

Sitting On Both Sides of the IEP Table

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What I Did Not Know as an APE Teacher & What I Know Now as a Parent

What's it like to be the parent of a child with an "invisible" disability?

This is my story, being the parent of a son diagnosed with Bipolar Disorder and ADHD.

I've decided to share my story because what I know now as a parent would have made me be a better APE teacher and IEP team member. I also felt the need to clarify important laws to protect yourself from misinformation.

Before I begin, I want to state that I am not a lawyer nor do I claim I am an expert however; I am an educator that participated in IEPs for 10 years and I am a parent and that was put in a position to fight for my son's rights. Sadly, concerning my son, this journey involved lawyers, the necessity to file due process, and finally a federal lawsuit. I share my story to all parties; teachers, administrators, and parents in hope to help others be better IEP team members and advocates for students like my son, Joey.

WHAT IS THE GOAL of SPECIAL EDUCATION?

Special education makes it possible for a child to achieve academic success in the least restrictive environment despite their disability. The federal law governing the system is IDEA (Individuals with Disabilities Education Act).

To qualify, a child must have one of the identified disabilities **AND it must adversely affect their educational performance.**

CATEGORIES:

- Autism
- Blindness
- Deafness
- Emotional Disturbance
- Hearing Impairment
- Mental Retardation (Intellectually Disabled)
- Multiple Disabilities
- Orthopedic Impairment
- Other Health Impaired
- Specific Learning Disabilities
- Speech or Language Impairment
- Traumatic Brain Injury
- Visual Impairment

The Individuals Disability Education Act includes the **Child Find Mandate**

- Schools are required to locate, identify and evaluate **all children** with disabilities from **birth through age 21**. The Child Find mandate applies to all children who reside within a State, including children who attend private schools and public schools, highly mobile children, migrant children, homeless children, and children who are wards of the state. (20 U.S.C. 1412(a)(3))
- This includes all children who are suspected of having a disability, including children who receive passing grades and are "**advancing from grade to grade**." (34 CFR 300.111(c)) The law **does not** require children to be "labeled" or classified by their disability.
- (20 U.S.C. 1412(a)(3)(B); 34 CFR 300.111(d)). (<http://www.wrightslaw.com> by Pamela Wright & Pete Wright, Esq.)

CHILD FIND MANDATE:

What is it and how does it apply to you as the PE/APE teacher?

What is your role in Child Find? Very simply, if you have concerns about a student you need to document incidents/behaviors, speak up and request an evaluation. (You are legally responsible to do so, as stated in the mandate.) I also encourage you to make note of incidents and record them in a student's file. Documentation is key, do not assume or expect others (administrators/specialists) to do all the documentation. If you witness an incident or behavior that is a concern, take note; not just mentally but actually write it down and file it. Documentation is necessary to determine what is best for the student.

JOEY

In Joey's case, I knew many things happened over the years but teachers failed to record them, they "liked" Joey and often simply put it...."Well, that is Joey". In many cases the teachers would call and discuss the issues with me but I was not aware that nothing was being noted in his file, nor at the time did I know how important that would be in the future.

Documentation of incidents is imperative to keep track of a child's behavior in the school environment. Behavior can and does have an impact on the child's education. We have a grading policy to track academic progress. Yes, there a check on behavior, but that is an overall summation. Unless, incidents are documented behavior is minimally evaluated, overlooked, or simply dismissed, disregarding the Child Find Mandate.

Once again, in Joey's case, without anything documented the district had no record of behavior and the evidence that it was escalating as he got older. It was when he reached middle school, a less structured setting that his behavior resulted in suspensions. If incidents had been recorded it would have been clear to the administration that there was a pattern and an area of concern not just a one-time event. Interestingly, the only teacher that did document Joey's behavior and put it in his file was his middle school PE teacher. It turned out that there was enough evidence for my lawyer to be able to put together to show it was very clear that Joey had been a red flag for many years and needed help.

However, another point I need to address is that many teachers simply overlooked my son's needs because he had good grades. Have you been told if a student has good grades they do not qualify for any services? Well, this is what we were told and not just by my son's district, but mine, as well as my husband's, also a teacher. Every administrator and psychologist (in all three districts) that we went to for help asked about my son's grades. When they learned Joey primarily was an "A" student, they all had the same response "Academically he is doing fine, it is not our responsibility. Joey won't qualify for special education services." My message to all of you is that it is more than getting good grades and it absolutely cannot be used to "disqualify" a student in need of services.

