light of their circumstances**
- Procedural vs. Substantive

FAPE

- High school student enrolled in his home school in January 2023 after being in a youth detention center; based on district's policy, student was then enrolled in the alternative school for a "transition period" of about three months; At the end of three months (March 2023), student was withdrawn from alternative school and unsuccessfully attempted to enroll in his home school
- District insisted on holding a "transition meeting" which was not held until April 2023 and student enrolled in home school on the same day; Student did not receive FAPE for 12 school days

FAPE

- Elementary school student (AUT, SI) was isolated and confined in a separate room by herself while being physically prevented from leaving the room because the special education teacher locked the door

Evaluations and Reevaluations

Evaluations and Reevaluations

(34 C.F.R. §§ 300.301-300.306)

- These regulations address initial evaluations (request, timelines, procedures), reevaluations, and eligibility.
- For additional information on timelines, refer to [State Board of Education Rule 160-4-7-.04](#)(1), which provides exceptions for holiday periods, summer vacations, and when consent is received with less than 30 days remaining in the school year.

Evaluations and Reevaluations

- Elementary school student with Section 504 plan for seizures; Starting receiving RTI interventions for math in August 2022; Parent provided school with private neuropsychological report in September 2022 which included ADHD diagnosis and noted other concerns like seizures that can affect ability to process information, visual-motor integration and fine motor coordination weaknesses, and some speech-language concerns
- School psychologist decided to conduct a “partial” psychological evaluation and no other formal assessments were completed; Eligibility meeting held in January 2023 and student determined not eligible due to ADHD symptoms not having an adverse effect on student’s educational performance

Evaluations and Reevaluations

- In February 2023, parent requested speech and OT evaluation and another eligibility meeting; Special education director held meeting with parent on April 24, 2023, and consent to evaluate not provided to parent until May 8, 2023

Evaluations and Reevaluations

- In December 2022 and January 2023, parent requested special education evaluation and 504 coordinator told parent that she would reach out to the school psychologist to assist with next steps; in March 2023, parent has student evaluated privately and informs principal; parent is provided contact information for new 504 coordinator and in April 2023, parent emailed the private evaluation; coordinator schedules MTSS meeting for May and parent consent for evaluation provided at May meeting

Evaluations and Reevaluations

- On November 2, 2022, parent emailed school counselor, assistant principal, and classroom teacher a request for an “IEP assessment” for the student; counselor responded on November 11th acknowledging receipt and indicating parent would receive a phone call next week to schedule a meeting; Counselor spoke with parent and advocate on November 14th stating that the evaluation request would be forwarded to MTSS specialist and lead teacher; MTSS specialist contacted parent on December 1st to set up a meeting; MTSS meeting held on January 4th and parental consent for evaluation provided on January 9th

Evaluations and Reevaluations

- Student evaluated and determined eligible in Georgia LEA; parent decides to not sign consent for services and enrolls student in private school; two years later, parent enrolls student in another Georgia LEA and provides the previous eligibility report; new Georgia LEA refuses to accept the eligibility report and insists that they must restart the evaluation and eligibility process; parent provided consent for evaluation; new Georgia LEA evaluates and student determined ineligible

Evaluations/Reevaluations - What you need to think about...

- Remember that although interventions are helpful and provide great data, the failure to provide interventions cannot be a reason to delay or deny an initial evaluation
- Procedures when a parent requests a special education evaluation
- Disseminating those procedures to all staff, including those participating in Student Support Team (SST)/Response to Intervention (RTI) and Section 504 meetings
- Procedures for requests for reevaluations and decisions that no additional data are needed for reevaluation
- Conducting and documenting comprehensive evaluations and reevaluations

Development, Review, and Revision of IEP

Development, Review, Revision of IEP (34 C.F.R. § 300.324)

- This regulation details, among other things, the factors that must be considered when developing an IEP, when an IEP can be amended without an IEP Team meeting, the annual review requirement, and when an IEP must be revised.
- 34 C.F.R. § 300.324(b)(1)(ii) says that “Each **public agency must ensure** that. . . the IEP Team revises the IEP, as appropriate, to address any lack of expected progress toward the annual goals. . . .”

