

Reevaluations: Reading Between the Laws***Beth Morris and Reagan Sauls, Harben, Hartley & Hawkins LLC***

Reevaluations, what exactly are they and when do you have to conduct them? Frankly, the law seems pretty clear and simple on its face. IDEA states that “a public agency must ensure that a reevaluation of each child with a disability is conducted . . . at least once every 3 years, unless the parent and the LEA agree that a reevaluation is unnecessary.” 34 C.F.R. § 300.303. Well, that’s easy enough to understand and implement, right? And in most cases it is. In most situations, we can all agree what this means and what it entails. It is when there is disagreement, unique circumstances, or contention, that everything gets complicated and even the simplest of decisions can become difficult.

So, how do you decide when a reevaluation is necessary? Under IDEA, a school district must conduct a reevaluation:

1. If the LEA determines that the educational or related services needs, including improved academic achievement and functional performance, of the child warrant a reevaluation; or
2. If the child's parent or teacher requests a reevaluation.
34 C.F.R. § 300.303(a)(1) – (2); § 300.303(b)(2).

But, what does all that legal and educational mumbo jumbo mean? It seems to mean, simply, that you should conduct one when it is warranted based on need or whenever it is requested.¹ The State Implementation Manual provides some additional information about the requirements for reevaluation and sets out this purpose for reevaluation: “The purpose of a reevaluation is to review current evaluation information and to consider what additional information might be needed to decide whether the child continues to have a disability and to determine the needs of the child.” *See also*, 34 C.F.R. § 300.305(a)(2)(B). In many IEP meetings, however, the decision of whether to reevaluate seems to be driven solely by whether the student remains eligible for special education, not on the other considerations as well. Perhaps, in reading the statement from the Implementation Manual, Teams can get focused on the latter part of the statement “to decide whether the child continues to have a disability and to determine the needs of the child,” and overlook the first part of the purpose, “to review current evaluation information and to consider what additional information might be needed.” Certainly, the two are connected and the statement seems to suggest the purpose of the information is to determine continued eligibility, but returning to the language straight from the Federal Regulations above, it is important to read the statement in its entirety and not focus solely on whether a student remains eligible for special education, but also on what information is needed and simply whether a reevaluation is warranted.

¹ There is a caveat that it “may not occur more than once a year, unless the parent and the public agency agree otherwise.” 34 C.F.R. § 300.303(b)(1).

There are, obviously, scenarios in which reevaluations *are* utilized for determining whether a student remains eligible for special education services, as an evaluation is required before dismissing a student from special education services. 34 C.F.R. § 300.305(e); *See also, South Pasadena Unified Sch. Dist.*, 58 IDELR 120 (SEA CA 2011)(court found district could dismiss student from special education when, after comprehensive evaluation, the team determined the student did not require services to obtain meaningful educational benefit). Nevertheless, it remains critical to consider all possible situations in which reevaluation is required. Reevaluations are also a critical component in the provision of FAPE – in gathering updated information about a student. Decisions to reevaluate should be driven by student progress (or lack thereof) – such that any time there is a significant change in a student’s progress (academic, functional or behavioral), the IEP team may want to consider reevaluation to assist in determining the appropriateness of the current IEP. *See, Corona-Norco Unified Sch. Dist.*, 22 IDELR 469 (SEA CA 1995); *Reserve Indep. Schs.*, 112 LRP 6241 (SEA NM 2012); *Board of Educ. of City of White Plains*, 20 IDELR 1475 (SEA NY 1994). So, once you decide to conduct a reevaluation, what must it entail? The reevaluation should,

- (a) Review [] existing evaluation data. As part an initial evaluation (if appropriate) and as part of any reevaluation under this part, the IEP Team and other qualified professionals, as appropriate, must –
 - (1) Review existing evaluation data on the child, including
 - (i) Evaluations and information provided by the parents of the child;
 - (ii) Current Classroom-based observations; and
 - (iii) Observations by teacher and related services providers

34 C.F.R. § 300.305. The Team should also consider “input from the child’s parents.” *Id.* Any evaluation conducted must comply with IDEA’s evaluation procedures, 34 C.F.R. § 300.304, and although OSEP has generally noted that reevaluations need not replicate initial evaluations, reevaluations must be individualized and focus on the student’s needs at the time they are conducted. *See, Letter to Feehley*, 211 IDEALR 415 (OSEP 1986); *Letter to Shaver*, 17 IDELR 356 (OSERS 1990). In conducting the evaluation, the district is entitled to select the evaluator. *M.T.V. v. DeKalb Cnty. Sch. Dist.*, 446 F.3d 1153, 1160 (11th Cir. 2006)(where the Court held that “the School District was entitled to reevaluate M.T.V. by an expert of its choice.”). Moreover, if a parent would like his/her student to receive special education services, the school district must be allowed to reevaluate the student rather than being required to rely solely on an independent evaluation presented by the family. *M.T.V. v. DeKalb Cnty. Sch. Dist.*, 446 F.3d 1153, 1160 (11th Cir. 2006).

