

Top Ten Legal Mistakes in Special Education

Jason H. Ballum
Riverfront Plaza, West Tower
901 East Byrd Street, Suite 1700
Richmond, VA 23219
(804) 344-3400
[@reedsmithedlaw](#)



Top Ten Mistakes in Special Education

...and a bonus tip

1. Ignoring referrals and failing to handle them through the child study process.

2. Failing to conduct evaluations and/or relying on private evaluations.

3. Fearing the word “dyslexia.”

4. Missing timelines for eligibility determinations and IEP development.

5. Not considering the appropriate standard when developing IEP.

SCOTUS: What the Court Adopted

- THE STANDARD: “To meet its substantive obligation under the IDEA, a school must offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances.”

6. Giving in to parents' unreasonable demands.

7. Writing services or accommodations in the IEP which are unclear or vague.

8. Failing to implement the IEP as it is written.

9. Insufficient data collection, progress monitoring, progress reporting, and communication of progress to parents.

10. Over use of e-mail

- Or Facebook, Twitter, Instagram, or Texts
- (Do NOT use to convey any information that you would not mind sharing directly with the parent.)

Explanation of number 10

Staff are too informal in their e-mails.

We can be required to disclose to parents all e-mails – even “deleted” e-mails.

Regulations make at least some e-mails part of the student’s education record.

Explanation of number 10

Cost of search, redaction, and production is great.

Damaging to relationships with parents and/or our legal defense.

The Problem - Examples

Dear Special Education Director: I do not believe that this student is making progress and am writing this e-mail to document my concerns. Sincerely, Puzzled Teacher.

Dear Special Education Director: I have just learned that the student's IEP has not been implemented for the past six months. What do I do? Frustrated Teacher.

The Problem - Examples

Dear Principal: Parent is crazy, and “the apple didn’t fall far from the tree.” I think they both need a 1:1. Teacher.

Text from teacher to parent: OMG. B did zip 2day. Needs meds B4 school? LOL.

The Problem - Examples

I don't have time to implement your child's BIP.

Just a head's up...you didn't hear this from me, but...

Oh, we have not been providing that OT consult all year.

Very Strong Suggestion number 9 Quiz:
Why is this man smiling?







BONUS TIP

11. Failing to run an IEP meeting in the manner that you would want an IEP meeting run for your child.

IEP Drafts

Preparation = Confidence = Competence

Use draft IEPs to streamline the process.

The draft should be shared with the other IEP members in advance of the IEP meeting.

IEP Drafts

Share the draft with the parents in advance of the IEP meeting.

Stress that the draft is a draft and not final.

Get feedback from parents before meeting.

Include some things in the IEP that came from the parents.

IEP Drafts

Do NOT read the draft IEP to the IEP committee.

Make necessary copies BEFORE the IEP meeting.

Discuss only the areas of disagreement.

If no one speaks up, state that it appears everyone is in agreement with the IEP and that it is ready for signing.

ReedSmith

Driving progress
through partnership

Education
Team

QUESTIONS?

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