

Common Triggers to Parent Complaints and How to Avoid Them

Amy J. Goetz

School Law Center, LLC

2015 Leadership Symposium

June 24 -25



Whats on Tap for Today?



"We all do better when we all do better."

Sen. Paul Wellstone

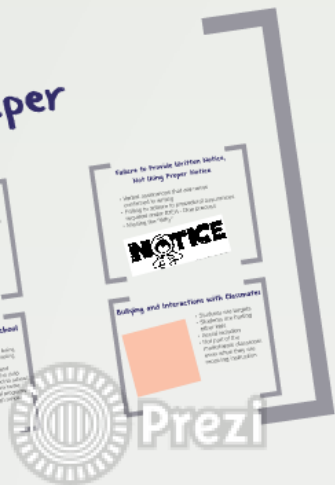
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Overview of Presentation

Introduction:

Who is this woman in front of me and what is she going to say?

The Problem:

Breakdown of common complaints

Digging Deeper:

Understanding common triggers

Traps:

When situations become problems

Alternatives to Lines Drawn and Wagons Circled:

The dispute resolution spectrum

Wrap Up:

Keeping the goal in mind

Questions?

Raise your hand! Don't wait until the end

Timing:

First half of the presentation

55 minutes

Followed by a break

10 minutes

Second half of the presentation

50 Minutes

A Little About Me



I have been working in this area for over 20 years in a variety of capacities:

- Attorney for parents and students
- Legal aid attorney
- Department of Education
- Parent

A little about you...?

Top 3 Triggers of Complaints

1. Failure of communication
2. Lack of communication
3. Unclear or repetitive communication



"I'm inviting you to my seminar on Improving Your Communication Skills. If you'd like to attend, grunt once for yes or twice for no."

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Defining the Problem

Breakdown of common complaints:
What triggers a complaint?

Minnesota Department of Education

- Failure to provide services in conformity with a student's IEP
- Failure to provide prior written notice of proposed or refused action
- Failure to properly implement restrictive procedures
- Failure to provide clearly written modifications and adaptations to staff
- Lack of parent participation in IEP meetings

Wyoming Department of Education

- Failure to provide a FAPE in the LRE to student with social, emotional and behavioral needs
- Expulsions, suspensions and shortened school days
- Bullying of and by special education students
- Mental health needs of students with severe behaviors
- Failure to provide a FAPE in the LRE for students with low incidence disabilities
- Failure to provide related services and educational programming (including home bound students)
- Failure to have measurable goals and document progress for students
- Transition to and from residential placements
- Post-secondary transitions
- Failure of child find: starting the process but getting lost

Parent Advocacy and Resource Centers

Higher Volume Intermediaries
1,200 contacts from parents a month

- School is not following the IEP
- I have requested help; the school refuses to evaluate
- School is not using the PWN, but are relying on verbal refusals instead
- Concerns about disciplinary issues
- Behavioral concerns but never completed an FBA; thus, no BIP
- The use of restrictive procedures
- Bullying and SWD's

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Digging Deeper

Child Find and Starting the Process



- Delay in evaluations
- Parents' concerns not being acknowledged
- "Wait and See" approach: maybe next year
- 504 - IDEA changes
- Some who wander are lost

Mental Health Concerns



- Underlying issues
- Waiting for evaluations and results
- Trauma and stress
- Misdiagnosis
- Related services
- Turf guarding

Failure to Provide Written Notice, Not Using Proper Notice

- Verbal assurances that are never confirmed in writing
- Failing to adhere to procedural assurances required under IDEA - Due process
- Missing the "Why"



Failure to Conform to Individual Education Program



- Not setting goals that are measurable from year to year therefore cannot track progress
- School teachers and staff are creating workarounds to the IEP without consent of the Team
- Change in classroom or setting and the IEP is not followed

Disconnecting students with school



- Disruptive students are being sent home instead of dealing with the root cause
- This burdens parents and creates instability for the child
- Transitions from school to school
- Transitions to and from home bound and residential programs
- Transitions out of high school

Bullying and Interactions with Classmates



- Students are targets
- Students are hurting other kids
- Social isolation
- Not part of the mainstream classroom even when they are receiving instruction

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Traps: How Situations Become Problems

"We don't do that here."

