

G-CASE Comments



Georgia Council of Administrators of Special Education

Summer 2015

An Affiliate of the Georgia Association of Educational Leaders

www.gcase.schoolinsites.com

Are They or Aren't They? The Rocky Landscape of Special Education Eligibility

Beth Morris and Reagan Sauls, Harben, Hartley, & Hawkins, LLP

Issues related to special education eligibility are often just “the beginning” when it comes to potential conflict or potential peace in working with a family. For that reason, it is an issue that really is worth attention in terms of ensuring that you are setting the right first impression with a family and in creating a defensible program.

How to Decide if a Student is Eligible

Sometimes the determination of eligibility is very straightforward – the time it takes the IEP Team to get through the Eligibility form has more to do with the amount of information and the length of the form, than with the consideration at hand. Other times, the discussion is a difficult one. Most often, the difficult discussion does not have to do with whether the student has a disability but with whether the student requires special education and related services as a result of his or her disability. It is important, of course, that the Team focus not only on academic progress, but on other factors as well when making this determination – courts have ruled that a student who is progressing academically, but struggling in other areas (be it socially, behaviorally, functionally, with communication, etc.) may still be entitled to special education services under IDEA.

The consideration of related services can also complicate the determination. If a child is a child with a disability as defined by IDEA, at 34 CFR § 300.8 (a)(1), but only needs related services and not special education (specialized instruction), the child is not a child with a disability. 34 CFR 300.8 (a)(2)(i). *But*, if the related service that the child requires is considered “special education” under state standards (such as speech language services in Georgia), then the student would be considered a student with a disability under IDEA. 34 CFR 300.8 (a)(2)(ii)

Would a Rose by Any Other Name Smell as Sweet?

IDEA defines a child with a disability and provides some general definitions for the disabilities that enable a student to receive services under the Act. 34 C.F.R. § 300.8. This list of conditions is meant to be exhaustive. *Letter to Fazio* (OSEP 1994); *Letter to Anonymous* (OSEP 1994). The State Board Rules then set out eligibility categories with specific criteria for qualifying for special education in any of the twelve specific categories. To some extent these rules help an IEP Team narrow their focus and better understand when a student is or is not eligible. In other situations, the eligibility is sometimes viewed simply as a doorway to special education services and it matters less which doorway the Team goes through, knowing full well that the services will be specialized once you make your way through, regardless of eligibility category and title. So, the question often arises, does it really matter which eligibility category you choose for a student?

Let's be honest, eligibility categories, largely play a role of assisting with funding. Many of us have probably wished many times that they did not exist. We customize services for students and because no two students are

the same, not even any two students of the same eligibility category, it often feels like the categories serve no purpose other than for funding and, perhaps, data collection. But, unfortunately, these categories can result in some very contentious IEP meetings, or even DOE Complaints, due process hearings or federal litigation. Sometimes, it feels like a parent is fighting fiercely for one category over another no matter how we explain at a meeting that “the eligibility category will not drive the services.” But then, why fight about it? Sometimes, it really is not worth fighting over. Really. There can be enough points of contention with families that this may not be the battle to pick. That said, it is important that the eligibility category accurately captures a student’s needs in so far as it is related to the District’s obligation to evaluate comprehensively and identify all of a student’s disabilities.

Thus, eligibility categories are an important “snapshot” of the student, or there are significant differences among the categories that the Team is deciding between. It is also important to be aware of the specific requirements under the State Board Rules so that the Team is complying with those requirements and not just agreeing to make a student eligible if the student truly does not meet the requirements – as it is the District who has to defend the IEP. Finally, be aware that there are certain exclusions in the eligibility categories, such as the RTI exclusionary factors, or, for example, the exclusion that a Team should not apply the Autism Spectrum Disorder category if the student’s educational performance is primarily because of an emotional disturbance. As always, there is a balance between agreements for the sake of collaboration (in which there is certainly value) and continuing to ensure you are developing a defensible IEP.