Development, Revision, Revision of IEP

- First grade student (SDD); Kindergarten annual review IEP in February 2022 included determination that student had interfering behaviors and addressed through behavior goals
- In November 2022 (1st grade), student exhibiting behaviors that result in him being placed in a “safe location” to keep him and others safe on five occasions between November and February in November; behaviors include physical and verbal aggression

Development, Revision, Revision of IEP

- In February, caseworker completes a behavior specialist referral form and the annual review IEP Team meeting is held; Team determines no BIP needed but will conduct an FBA.
- FBA completed the next day and student continued to exhibit behaviors that result in being placed in a “safe location” on three occasions in February and March
- IEP amendment meeting held in March and Team develops BIP; student continued to exhibit behaviors that result in being placed in a “safe location” on six occasions between March and May

Development, Revision, Revision of IEP

- Elementary school student with toileting annual goal in her August 2022 amended IEP; parent emails concerns regarding toileting in August and September; December 2022 progress report shows minimal progress on toileting goal
- At March 2023 annual review, Team documented minimal progress on goal but noted the student's success with a potty schedule; parent continued to express concern regarding toileting; March 2023 IEP discontinued the toileting goal and did not include a potty schedule

Development, Revision, Revision of IEP

- In May 2023, Team held a reevaluation eligibility meeting and noted the student's success with the potty schedule and other tools/accommodations used to aid in the student's success with toileting; Held an IEP amendment meeting a few days later, but no toileting tools or accommodations included
- At beginning of next school year, parent expressed concern that staff was not following the potty schedule; Specific toileting accommodations and use of potty schedule were not added to IEP until parent filed complaint

Development, Revision, Revision of IEP

- Third grade student (SLD, OHI, SI); Second grade IEP addressed behavior through goals and accommodations; Student had 1 day OSS for multiple inappropriate and insubordinate behaviors, including elopement and physical aggression
- At beginning of third grade, student exhibited similar behaviors including elopement and physical aggression that resulted in 2 days of OSS; parent requested a meeting to discuss the incident; two days later student receive 3 days of OSS for similar behavior; when student returned, parent was called to come to school because they could not regulate or support the student; Later that week, student had another incident and after parent conference, parent agreed to keep student home for rest of the week (3 days) (all of this in August)
- IEP Team meeting not held until September

Development, Revision, Revision of IEP

- Before the development of the first-grade student's initial IEP, staff members contacted the student's parent about behavioral concerns 14 times and the student was suspended for 8 days; Initial IEP noted student had interfering behaviors and they were addressed through four behavioral goals; Special education services include consultative services once a week and supportive services for all academic classes daily; Student continued to have interfering behaviors; contacted parent at least 12 times
- In second-grade school year, parent contacted at least 10 times and student suspended for 4 days during the first month of school; No FBA and no BIP until October.

Development, Revision, Revision of IEP

- Student's annual review IEP developed on August 2, 2022; case manager contacted parent on August 4, 2023 to schedule annual review IEP
- Student's initial IEP was developed in May 2023 as a preschooler; IEP amendment meeting held in August 2023 and IEP amended "to be compatible with the school schedule"; staff also reduced services to only providing direct services from a special education teacher on "English days"

Development, Revision, Revision of IEP

- Student's annual review IEP developed on January 10, 2022; reevaluation eligibility meeting held on October 21, 2022, and school team noted no adverse impact on educational performance; parent disagreed and requested additional data, including from student and current teachers; School agreed to "pause" the meeting to get additional data; eligibility meeting held on March 17, 2023, and student determined ineligible; no annual review IEP was developed within one year

Development, Revision, Revision of IEP

- Student transferred from one Georgia LEA to another Georgia LEA; new LEA sent parent an IEP amendment without a meeting document listing comparable services to be provided to the student while enrolled in the new LEA; Parent did not agree to amend IEP without a meeting

Remember...

- Under the IDEA, if a child with a disability (who had an IEP that was in effect in a previous public agency in the same State) transfers to a new public agency in the same State, and enrolls in a new school within the same school year, the new public agency (**in consultation with the parents**) must provide FAPE to the child (including services comparable to those described in the child's IEP from the previous public agency), until the new public agency either (1) adopts the child's IEP from the previous public agency; or (2) develops, adopts, and implements a new IEP that meets the applicable requirements of 34 C.F.R. §§ 300.320 through 300.324. **34 C.F.R. § 300.323(e).**

Development, Revision, Revision of IEP - What you need to think about...