"Your child is not eligible for ESY, so we won't bother with the details."

"These are the rules, our hands are tied."

"Your vision is clouded by hope."

"It's not our fault."

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Alternatives to Drawn Lines and Circled Wagons

The Dispute Resolution Spectrum



Levels of Dispute Resolution



Levels of Dispute Resolution

Less Formal Resolution

Address the issue head on!

- Talk to the parents when concerns arise before they fester
- Put in writing discussions that you had
- Don't wait for the problem to come to you: active check-ins

Talk to Special Education Director

- Bring in an outside person of authority
- Show the family you are taking the concerns seriously
- Ask for fresh eyes and problem solving

Facilitated IEP Meetings

- New eyes and direction - facilitator
- Purpose is to agree to changes to an IEP
- Brings the whole team together
- Writing and implementing significant changes
- Throw out what's not working and get a clean slate
- Bring experts to the table and stamp out issues

Mediation

- Disagreements require a neutral third party
- No or very low trust in the team
- Disagreements go beyond what can be solved by the team

State Complaint and Due Process Hearing

State Complaint

- Filed by the parents
- Decision within 60 days

Due Process Hearing

- Adjudicated by an outside hearing officer
- Attorneys are doing the talking
- Process can take months
- Big cost to families and the district

Keeping the Goal in Mind: Best Outcome For Student

Keep 3 Things in Mind

1. Parents are experts too
2. Most parents just want to get back on track
3. Defensive postures escalate conflict
 - Avoid the temptation to walk along the cliff of retaliation

Overwhelmed Yet?

You should be, this is hard stuff...

- The court recognized that this is a law built on partnerships of unspoken beliefs
- These are DIFFICULT conversations
- Emotionally charged issues
- Full of landmines



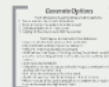
But wait! You're EDUCATORS!

- You just do what you do best
- You are trained to handle difficult conversations
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Getting to Yes

1. Use tested negotiations skills to avoid escalation and litigation
Fisher and Ury, 1983
2. Focus on Interests - Generate Options
Use Objective Criteria



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Focus on Interests

Good agreements focus on interests, not positions
"Your position is something you have decided upon. Your interests are what caused you to so decide."

First, identify the parties' interests:

- Ask why positions are held
- Consider why other possible positions are not
- May be a number of different interests

Next, discuss interests together:

- To take interests into account each party must explain them clearly
- Each side is more motivated if interests are attended
- Look forward to solutions
- Remain open to different proposals and solutions
- Identify shared interests when possible
- Avoid blame
- Understand the drivers = FBA

Use Objective Criteria

Experts!
Functional Behavioral Assessments!
Don't Fear the IEE!

- Especially when interests are opposed
- Decisions based on reasonable standards
- Easier to agree with
- Preserves relationships

Generate Options

Four obstacles to generating creative options:

1. Premature decisions block alternatives
2. Inere on narrowing options to single answer
3. Defining problem in win-lose terms
4. Relying on the other side to find the solution

Techniques to overcome the obstacles:

- Separate the invention process from evaluation
- Informal brainstorming all possible solutions
- Wild and creative proposals encouraged
- Shift between four types of thinking: stating the problem, analyzing the problem, considering general approaches, and considering specific actions
- Suggest partial solutions
- Only after a variety of proposals should the group evaluate the ideas, starting with most promising
- Refine and improve proposals at this point
- Avoid win-lose mentality by focusing on shared interests
- When interests differ, seek compatible or complementary options
- Look for low cost and high benefit items

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- *"Related Services" that can be offered to families*
- *You can always develop more tips and strategies*



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