Re-Evaluation and Re-Consideration of Eligibility

Remember that each LEA must ensure that a reevaluation of each child with a disability is conducted not more than once a year and at least once every three years, unless the parent and the LEA agree otherwise. SBOE Rule 160-4-7-.04-2(IDDF(04)); 34 C.F.R. § 300.303. When the IEP Team is making a determination of whether a student needs a reevaluation, look at the student’s educational or related service performance, teacher’s comments regarding performance or if the student’s teacher or parent requests one. Also, take into account how long it has been since there was a reevaluation; things change and it is nice to have current evaluation and updated information. This is particularly true when you are seeing a significant change in a student’s progress - whether academic, functional or behavioral.

One scenario where this comes up is when you make an eligibility determination that the parent does not quite agree with and they seek a private evaluation in order to support the eligibility they want. You should always consider private evaluations and the IEP Team should be convened in order to reassess. Remember this is a Team decision and whether that eligibility will meet the requirements, but also be an accurate picture of the student. You look at the following things for any re-evaluation: (1) review existing evaluation data; (2) all evaluations and information provided by the parents of the child; (3) current classroom-based, local, or State assessments, and classroom based observations; and (4) observations by teachers and related services providers. 34 C.F.R. § 300.305.

Most importantly, a reevaluation must be conducted before determining that the child is no longer a child with a disability. SBOE Rule 160-4-7-.04(5)(f). This also holds true when removing an eligibility category. When reevaluation is being conducted with this possibility in mind, you need to be particularly confident in the evaluator and the evaluation in order to support the Team’s decision.

Overall, remember that while eligibility often seems like one of the simpler aspects of special education – it can be a tricky subject and it is important that you and the parents keep an open mind and open lines of communication. If you know the parents’ concerns regarding eligibility, you will be better prepared to deal with them at meetings and to respond to or to soothe any fears they may have about a particular eligibility.



Greetings from the President

Traci White, G-CASE President

It has been my sincere pleasure to serve as the G-CASE president for the 2014-2015 term. As I look back on the year I am truly amazed at the dedication, perseverance and commitment of our G-CASE Executive Board, Advisory Board and Executive Director. As I reflect on the past year, three things stand out in my mind and I want to take a moment and share them with you.

One of the greatest experiences of my life time has been to assist a young man with a disability, Matthew Dooly, begin his career as a speaker. His first message to a public audience was given at our fall conference and was wonderful. If by some chance you missed our conference and didn't get to hear Matthew speak—fear not—as he will be presenting at the IDEAS conference and the summer GAEL conference!

Secondly, I was beyond excited to have the opportunity to represent G-CASE at the national CEC conference this past April. On a personal note, I want to thank my Superintendent, Dr. Noris Price, for granting me the needed professional leave to represent our organization. We are beyond thrilled that G-CASE was named as an exemplary unit for the second year in a row and are working diligently toward a threepeat! The opportunities that I have had to collaborate with Presidents and Executive Directors from other states carrying out work on behalf of students with disabilities has been an experience that has allowed me to grow both personally and professionally.

I also want to share with all of you what a fantastic job has been done carrying out the G-CASE message by our Executive Director, Sarah West. The opportunity to work with Sarah and our boards has renewed my passion to our field of work. For that I thank each and every one of you. I know that our organization will continue to grow and flourish under the leadership of Allison Oxford and the hard work of the dedicated special education administrators in our great state.

As my final penned thought I want to leave you with the poem “I Wish You Enough” by Bob Perks
I wish you enough sun to keep your attitude bright.

I wish you enough rain to appreciate the sun more.

I wish you enough happiness to keep you spirit alive.

I wish you enough pain so that smallest joys in life appear much bigger.

I wish you enough to satisfy your wanting.

I wish you enough loss to appreciate all that you possess.

I wish you enough “Hello’s” to get you through the final “Goodbye”.