- Making sure that IEP Teams consider parent information in a timely manner
- Not waiting for the parent to ask for an IEP Team meeting (the burden is on the public agency)
- Honoring parent's right to request an IEP Team meeting
- Ensuring timely annual review IEP Team meetings (start scheduling early!!!)
- Ensuring that the school's scheduling or lack of staff do not dictate services and placement

Prior Written Notice (PWN)

Prior notice by the public agency; content of notice (34 C.F.R. § 300.503(a))

- Written notice
- Given to parents of a child with a disability
- A reasonable time before the public agency:
 - Proposes or Refuses to initiate or change:
 - the identification of the child
 - the evaluation of the child
 - the educational placement of the child
 - the provision of a free appropriate public education (FAPE) to the child
- Meets seven (7) requirements of 34 C.F.R. § 300.503(b)

Prior written notice

- Ninth grader amendment IEP held in August 4, 2023, and included meeting notes; District provided PWN on August 17, 2023, and indicated actions would be implemented on August 18, 2023
- While the PWN included many of the actions taken or refused at the IEP Team meeting, the PWN did not include the rejection of the parent's request for goals to address executive functioning, mathematics, and ELA.

PWN - What you need to think about...

- Make sure that PWNs are provided within a reasonable time **before** the district implements or refuses to implement the action.
- If using documents such as IEPs to serve as PWN, they must meet all 7 requirements of IDEA's PWN requirements.

Discipline Procedures

- Eighth grade student (EBD) received four days of ISS and three days of OSS for incident involving verbal and physical aggression toward a teacher when the student attempted to elope; Manifestation determination review meeting held and determined not a manifestation; student was out of school since the incident occurred and did not receive services for 13 school days; No modification to the student's BIP, as appropriate, to address the behavior violation so that the behavior does not recur

Discipline – What you need to think about

- Have a procedure in place to review discipline data regularly
- For students removed for less than 10 days, have a procedure to hold IEP Team meetings to review the student's IEP to ensure the student's behavioral needs are appropriately addressed
- Be sure to review all information in the student's file during manifestation determination review meetings and thoroughly document this review
- Have a procedure for determining when removals, including ISS, count toward a change of placement