(This is the reason that I felt a need to bring awareness and share my story. This is not about one school district that made mistakes, all three districts responded the same. In addition, my son's psychiatrist has shared with me that 95% of his patients are "Joeys" and other parents have similar experiences with their school districts.)

Since we did not understand the law, nor did we feel we would be misled by administrators (in all three districts) we felt there was nothing we could do and the system did not offer anything to help our son. Thanks to our lawyer, and the message I have found to be the most eye opening to share with others, is that grades are not to be a determining factor in qualifying students. Joey's behavior did affect his education performance....yes, he is smart and was able to get good grades, but missed school due to suspensions.

REQUESTING EVALUATIONS

I know, your caseload is huge and you have no time to fit in another evaluation. But this step falls under the Child Find mandate that the district as well as the educator is legally responsible. A parent, teacher, specialist, or administrator may make a request for an evaluation. It is best done in writing but a verbal request is still a valid request that needs to be followed through within the time frame of 60 days. Also, please respect that it is the parents that usually make the request first because they **do** know their child best. Once a request has been made, a teacher, administrator, specialist, or any representative of the school district should not ignore or deny the request. Once again, they are legally required to complete the evaluation under the Child Find mandate.

JOEY

As I have stated, we have struggled with Joey from day one. In the early years, most of Joey's outbursts occurred at home but as he got older more happened at school as well as his behavior was no longer "age appropriate" We took Joey to counselors and in 6th grade finally to a psychiatrist and started the journey to get help with medication. It was at this time, he was diagnosed with bipolar disorder. I informed the district that he was on medication etc. and did my best to communicate with the teachers as issues occurred. However, since I was told he had good grades I felt that was all I could do. Then in 8th grade, Joey's grades were suffering and I finally felt I had a window to get help. I requested in writing for Joey to be evaluated. The district's response was that since he had good test

scores there was nothing they could do to help him and they did not do an evaluation. Since this was consistent to what we had been told by all districts, I did not question their response. Because of his good grades I believed he just did not qualify and I did not insist on the evaluation, however they should have and legally were obligated to evaluate him within 60 days.

As time went by, incidents happened and the teachers and administrators just looked at Joey"as Joey" no help was offered nor a red flag put on him. Then in 9th grade an incident occurred that resulted in a 5 day suspension. At that time, I once again brought up my concerns and requested in writing (the 2nd time) to have him evaluated. Unfortunately, the district responded that same as they did the year before and did not do an evaluation. Again, I was at a loss however, I did request at least for a 504 plan. By ninth grade, Joey had been bullied by students and mistreated by many of his teachers. The 504 plan was a least one step to identify Joey as a student that needed support.

Okay....now we had a 504 plan. It was written by unfortunately not implemented. Another incident occurred and the district now wanted to expel my son. At the hearing, we brought the first 2 letters of request to evaluate Joey and a now a third written request including a statement from his psychiatrist that his behavior was a manifestation of his disability. Finally, Joey was evaluated and we felt relieved to get help for Joey.....this was only the beginning of our long journey....now I was to sit in an IEP as a parent.

The Individualized Education Program (IEP) Process:

A case manager is assigned to each student. This usually is the special ed teacher or specialist and is responsible for ensuring the IEP is implemented correctly.

The IEP is to ensure the student has access to a free appropriate education **FAPE** and should consider the student's strengths, parent concerns, assessment results and areas of need related to academic and developmental areas.

THE IEP is a written, legal document and must include the student's present level of functioning.

- Strengths, weaknesses, abilities and educational needs
- Area(s) of eligibility (based on the 13 categories named in IDEA)
- Annual Goals and Objectives
- Common Core Standards
- DIS services
- Program placement
- Accommodations and level of participation in assessments
- Transition Plan

WHO CAN ATTEND?

The **IEP Team** usually consists of some combination of the following school personnel.

Parent, guardian or representative
School administrator
Special education teacher
General education teacher

Professionals who performed the assessments Student (if appropriate and over age 8)

Parents can ask anyone to attend; advocates, specialists, lawyers, etc. However, it needs to be communicated to the district that will be attending. For example, if a parent is bringing a lawyer, the district needs to know so they also can have legal representation attending as well.

All IEP team members have the opportunity to contribute to the meeting and have say on the placement, services, goals, etc. for the student's IEP. All members should attend the entire duration of the meeting. (Districts often ask parents for permission for a participant's early dismissal...no one can leave without the permission given.) It is best for all to attend the entire meeting; best for team members to hear from others as it directly involves the decisions made for the IEP.

ATTENDING IEPs as an APE TEACHER

Before I ever attended an IEP as a parent, I was an APE teacher and I taught the severe population for 10 years. As a participant at this time, I followed the lead of my administrators. Some IEPs went smoothly and others did not and I felt the tension in the room.

