

DEALING WITH DANGEROUS STUDENTS

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A Place of Special Danger

- “School attendance can expose students to threats to their physical safety that they would not otherwise face.”
- “Students may be compelled on a daily basis to spend time at close quarters with other students who may do them harm. Experience shows that schools can be places of special danger.”
- Justice Alito: *Frederick v. Morse* (2007)

Dilemma

- IDEA imposes two requirements that are in tension with each other.
- You have a duty to provide an appropriate education to every student, regardless of the student’s behavior.
- You also have a duty to maintain a safe and orderly campus.

The Supreme Court Speaks



- “We think it clear, however, that Congress very much meant to strip schools of the unilateral authority they had traditionally employed to exclude disabled students, particularly emotionally disturbed students, from school.”
- *Honig v. Doe*, 1988.
- So your authority is limited.

How to Resolve the Tension



- For the most part, the tension between these competing duties must be resolved **INDIVIDUALLY** by each student’s IEP Team.
- But there are also tools in the administrative toolbox.

The Tension Illustrated in *Vincent v. Kenosha Unified Sch. Dist.* (E.D. Wis. 2012)



- BV’s behaviors include visual/auditory hallucinations, assaultive/biting behavior, and low frustration tolerance.
- Her diagnoses have included Childhood Schizophrenia, Psychotic Disorder NOS, Communication Disorder NOS, Childhood Disintegrative Disorder, and Disruptive Behavior Disorder NOS.
- “Regardless of the diagnosis, there is no dispute that BV is disabled, and is prone to random aggressive tendencies including hitting and scratching those persons within her proximity as a manifestation of her disability.”

The Tension Illustrated in *Vincent v. Kenosha Unified Sch. Dist.* (E.D. Wis. 2012)



- For 2 years, BV resided at Alabama's Laurel Oaks Behavioral Health Center pursuant to court order initiated by the child welfare agency. After being discharged from Laurel Oaks to live with her parents, BV experienced severe mood swings, bizarre behavior, and incidents where she became physically aggressive without apparent provocation or reason. As a result, she was admitted by her parents to the Winnebago State Mental Health Institute until 8/6/08, and then was hospitalized at Children's Hospital of Wisconsin from 8/28/08 until 9/2/08.

The Tension Illustrated in *Vincent v. Kenosha Unified Sch. Dist.* (E.D. Wis. 2012)



- KUSD convened the first IEP team meeting for BV on 9/10/08, to develop an IEP for the 2008-2009 academic year. It was determined that she needed a complete reevaluation.
- In the meantime, it was decided that she would receive two days per week for one hour each day of instruction after school hours but in a "school setting." These services were referred to as "homebound" because they would be delivered after school when no other children were present. Additionally, she was to receive speech and language therapy services of 30 minutes once a month.

The Tension Illustrated in *Vincent v. Kenosha Unified Sch. Dist.* (E.D. Wis. 2012)



- BV performed well on the first day and had no incident of aggressive behavior. The next day, BV was physically aggressive towards her teacher and bit herself, and had to be restrained.
- The teacher expressed concerns about continuing to provide services due to safety. A second teacher expressed the same reluctance. Therefore, KUSD informed BV's parents that it was discontinuing services. Services were unilaterally discontinued.

The Tension Illustrated in *Vincent v. Kenosha Unified Sch. Dist.* (E.D. Wis. 2012)



- On 10/13/08, KUSD requested by letter parental consent to conduct a reevaluation. The reevaluation process stretched out through the spring and involved seventeen to eighteen evaluators. During this time period, KUSD provided related services and sporadic academic instruction.
- The court ordered further proceedings to determine the compensatory education owed by KUSD for unilaterally suspending services to BV, and extending the time to reevaluate her.

Your Toolbox: Ten Tools



1. BIPs.
2. Educational change of placement, with agreement.
3. Educational change of placement, without agreement.
4. Expedited hearing.
5. "Special circumstances" removal.
6. Disciplinary change of placement.
7. 10-day "FAPE-Free Zone."
8. Short term removal AFTER FAPE-Free Zone.
9. Leadership at the non-consensus IEP meeting.
10. Law enforcement involvement.



Tool #1: BIPs



- Positive behavior strategies and supports.
- Proactive; Individualized; Focused on identified behaviors;
- If inappropriate behaviors continue at the same rate, BIP is not working.
- Review and revise.

BIPs and The Role of the IEP Team



- The IEP Team must— “In the case of a child whose behavior impedes the child’s learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior....”

34 C.F.R. § 300.324(a)(2)(i).

BIPs in the Context of Discipline



Determination that behavior was a manifestation [no special circumstances]. 34 C.F.R. § 300.530(f)(1).	Determination that behavior was not a manifestation or when special circumstances exist (drugs, weapons, serious bodily injury). 34 C.F.R. § 300.530(d)(1)(ii).
If the LEA, the parent, and relevant members of the IEP Team make the determination that the conduct was a manifestation of the child’s disability, the IEP Team must—	A child with a disability who is removed from the child’s current placement pursuant to paragraphs (c) [authority to remove for behavior that is not a manifestation of the disability], or (g) [authority to remove for up to 45 school days for special circumstances] of this section must—
(1) Either— (i) Conduct a functional behavioral assessment, unless the LEA had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the child; or (ii) If a behavioral intervention plan already has been developed, review the behavioral intervention plan, and modify it, as necessary, to address the behavior...	... (ii) Receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur.