Sometimes this issue is the IEP team seeking a reevaluation and parent disagreeing with that decision. If the parent refuses to consent to the reevaluation, the school district may, but is not required to, pursue the reevaluation by using the consent override procedures set out in IDEA. 34 C.F.R. § 300.300(c)(1)(ii); *See also, Schaffer ex rel. Schaffer v. Weast*, 546 U.S. 49, 53–54, 126 S.Ct. 528, 532, 163 L.Ed.2d 387 (2005); *G.J. v. Muscogee Cnty. Sch. Dist.*, 668 F.3d 1258, 1263 (11th Cir. 2012). Many times, the cost of a due process hearing is prohibitive enough to convince a district not to utilize the consent override procedures but it remains important to continue to work to help parents understand the benefits of a reevaluation or how such additional information is needed to make team decisions. Such a proposal may be one that the district wants to consider documenting formally through Prior Written Notice. 34 C.F.R. § 300.503.

Overall, if you can show a student’s progress and the continued provision of services, it will go far in creating any defensible program. But all programs need solid data and progress monitoring and this often includes periodic reevaluations of students.

A Message from the President-Elect



Keep Calm and SIPP On *Jimmy Pitzer, President-Elect*



Keep Calm and SSIP On! That is the theme of my district's collaborative communities this year. On behalf of the G-CASE Executive Board, we are also working diligently to help you keep calm as you develop your SSIP and your many other responsibilities as special education administrators.

First of all, if you have not already registered for the 2015 Fall G-CASE Conference October 28th and 29th at the Atlanta Hyatt Regency, you will want to take care of that right away! The conference theme is *Taking Care of Business* and the conference emphasis is literacy – improving reading instruction for students with disabilities. The keynote speaker is Dr. Timothy Rasinski, professor of literacy education at Kent State University and former co-editor of *The Reading Teacher*. I had the good fortune of attending a reading conference several years ago when Dr. Rasinski was the keynote speaker. From that perspective I believe he is the leading authority on reading instruction. At that conference I purchased his book, *The Fluent Reader*, which I have referenced over and over again when working with both general education and special education teachers. Dr. Rasinski's strategies are interactive, easy to implement, and effective. This is an opportunity you do not want to miss!

While you make plans to attend the G-CASE Fall Conference plan on staying in Atlanta for the 26th Annual Fall CASE Conference which begins immediately following the close of the G-CASE Fall Conference on October 29th. You can register for both conferences by visiting the G-CASE website at www.gc case.schoolinsites.com.

The conference builds off of the G-CASE theme with *Continuing to Take Care of Business*. CASE has lined up three outstanding keynotes for this conference and 40 breakout sessions. The keynote speakers are Dr. Frances Stetson, Dr. David Bateman, and Dr. Martha Burns. Listed below is brief bio of each keynote speaker.

- **Dr. Frances Stetson** is President of Stetson & Associates, Inc., an educational consulting firm specializing in supporting systems change in schools-with a focus on inclusive practices, closing the achievement gap, differentiated instruction, and quality standards for instruction and leadership. Dr. Stetson and her staff have supported thousands of school districts and state departments in implementing quality education services across the US and in several foreign countries. Dr. Stetson is a frequent keynoter and is known for her focus on students, practical strategies, and systems change. She is also a long time CEC/CASE member.
- **Dr. David Bateman** is a Professor in the Department of Educational Leadership and Special Education at Shippensburg University of Pennsylvania. He teaches courses on special education law, using data for informed decision making, and practices and procedures for general education teachers working with students with disabilities. He is a former special education teacher (learning disabilities, behavior disorders), coach (cross country, track, debate, and cycling), and due process hearing officer. He is the co-author of *A Principal's Guide to Special Education*, and *The Special Education Program Administrator's Handbook*.
- **Dr. Martha Burns** is a Joint Appointment Professor at Northwestern University and has authored three books and over 100 journal articles on the neuroscience of language and communication. Dr. Burns' expertise is in all areas related to the neuroscience of learning, such as language and reading in the brain, the bilingual brain, the language to literacy continuum, and the adolescent brain. Dr. Martha Burns is a Fellow of the American Speech-Language-Hearing Association and the Director of Neuroscience Education for Scientific Learning Corporation.

