

Consider Yourselves Advised

Develop good working relationships with students, staff and parents, then follow all procedures to the letter, document everything, and work well together as a team to develop appropriate IEPs, then implement them with fidelity.... that's all it takes!

Pre-determination:

Pre-determination occurs when the school has already decided something will or will not be for the child, without opportunity for meaningful parent participation.

Deal v. Hamilton (2004) - school proposed different method for teaching student with autism than what parent wanted; court found parent's program to be far superior and awarded them \$, but higher court later ruled school's program was appropriate, but because they hadn't considered the parents' methodology, they had predetermined the student's program and were found to have made a procedural violation.

Be cognizant of statements that could be construed as predetermination of services, placement, ..., such as: "We don't do that here." "I only work here 2 days a week, so that's how much therapy she'll get." "We won't leave the meeting until Johnny is placed at the day school." "The methodology we use is ...," and not consider the one the parents want.

- ALL statements made should be based on the individual, unique needs of that child in relation to their exceptionality
- Draft IEPs are not pre-determination, but be sure to present them as drafts
- Pre-meetings between staff to discuss options or possible proposals of services, methodologies, etc. are fine as long as nothing is definitely decided at that point
- Be mindful of emails that could be determined to be predetermining services/placements/methodologies
- Consider all information brought to the table (come with open mind)
- Instead of guessing at answers, just say you'll have to check on it
- Research items parents bring forward as potential options if appropriate
- Document all of the different options that are considered at IEP meetings

Delivering FAPE:

- Have IEPs in place by the start of the school year
- Make sure all providers know what they are responsible for carrying out
- Everyone follow through

Damian J. v. School District of Philadelphia (2008) – 12 yr. old ED student; Teacher not qualified and told court they were not really following IEP; Held for Parent

Reuther v. Shiloh School District (2008) – Substitute failed to implement IEP and put tray of hot food on chair of blind student w/CP—student burned; also, therapist forgot to strap same student in chair and he fell, injuring himself; and, gave him latex ball when allergic to latex—guess who won?

Procedural Due Process: (Procedural violations may deny FAPE)

- Follow all notice/consent requirements
- Include all required team members
- Include 2nd parent in decision-making
- Allow parents to bring forth their opinions/information and consider their ideas, incorporating those that are necessary for the student to benefit
- Don't rush through meetings so much that you forget to cover a necessary item or area of the student's FAPE
- Make sure someone on team knows the proper procedures and IDEA
- Document, document, document!
- 2004 IDEA amendments state: Hearing Officers may find procedural errors if they impeded the student's right to FAPE, significantly impair the parents' rights to participate, or cause a deprivation to educational benefits