And of course, I’m not saying goodbye....because I will be around to help you all in “Taking Care of Business” next November and I look forward to seeing all of you there!



A Message from Your Executive Director

Celebrating Summer!

Sarah West, G-CASE Executive Director

Summer is in full swing! If you have not already scheduled your trip to the beach, don't forget to schedule around the GAEL Summer Conference at Jekyll Island, July 12-15. Registration and hotel information can be found on the GAEL website. While you are checking your calendar don't forget to pencil-in these events for this fall:

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|-----------------|--|
| October 28 - 29 | G-CASE Fall Conference at the Hyatt Regency in Atlanta |
| October 29 - 31 | CASE Conference at the Hyatt Regency in Atlanta |

You won't want to miss the **2015 G-CASE Fall Conference - *Taking Care of Business***. The keynote speaker, **Dr. Timothy Rasinski**, is an expert in teaching reading. He will focus on the critical areas of reading and engaging instruction. The conference promises to be a learning experience that will impact the way you do business.

Immediately following the G-CASE Fall conference is the national CASE conference – right in the same hotel AND you will get a discounted rate for attending both conferences! The CASE conference will be titled *Continuing to Take Care of Business* and will extend the theme with a national perspective. This is a great opportunity for you and your staff to attend a state and national conference all in one short week – Wednesday to Saturday. And you only have to travel to Atlanta. What a great deal!

Plans are in the making for a 2016 Spring G-CASE Legal Conference featuring all you ever wanted to know or ask about special education law. Tentative dates are in March 2016 and we will let you know details in early fall so you can plan to attend.

IMPORTANT information about membership in G-CASE. You need to be a member of G-CASE to insure that you receive our newsletter and conference information along with other important special education news. You will also be able to attend G-CASE conferences at a discounted rate. Membership in G-CASE is from July 1 thru June 30 each year. Memberships received after May 1 will include the following year. You can join G-CASE by going to our website at <http://gcase.schoolinsites.com/> or by going directly to the GAEL website at <http://www.gael.org/>. We also strongly encourage you to join CEC and CASE. These national organizations support G-CASE and provide a wealth of information about special education. Their newsletters and publications will keep you up-to-date on what's going on in the world of special ed. You can join CEC and CASE by going to their website at <http://www.cec.sped.org/>.

We are always seeking individuals who would like to become more involved with G-CASE as board members, committee members or volunteers for events. If you are interested in getting more involved in G-CASE, please contact me at swest@gael.org.

Hope you have a fun and inspiring summer!

G-CASE “Gold Dome” Day

Tris Gilland, Legislative Committee Chair

On March 23, 2015, G-CASE was successful in planning a legislative day in Georgia at the state Capitol similar to the legislative activity that CASE implements in Washington, D.C. each summer. Nine G-CASE members were in attendance, including: G-CASE President, Traci White; G-CASE Past President, Jennifer Mellor; G-CASE Executive Director, Sarah West; and other members who serve districts across the state. The team began the day with a meeting at the DOE with State School Superintendent, Richard Woods. Members engaged in conversation with Mr. Woods regarding many issues/concerns which included G-CASE Legislative Priorities as well as other state initiatives that impact special education in Georgia. After a working lunch in the cafeteria, the group split into teams to visit the Capitol to make contact with Representatives. Several had face to face meetings with their Representatives and/or made contact with their offices. We look forward to continuing our presence at the Capitol in an effort to make a positive impact on special education on our state.

Charlette Green and I will represent G-CASE at the CASE Legislative Summit July 12-15 at the Capitol in Washington D.C..



Andrea Pender Recognized as “Outstanding New Special Education Director”

Each spring G-CASE recognizes an outstanding new special education director during the State Leadership Meeting. The award recognizes someone with a record of outstanding service having been in the role as special education director for five years or less. This year Andrea Pender, Special Education Director for Barrow County Schools, was honored with this recognition. Letters of recommendation for nominating Andrea for this award included the following statements:



“Andrea is a phenomenal leader who conducts herself in a professional manner and is well respected by administrators, teachers, and parents. She always has a smile on her face with encouraging words for others, and has an unparalleled sense of humor.”