On December 4th G-CASE is hosting a half day drive-in conference at the Marriott City Center in Macon from 8:00 to noon featuring the Breakthrough Coach. The Breakthrough Coach works with education leaders to adapt proven business management techniques to the educational environment at both the building and the district level. The Breakthrough Coach's Management Methodology™ is a research-based program with a track record of:

- Multiplying the time instructional leaders spend in classrooms
- Raising student achievement
- Decreasing total work hours

Plans are underway for the 3rd Annual Gold Dome Day. Our legislative team will soon begin the process of working with the other GAEL affiliate organizations to establish a list of legislative priorities. During Gold Dome Day we will have the opportunity to share our legislative priorities directly with State Senators and Representatives. Look forward for more detailed information in the coming weeks.

Since many of you are missing Savannah as the site of our fall conference, you will be pleased to know that our Spring Leadership Conference will be in Savannah. This conference is scheduled for March 9th and 10th at the Marriott Riverfront. The emphasis for this conference is special education legal issues. Stay tuned for conference updates and registration information soon.

I look forward to seeing all of you in a few weeks in Atlanta. In the meantime, remember to keep calm and SSIP on!



A Message from Your Executive Director

Sarah West, G-CASE Executive Director

Sarah West

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“When you come to a fork in the road, take it.” (Yogi Berra)

Memorable quotes are the ones that make your mind pause and consider what is really meant by the speaker. Yogi Berra didn't always realize that his comments made people scratch their heads and think deeper than the meaning, like when he said “Baseball is 90 percent mental. The other half is physical.” Okay, maybe the math doesn't pass the EOCT, but who can resist smiling and knowing exactly what he meant. It's memorable.

G-CASE has some memorable opportunities coming up that we hope will give you pause to consider new ideas – and reinforce the great things you are doing in your schools. Our **2015 Fall G-CASE Conference** is quickly approaching and it's one you really don't want to miss! [G-CASE Fall Conference Registration](#)

On Wednesday, October 28th, the first keynote speaker is **Dr. Timothy Rasinski**, professor of literacy education at Kent State University. Dr. Rasinski has an extensive background in research in reading and has been cited by the National Reading Panel and published in journals such as *Reading Research Quarterly*, *The Reading Teacher*, *Reading Psychology*, and the *Journal of Educational Research*. In his keynote presentation, Dr. Rasinski will make the case that effective reading instruction is an art as well as a science, and he will explore ways that reading can be taught as both an art and a science.

We also have **Zelphine Dixon-Smith**, Assistant State Director for the Division for Special Education at the GaDOE. Zelphine will provide you with important updates on the implementation of Georgia's Student Success: Imagine the Possibilities. Her background in teaching and administration are impressive and her commitment and passion for supporting adults and students are contagious!

And on Thursday, you will meet **Brian Oglesbee**, an educator at Upson-Lee High School where for the past nine years he has taught social studies and special education. Brian will discuss his struggles as a blind person and how he has become a successful classroom teacher as well as the 2014 and 2015 American Blind Golf National Match Play Champion. He has proven to the world that you truly can have vision without sight. In addition to these amazing keynote presenters, we have an outstanding choice of breakout sessions. It's kind of like Yogi said – *When you come to a fork in the road, take it.* You won't know which way to go – they are all great! You want legal? We have attorneys from the law firms of Harbin, Hartley and Hawkins and Nelson Mullins Riley & Scarborough and the GaDOE Legal officer for Dispute Resolution. We have a juvenile court judge. You want literacy? We have presentations on effective resources and instruction in reading and writing. You want technical? We have information on SLOs, Move On When Ready, Using Data Effectively, and technology. We even have a presentation on How to Work Less, Produce More and still get the job done (The Breakthrough Coach). Have I mentioned that you will have a difficult time choosing the fork in the road during breakout sessions? If you haven't registered yet, you better get on with it – it's 90 percent physical and the other half is mental.

G-CASE has two more conferences scheduled that you need to put on your calendar. On Friday, **December 4**, there will be a half day **G-CASE Drive-In Conference** featuring **The Breakthrough Coach**. This will be at the Marriott City Center in Macon, GA from 8:00 AM – Noon. This conference is a must for all administrators. You will learn to reshape, rethink, and redesign your office space for maximum productivity and restructure your week to comfortably include more days visiting classrooms. The December 4th half day will give you memorable insight into how to change the way you do business.