Attending IEPs in the seat of a specialist (APE)

- As a specialist, you are a team member and should feel confident to contribute to the discussion. However, I must admit initially I did not have the confidence and rarely added more than my report. In time, I did speak up as I felt was appropriate. I realized that my teaching setting was less structured in comparison to the classroom thus a student's behavior I observed was similar to the parent's experience. (It is very common for students to behave differently in various environments.) My input helped to identify areas that a student needed support.
- Sometimes districts schedule pre-meetings without the parents to discuss what the district's position of services to be offered. This was an indication that this was a "High Profile" case. Even though this was an extra meeting, I knew it was very important to attend in order to be in the "loop". If I had not attended, or was not invited, I found myself at a loss in the meeting and my input was not considered in the discussion. (Sometimes I was not invited to these pre-meetings because frankly I was APE, and some administrators just did not feel as important to the team.) I found it necessary to advocate for the importance and value of physical education. In time, I was not excluded from the pre-meeting.
- Not all IEPs had a pre-meeting, and as a result it was possible to walk in a meeting with additional attendees, additional family members, outside specialists, advocates, and maybe a lawyer. Fortunately, I am a very detailed and came prepared with data collection and the physical education standards.

- In my 10 years, I attended only one meeting that a recorded and it set the tone of the meeting; literally the recorders were placed facing one another. It was stressful and as I spoke I was very careful with my words and did my best to be clarify my statements with evidence.
- In some IEPs, it was evident that the district wanted to dismiss services and parents often objected. In one particular case I had to speak up and it was difficult because it was not agreement with the administration. It was determined that the student no longer needed a one on one and that appeared to be appropriate for the class setting but I felt it was not for physical education. At this school, the PE classes are large 60+ students with one teacher. I spoke up and explained to the team that it is too difficult for the teacher to manage the class as well as take note of the particular student that made need extra attention. Unfortunately, my point was not taken and the student was not given a one on one for PE. There was an incident and then support was provided. A similar case came up, this time my point was taken and support was provided for physical education.
- Some IEPs were pleasant, reports were positive and parents were pleased with everyone on the team. Some did not go without discussion and disagreement. Again, I always came prepared with data to support my decisions. But there were cases that I changed my report in respect to the parent's opinion. For example, a student had a goal to independently jump rope. In all my sessions, practice opportunities and assessments, the student did not jump for me. I noted the goal was not met. However, the parent shared that the student did jump at home. This is possible, different setting etc. So I changed my report to state just that, in the school setting the skill of jumping rope was not observed however, the parent reports that the student did jump rope at home. This was a compromise that all were comfortable and felt it was the appropriate.
- It is required that a general education teacher be a member of the IEP team and participate in the meeting. In my 10 years, a general education teacher never attended the meeting more than a few minutes. It was also common for specialists attend and then leave after their reports. (Yes, the parents have to give permission for dismissal.) Unfortunately, this is common practice and it is not in the best interest of the student, because if not all members are present for the entire meeting. An IEP team is just that a team to decide what is best for the student and without everyone present it is possible not all points are considered. As an APE teacher, I did have a packed schedule but I did attend all the meetings and stayed as long as I possibly could if not until the very end. Not only know it was best for the student but respectful to the parents.

ATTENDING AN IEP AS A PARENT:

INITIALLY.....

- Being an educator, I didn't want to be difficult. I wanted to give the respect to the teacher, as I would like to be respected myself.
- I was grateful that I was finally getting help for my son.
- I trusted that the district was telling me the truth and that my son was getting the services he needed.
- I assumed the district would follow the laws and do the right thing.

REALITY.....

- District did not follow the laws...IDEA/Child Find/FAPE.
- A full evaluation was not completed as promised.
- District ignored the background information from us (parents & psychiatrist) because they felt they "knew" our son better than we did.
- Joey was denied access to classes and activities as well as denied support needed to be successful. (DENIED FAPE)
- Goals were not written well or measurable.
- Data was not collected
- Decisions were made by the district before the IEP meeting and did not include input from all team members.
- Without a meeting recorded, not all the facts were included on the IEP document because notes were "self-edited" by the note taker.
- Unfortunately, laws mean nothing. The district did what they did...forcing us to get legal representation to fight for our son's rights.

WHAT DID I LEARN? (Based on my personal experience as a parent.)