“Andrea is a consummate leader, in that she leads by example.”

“Andrea is an excellent problem solver! She wants to hear what isn’t working, so that a solution can be found.”

“I admire her most for her selfless approach to life. She inspires me by the way she serves others.”

“Her passion for family, friends, coworkers, community, church, and supporting students with disabilities is beyond measure.”

“Andrea has earned my deepest respect and admiration for her immeasurable talents as an educational leader.”

Congratulations, Andrea! Thank you for commitment to excellence in leadership in your district and G-CASE.



COUNCIL OF ADMINISTRATORS OF SPECIAL EDUCATION

CASE 2015

A stylized graphic of the Atlanta skyline, featuring various buildings of different heights and colors (red, teal, purple, orange) against a light background.

ANNUAL CONFERENCE
Continuing to
Taking Care of Business

October 29-31, 2015
Hyatt Regency on Peachtree
Atlanta, Georgia

Visit www.case.org for conference details.

The logo for CASE (Council of Administrators of Special Education). It features the acronym "CASE" in a large, bold, blue font with a white outline. Above the "A", the word "VISION" is written in a smaller, curved font. Below the "E", the words "LEADERSHIP · EXCELLENCE" are written in a smaller, curved font. To the left of the "S", there is a small circular icon containing a stylized "C".

COUNCIL OF ADMINISTRATORS
OF SPECIAL EDUCATION

CASE Receives Exemplary Unit Award

During the CEC Convention and Expo, held April 8-11 in San Diego, CA, G-CASE was recognized as a CASE Exemplary Unit. Congratulations to our Executive Board, Committee Chairs, and Committee members for making this happen! Pictured below after receiving the award are: Dr. Sarah West (G-CASE Executive Director), Dr. Emily Collins (former G-CASE Executive Director), Jennifer Mellor (G-CASE Past President), Traci White (G-CASE President), Dr. Suzanne Carter (G-CASE Representative to CEC), and Dr. Luann Purcell (CASE Executive Director).



Special Education Legislative Summit



July 12-15 * Hilton Old Town Alexandria * Alexandria, VA



CASE Legislative Summit

This year, CASE will be joining forces with CEC to make an even bigger impression up on the Hill!

This four-day legislative summit is for teachers, administrators, teacher educators, teachers in training – anyone who passionately supports national special education issues that improve educational outcomes for students with exceptionalities and the professionals who work on their behalf.

Get all the knowledge and training you need to be an effective special education advocate, including:

- Detailed issue briefings that explain the critical issues facing special education
- Insider perspectives from experts in national education policy organizations
- Coaching and practice sessions on delivering effective advocacy messages
- An opportunity to share your views and your students' success stories with your members of Congress during Special Education Day on Capitol Hill

Capitol Hill Day will show decision makers in Washington how investing in special education pays off in successful students who are college and career ready and make important contributions to their communities.

For more information go to <http://specialeducationlegislativesummit.org/>

[CLICK HERE to go to Registration](#)



[Click Here to go to Hotel](#)



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From Around the State

Barrow County Holds 5th Annual “YES I Can” Awards Banquet

Andrea Pender, Special Education Director – Barrow County

On April 30, 2015, The Barrow County School System held their 5th Annual “Yes I Can” awards banquet. This banquet honors one student from each school who has exhibited a yes I can attitude all school year. The banquet is held at the Winder Community Center and has a catered dinner, special entertainment, a keynote speaker and ends with an award given to one deserving student. This is an awesome night, as it recognizes students who may have never received an award at school otherwise.