Our **Spring Leadership Conference** will be at the Marriott Riverfront in Savannah, GA on **March 9 and 10, 2016**. You will not want anything to interfere with your attendance at this event. We have three (yes, 3) law firms coming to give you the latest and greatest information on special education legal issues. You will be amazed at the expertise available in a single conference. It will be a day and a half of everything you ever wanted to know about special education law.... or as much as can be fit into that time frame. Mark your calendars now for this special event. More updates to follow.

And remember that if you are not currently a member of G-CASE, you definitely want to join now. By becoming a member, you receive special, discounted rates at our Fall and Spring conferences, updates on what's going on in the field of special education, and resources to make your job easier and your work more effective. Join now by visiting our website at <http://gcase.schoolinsites.com/>



Candidates for Representative to Georgia CEC

At our fall conference you will have the opportunity to elect a member to serve on the Executive Board in the position of Representative to Georgia CEC. The Representative to Georgia CEC provides oversight in the area of scholarships. The person in this position represents G-CASE at all required meetings called by the Georgia CEC.

The vacancy for this position is due to the recent retirement of Dr. Suzanne Carter. Thank you Suzanne for your service!



Erica Chatelain

Erica Chatelain is a Special Education Zone Coordinator in Bibb County School District for the Program for Exceptional Children. She received her B.S. in Communication Disorders from the University of Georgia in 2003 and her M.Ed. in Communication Disorders from Valdosta State University in 2004. Ms. Chatelain completed her Ed.S. in Curriculum and Instruction at Valdosta State University in 2013 and an add-on Leadership Certification in 2014. She has worked in the field of Special Education for 10 years and has worked for Bibb County Schools for the

past 5 years. In addition, Ms. Chatelain is an active member of the Georgia Speech-Language Hearing Association (GSHA) and has served in multiple leadership positions, including President of the organization. She remains very active in GSHA and has also been a member of CEC for 3 years.



MaryKay Berry

MaryKay Berry is the Director of Student Services in White County. She has nearly twenty years of classroom and leadership experience. MaryKay Berry states that she is dedicated to her profession, working with teachers, administrators and parents with a focus on meeting the needs of students with disabilities. A graduate of the Liberty University, MaryKay wrote a dissertation focused on the level of support and services that were provided to students with Emotional Behavior Disorders as it relates to their academic achievement.

MaryKay learned as a general educator “in the trenches” how important it was to make student centered decisions about the services and supports that are provided to all students. Serving students in various settings, she was instrumental in developing a culture and community that values and supports inclusive practices.

Along with her passion for working with students with disabilities, MaryKay’s interests include providing professional development for Response to Intervention, working with difficult parents and using data to drive instruction. She has served on state committees and presented throughout the state as well as at G-CASE.



Audrey Walters

Audrey Walters has worked with special education students for 21 years. She is currently in her 5th year as Special Education Director for Montgomery County Schools. Audrey has been a member of G-CASE, CASE and CEC for 5 years. Audrey currently serves on the G-CASE Advisory Board for district 13. Audrey is very interested in

continuing to learn and do all she can to make a difference for the students in Montgomery, her district and the state.



Suzanne Korngold

Suzanne Korngold currently works for the Oconee County School District located in Watkinsville, Georgia. Suzanne serves as the Director of Special Education and Gifted Education for Oconee County Schools. Having experience in a variety of roles in education, Suzanne values her professional relationship with GACEC and G-CASE. She has been a member of G-CASE for four years and is in her second term as GACEC Treasurer.



Phil Pickens Leadership Award



For the last 15 years, Georgia's schools have been engaged in a remarkable experiment, training parents to utilize their knowledge base and experience with their own children, to help school system staff and parents work towards better and more effective family engagements practices in their communities. This was the dream of the late Phil Pickens, who at the time of the creation of this program was the State Special Education Director for Georgia and, a parent, Patti Solomon, who brought the idea for the program from a similar one in Ohio. The Phil Pickens Leadership Award started over a decade ago to keep his memory alive. Every year, the Georgia Parent Mentor Partnership recognizes the history of the program, honors the man who founded it and recognizes the accomplishments of special education directors and parent mentors working in their schools with an award that bears his name.

This year's recipient of the Administrator Phil Pickens Leadership Award is Ms. Andrea Pender. Andrea is a member of G-CASE and serves on the Professional Learning Committee. Andrea's career began as a speech language pathologist and she now serves as the director of Special Education for Barrow County Schools. She serves on several executive boards in her community and professional organizations and has been a volunteer for Special Olympics since 2004. Andrea was also named the 2015 G-CASE Outstanding New Special Education Director at our Spring Leadership Conference. Andrea is pictured here with Barrow County Parent Mentor Cyndi White. Congratulations, Andrea!