I needed to have a lawyer in order for a district to follow laws. But even that was not enough in our case; I had to file Due Process and ultimately a Federal Lawsuit his senior year. This was something I absolutely did not want to do but frankly was given no other option. I went to SELPA for help and had meetings with mediators and the district. I did everything I could to resolve the issues and exhausted the resources available to parents. I felt bullied by the school district and frustrated when I knew they were lying. Sadly, it was clear what administrators would tell parents to shut them down. However, my husband and I are teachers.... we knew they were not telling us the truth. (I do not claim to know all the laws by any means; but I knew enough that my son was being treated unfairly.)

JOEY was denied FAPE.....

IDEA entitles all children with learning disabilities to a free appropriate education (FAPE)

Free Appropriate Public Education

Guaranteed by the Individuals with Disabilities Education Act (IDEA), FAPE is defined as an educational program that is individualized to a specific child, designed to meet that child's unique needs, and from which the child receives educational benefit. To provide FAPE, schools must provide students with an "... education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living."

JOEY

FAPE... became a huge factor concerning my son's education. FAPE does not give parents the power to ask for programs that are "better" than what is being offered in a school. FAPE does however require districts to provide the services as needed to meet the unique needs of each student. I underlined in the above definition the point that was a factor in my son's case. My son loves acting and music. He wants to go to college and pursue an acting career. He has clearly expressed his goals and it is documented in his file. The district denied him access to these classes and the support needed to participate. They defined it as extra-curricular and an elective thus not an educational need. However, especially since Joey has expressed his future goals, drama was more than an elective but a requirement for acceptance in a college drama program. In Joey's case, it is required to prepare him for his future educational goals. Also another point to clarify, the law does not exclude providing services for extra curricular activities. Students with special needs are not to be denied the opportunity in any activity that is offered to their peers. The district is legally responsible to provide the needed support for success in academic classes, electives, and student activities such as clubs.

How does a PARENT FEEL in an IEP Meeting?

It may be just a meeting to a team member and part of your job, but it is everything to a parent. An IEP meeting is stressful and can often be emotional for the parent. Think for a moment how would you feel if the meeting begins..."We have to be done in one hour" rather than "We are here to discuss the education plan of your child." I do understand scheduling and commitments, but the priority should be placed on the child not a schedule.

During the meetings, please respect that it is a lot of information for the parent to grasp. It is not a simple report card. There are often reports by many individuals (teachers and specialists), discussion of multiple issues, as well as services that will be provided. As a parent, it is hard to face the reality that your child has a disability and the fact that your child needs help to succeed. The parent needs time to process all the information. It saddens me to know when I was an APE teacher the administrator's goal at every meeting was to have the parent sign before they left the meeting. There is no reward to get a signature quickly.

Advise the parents to take it home, look it over and then sign and only agree to the parts they agree. It is not an “all or nothing” document.

My recommendations to be a better teacher, specialist & IEP Team member:

- Understand the responsibility you have as an educator as well as an IEP member.
- Have your own documentation of incidents; phone calls home, copies of notes to parents and administrators, behavior incidents on the playground/lunch/as well as classroom.
- Everyone is a valued member of the team; the teacher, APE, Speech, OT, general education teacher, administration, parent, AND student.
- Use caution in offering parent recommendations. Whether you are a parent or not, remember you are not in the parent’s shoes 24/7.
- No matter what your administrator will tell you, if a parent shows up with an advocate or a lawyer, is it safe to assume that something has happened to get to this point.
- Be thankful if the meeting is recorded. It is best for everyone to have a record of what transpires. Notes are never the complete picture because you have one person taking notes and that person is personally editing what he or she determines is important to write down or not.
- Be professional, be on time, & have your data collection sheets available to show the parent.
- If you can, stay at the meeting as long as possible. You are a valued member of the IEP team and your voice needs to be heard.

Final Thoughts

I chose to share my story because I know what has happened to my son happens to many others, especially with mental illness. Joey looks normal and can act normal most of the time. I absolutely know my son would have been treated differently if he had some “physical” identification that he has a disability and if he failed academically. Throughout this process, our close friends, many of whom are teachers, were amazed with what we learned and that is why I felt the need to share. Joey is a good kid but has a disability that school districts struggle on how to handle appropriately.

I have no regrets in fighting for my son’s rights, I had no choice but I also know my fight was for other kids like Joey. Most parents do not have the money, time, or awareness to stand up for their child and like us trusts what you are told. If my story helps in any way; recognizing a child’s education is more than getting good grades, IEP meetings more respectful towards the parents, IEP meetings routinely

recorded, teachers taking note of concerns and following up with evaluations, services offered as needed without a fight; then somehow this painful and very long journey has a purpose.