This year’s winner, Deonna Davis, was nominated by her teacher, Kim Davis. Here is how Mrs. Davis describes Deonna and her accomplishments:

Deonna exemplifies determination and a tenacious spirit because she has overcome several challenges in order to be successful in high school. After being diagnosed with osteosarcoma (bone cancer) at age 10, Deonna began a journey of fighting and healing. School had to wait temporarily until she and her mother learned all they could about the battle she faced. Deonna endured chemotherapy and radiation treatments, as well as multiple surgeries, that were necessary to save her life. She never lost sight of her goals, and as soon as she was well enough, she returned to school and her studies more determined than ever. I have heard Deonna share information about her diagnosis, treatment, and their effects on her abilities (both cognitive and physical), but I have never heard her complain or make excuses. On the rare occasions that she is away from school, she wants to make up her work immediately and expresses concern about missing instruction. She does not expect to be excused from her assignments.

When I met Deonna, she was in my ninth grade English class. She was struggling to read, partly as a result of side effects from her treatments. She also struggled emotionally due to the frustration she felt about her diminished abilities. Even so, no complaints or excuses. We began working together to improve her reading and improve her attitude about school and her teachers. Deonna was very open with me about her struggles and her desire to do well. We attacked school the way she had attacked cancer. As her reading improved, her confidence soared. She began to volunteer to read aloud in class, and even started to help other students with reading. When a classmate struggled with a word, she would help out and then encourage him or her by saying things like "That's it", "You got it", and "Good job. Keep going." Deonna's improvement in reading and coping skills has allowed her to successfully complete the business pathway and also to be successful in several online learning courses. These courses require grade-level independent study, so only the most focused students are able to successfully complete them. Deonna decided in ninth grade that she was going to graduate on time and that she was willing to do the work required to get there. We are extremely proud of her.

Deonna has shown great determination and maintained a positive outlook toward learning throughout high school despite her challenges. She has been recognized for achievements in her CTAE classes as well as her attendance. She recently was awarded a PBIS trip to the Georgia Aquarium for meeting academic and attendance criteria. She has been one of our best math students, even helping her peers with their math skills. Her greatest strides, however, have been in reading. She has also developed the confidence to speak up in class, ask questions, and contribute to discussions. She will complete the business pathway at the end of this year and her goal is to attend a technical college and pursue a career in healthcare.

The Barrow County School System is proud of Deonna and her accomplishments and we are excited to see what great things she does in the future!



Deonna Davis, Barrow County student, at the local “Yes I Can” awards



District 5 Holds Disability Conference and Expo

The 7th annual Northeast Georgia Disability Conference & Expo was held on Saturday, February 28, from 8:30 am to 3:30 pm, at the University of Georgia’s Tate Center, next to Sanford Stadium, 45 Baxter Street, Athens. This free event is for educators, community partners, and families of those with learning challenges or disabilities. There were over 200 participants at the event this year.

The Disability Conference & Expo was co-sponsored by the Northeast Georgia Transition Team (NEGATT), an alliance of community partners and special education representatives from 13 local school districts, and the Department of Kinesiology in the College of Education at UGA. The conference theme was “Composing Your Own Song,” and the featured speaker was Laura Nadine, an award-winning violinist, composer, film maker, and mother with autism. There were 38 exhibitors that included support groups, recreation groups, therapists, college disability service providers, financial advisors specializing in special needs planning, and more. There were 18 free conference learning sessions, offered throughout the day, covering topics that include planning for college, a public forum on changes to Medicaid waivers, adolescent development and wellness, social skills and behavior support, planning for your child’s financial future, and much more.

Supporting partners of the expo are Northeast GLRS, Department of Kinesiology at UGA, Parent to Parent of GA, GA CEC, Children’s Medical Services and GA Parent Mentor Partnership.

G-CASE

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Georgia Council for Administrators in Special Education



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G-CASE serves the members of CASE who live and work in Georgia! Our major goal is to improve services to children with special needs. We strive to provide leadership and support to members by providing input into the policies and practices in Georgia which impact the quality of education and by providing support to the professionals who serve the students of Georgia.