On behalf of G-CASE we would also like to recognize and congratulate the Parent Mentor winner of the Phil Pickens Leadership Award, Ms. April Lee! April is the Parent Mentor for Wayne County Schools. April is pictured here with her family.





2015 Fall G-CASE Conference – *Taking Care of Business*
26th Annual CASE Conference – *Continuing to Take Care of Business*



The 2015 G-CASE Fall Conference is even more exciting this year with the annual national CASE Conference immediately following and continuing the learning experience.

You won't want to miss out on this fabulous opportunity to attend both conferences at the Hyatt Regency in Atlanta. There are special prices for attending both conferences!

**G-CASE Conference: Wednesday, October 28, 2015 at 8:00 AM -
Thursday, October 29, 2015 at 12 Noon**

**CASE Conference: Thursday, October 29, 2015 at 12 Noon -
Saturday, October 31, 2015 at 12 Noon**

**Hyatt Regency Atlanta
265 Peachtree Street, NE
Atlanta, GA 30303**

Register at www.gael.org



From Around the State

Marcus Wooten is a graduate of Jones County High School and received a general education diploma with the support of Access Teachers. While he was a student in Jones County, his outgoing personality set him apart. Through diligence and community support, Marcus was accepted into the inclusive program at Clemson and his dream of attending college and being a resident on campus is now a reality.

His mother, April Wooten, serves as the Parent Mentor for Jones County and had this to say about his experience moving in. “On August 16, 2015, there were a lot of mixed emotions while driving to Clemson University. Marcus Wooten had been waiting on this day for a long time and it was finally here. He was so excited he talk and reminiscing all the way there (and all that know Marcus, knows that was a lot). When we finally got there the people that were a part of ClemsonLIFE where so helpful and Marcus fit right in. They welcomed him like he was always a part of their family. We are so excited for him and know that he is going to do well.”

We will continue to follow Marcus’ journey and look forward to hearing updates on his experience and future accomplishments.



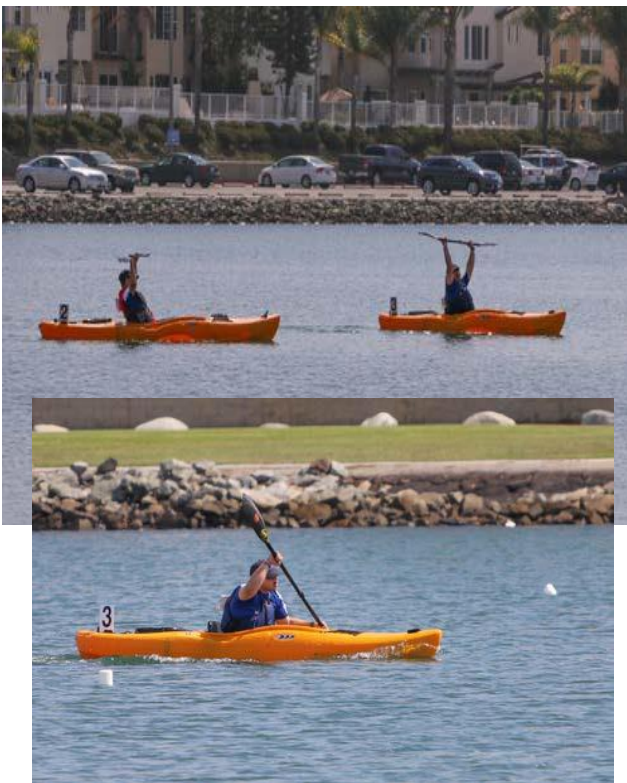


Georgia Special Olympian Wins Gold at World Games

Will Crane of Hall County participated in the 2015 World Games this past summer in Los Angeles, CA. Will was a member of the Special Olympics USA Kayaking Team where he won the Gold medal in the 200M. Will also won the Silver medal in the 500M.

Will is an inspirational athlete. He has participated in Special Olympics for 10 years, in a variety of sports – Bowling, Kayaking, Soccer, Basketball, and Bocce.

Will has overcome many obstacles in his life. In 2006, he had a liver transplant. His biggest challenge has been overcoming the health issues related to the transplant.



Special Olympics have changed Will's life by building self-confidence, having the opportunity to compete in competitive sports, and by building leadership skills.

He would like for more athletes to become involved in sports. Will's hobbies include music, transformers, and power rangers.





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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.