Other IDEA violations

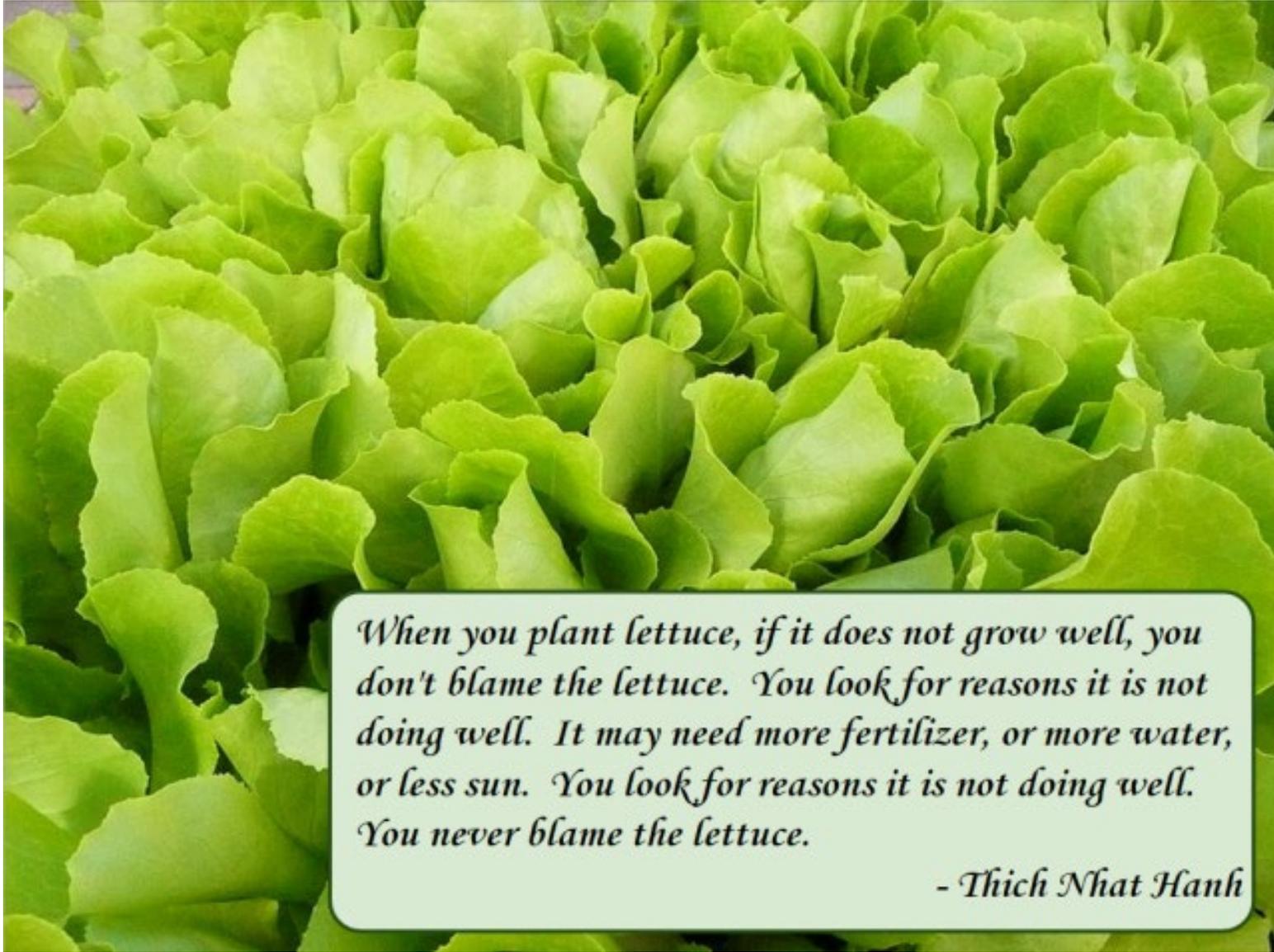
- Related Services
 - Student eligible under OHI and Orthopedic Impairment requires special transportation; After student re-enrolled in district in July 2023, transportation was not provided for 13 days at the beginning of the school year
- Parental Consent
 - First grade student's parent signed consent for evaluation on January 30, 2023; testing began on March 16, 2023; on March 20, 2023, student was placed in small group special education class because the class had a smaller student to teacher ratio and in order to keep the student and others safe; student determined eligible on April 20, 2023, and parent signed consent for special education services on the same day

Other IDEA violations

- When IEPs must be in effect
 - Special education case manager did not provide student's accommodations page to high school student's teachers until September 11, 2023
- Independent educational evaluation
 - Following a district's initial evaluation of the student, the parent requested an IEE in December 2022; district provided parent information on IEE in March 2023; in August 2023, psychological IEE was complete except for teacher rating scales which were provided in September 2023 after multiple requests; Parent did not want to use district list for OT and speech IEE; Parent provided specific examiners she wanted to use and district did not respond as to whether the examiners met the district's criteria

Other IDEA violations

- Access rights
 - On February 7, 2023, parent emailed district a FERPA request naming specific documents, including specific special education records; some but not all records were submitted within 45 days of parent's request
- Personnel Qualifications
 - Paraprofessional began serving special education students in small group setting with a special education teacher on March 6, 2023; Paraprofessional's clearance certificate was not valid until July 1, 2023.



When you plant lettuce, if it does not grow well, you don't blame the lettuce. You look for reasons it is not doing well. It may need more fertilizer, or more water, or less sun. You look for reasons it is not doing well. You never blame the lettuce.

- Thich Nhat Hanh



Today me will live in the moment,
unless it's unpleasant,
in which case me will eat a cookie.

— Cookie Monster





THANK YOU
for all you do!

Contact Me

I'm Here to Help!

Jamila C. Pollard, Esq.

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Dispute Resolution

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