Collaboration, Benefit, Compliance – A New Paradigm for Special Education Success

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- Special Education Director - 15 years
- ACSA Special Education Administrator of the Year - 2009
- Presenter at state and national conferences
- SELPA Director for the past two years

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Founding Partner - ADAMS SILVA & MCNALLY LLP
- Education law attorney for 19 years
- Started as a teacher
- Speaker and trainer at state and national education conferences
- Hispanic Business Magazine’s 100 Most Influential Hispanic Leaders of 2009
The Framework: IDEA

- How is this different?
  - Comprehensive
  - Micro and Macro Levels
Collaboration, Benefit, Compliance

- Why is this important?
  - Changes the dialogue
  - Shifts focus

IDEA = Collaboration

- Meaningful Participation
- Mediation Process
- Mandated Resolution Session

Collaboration

Parents/Student
Administration
General and Special Education
Related Service Providers
Collaboration

Parents

- Meaningful participation
  - How do you make sure that happens?
  - How does that happen during the assessment process?
  - IEP?
  - Progress?

Collaboration

Agenda:

- Parent Rights
- Parent Concerns
- Assessments/Present Levels
- Eligibility
- Areas of Educational Need
- Goals
- Placement
- Review notes

Collaboration helps ensure compliance

Collaboration

- General Education and
- Special Education
- Progress on goals in general education?
- Do general education teachers know accommodations?
Collaboration

**Related Services:**

- Designated Instruction and Services ("DIS") – Impact of not including related service providers
- Transportation and supportive services - What does transportation need to know?
- Can include extracurricular and nonacademic activities

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**Collaboration**

- Team must offer the appropriate services
- Parents may disagree, but this should not deter team from completing IEP and offering services
- Ensure that parents are a key part of the discussion

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**Collaboration**

What is your district is doing well?
What does your district struggle with the most?
Collaboration

✓ Assessors interviewed and gathered information from various sources. Hacienda La Puente USD, OAH 2014120050

Compliance

Compliance
Timelines
Agenda
Procedures
Forms

Compliance requirements: numerous
Timelines, paperwork, assessments and IEPs
Don’t ignore these areas
Compliance

➢ Procedural

➢ Substantive

Compliance

➢ IEP Participants:
  □ Parent
  □ Teachers (General & Special Education)
  □ District Representative
  □ Assessor or qualified individual to interpret test results
  □ Student (when appropriate)

Compliance

➢ Improper IEP team likely results in denial of FAPE
➢ Proper IEP team “is in best position to develop an IEP that suits the… needs of the student.”
  ➢ (R.B. v. Napa Unified School Dist, 9th Cir. 2007) 496 F.3d 932, 946.)
Compliance

Consequence of Non-Compliance:
- IEP potentially lacks parent participation
- Failure to identify all needs
- Potential denial of FAPE

Educational Benefit

Endrew F. v. Douglas Cty. Sch. Dist. Re-1
- Clarifies and refines definition of a free appropriate public education (FAPE) under the IDEA
Endrew F.

“School must offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances.”

Court focused on individual progress

IEP must be appropriately ambitious in light of child’s circumstances

M.C. v. Antelope Valley Union High School District (9th Circuit, March 27, 2017)

Student suffers from genetic disorder: blind and other developmental delays

Parent alleged procedural and substantive violations
### Educational Benefit

**M.C. v. Antelope Valley Union High School District**

- District IEP documented TVI services as monthly rather weekly
- Unilaterally corrected error (did not tell parents) and provided more services

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### Educational Benefit

**M.C. v. Antelope Valley Union High School District**

- District’s Failure to Notify Parents of IEP error, subject to sanctions

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### Educational Benefit

**M.C. v. Antelope Valley Union High School District**

- FAPE
  - References Endrew F.
  - “Reasonably calculated to remediate and, if appropriate, accommodate…”
Educational Benefit

M.C. v. Antelope Valley Union High School District

- FAPE
- "...so that the child can make progress in the general education curriculum commensurate with his non-disabled peers, taking into account the child’s potential."

District filed a petition for a writ of certiorari with the Supreme Court.

- Prior written notice is not a formal pleading document, and does not have such extensive requirements
- IDEA requires harmless error analysis of procedural violation – if it is not a “per se” violation of FAPE
- Interpretation of Endrew F. requirements

ASSESSMENTS
### Educational Benefit

<table>
<thead>
<tr>
<th>All areas of suspected disability</th>
<th>Review of records</th>
</tr>
</thead>
<tbody>
<tr>
<td>Use a variety of assessment tools &amp; strategies to gather relevant information</td>
<td>Standardized testing</td>
</tr>
<tr>
<td>No single measure or assessment as the sole criterion for determining eligibility</td>
<td>Observations in multiple settings</td>
</tr>
<tr>
<td>Student interview (where appropriate)</td>
<td>Parent/teacher interview</td>
</tr>
</tbody>
</table>

#### Present Levels

#### Areas of Need

#### Goals
Educational Benefit

- Placement

Educational Benefit

- Substantive

- Goals: In every area of need
- Cross-check goals

- Measurable baseline
- Cross-check with PLOPS

- Goals must be measurable
- Confirm measurability: who, when, where, how
Educational Benefit

- Identifying the Placement:
  - Where can the goals be implemented
  - Reasonably calculated to provide educational benefit
  - Considering all areas of need (not just academics)
  - In the least restrictive environment (LRE)

Educational Benefit

- Placement
  - Least Restrictive Environment:
    - Educational Factors
    - Nonacademic benefits
    - Effect of student on teacher and peers
    - Cost (not really)

Educational Benefit

- Implementation
  - Make sure all relevant staff:
    - Have a copy of the IEP
    - Know their roles in implementing the student’s IEP
    - Carry out their duties under the student’s IEP
    - Collaboration
Students make progress and meet goals
Legally defensible cases

Success

➢ How do all three of these interact?
➢ How can you make sure all three are occurring on an ongoing basis?