U.S. Department of Education on BIPs

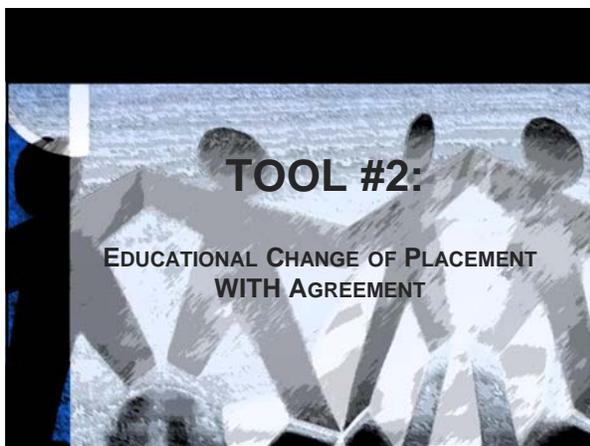


- "...FBAs and BIPs must ... be used proactively if the IEP Team determines that they would be appropriate for the child. For a child with a disability whose behavior impedes his or her learning or that of others, and for whom the IEP Team has decided that a BIP is appropriate, or for a child with a disability whose violation of the code of student conduct is a manifestation of the child's disability, the IEP Team must include a BIP in the child's IEP to address the behavioral needs of the child." *Questions and Answers on Discipline Procedures* (OSERS 2009).

Physical Restraint



- Physical restraint is for emergencies only--not the type of "positive behavior intervention" that should go into a BIP.
- But parents should be on notice that restraint will be used in an emergency.
- Be prepared for the request to prohibit or limit physical restraint.



Tool #2: Educational C.O.P. with Parental Agreement



- If the behavior is a manifestation, the school must “return the child to the placement from which the child was removed.” 34 C.F.R. § 300.530(f)(2).
- Two exceptions to this: First, “special circumstances” cases (see Tool #5).
- Second: “unless the parent and the LEA agree to a change of placement as part of the modification of the behavioral intervention plan.” 34 C.F.R. § 300.530(f)(2).

Tool #2: Disciplinary Removal?



- Q A-1: “When the parent(s) of a child and the school personnel are in agreement about the child’s change of placement after the child has violated a code of student conduct, is it considered to be a removal under the discipline provisions?”
- A: “No, if the parent(s) of a child and the school district agree to a specific change in the current educational placement of the child.”

Questions and Answers on Discipline Procedures, 52 IDELR 231 (OSERS 2009).

Tool #2: Good Example



See *Doe v. Todd County School District*, 55 IDELR 185 (8th Cir. 2010).

- Grandmother signed off on “agreement” at IEP Team meeting. Court held her to that agreement, even though court was skeptical that grandmother understood that she did not have to agree.
- Schools should be sure parents understand before they agree.
- Document in the PWN: Example: “Parent was informed that because the behavior is a manifestation of the child’s disability, without parental agreement to this change of placement, the child would have to be returned to the placement from which the child was removed. Parent agrees to the change of placement. Parent understands that she does not have to agree.”



Tool #3: Educational C.O.P. without Parental Agreement

- Schools always have the option of proposing a change of placement to a more restrictive environment rather than discipline.
- This does not require an MDR because it is not a disciplinary change of placement.
- It should **ONLY** be done if the disability is such that it requires a more restrictive setting.
- Like any change of placement (C.O.P.), this requires parental agreement, or a willingness to defend the decision in hearing.

How to Think About Tool #3

- Moving a student to a more restrictive environment is an admission of failure, since the goal is to serve the student in the LRE.
- To justify this, schools must be able to show that (1) it has made good faith, consistent efforts to enable the student to succeed in a LRE, and (2) the more restrictive environment offers services likely to improve student performance.

LRE Mandate



- The IDEA requires that “to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in the regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.”

20 U.S.C. § 1412(a)(5)(A).

Full Continuum of Placements



- “Each public agency shall ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services.” 34 C.F.R. § 300.115(a).
- “The continuum ... must ... make provision for supplementary services ... to be provided in conjunction with regular class placement.” 34 C.F.R. § 300.115(b)(2).

How to Use Tool #3: Making the Determination



- The IEP must include “a statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable.” 34 C.F.R. § 300.320(a)(4).
- The placement decision must be based on the child's IEP. 34 C.F.R. § 300.116(b)(2).
- The IEP must include an “explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the [extracurricular and nonacademic].” 34 C.F.R. § 300.320(a)(5).

How to Use Tool #3: Prior Written Notice



- “The purpose of the written notice requirement is to inform parents of a public agency’s final action on a proposal or refusal to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education (FAPE) to a particular child.”
- “Regardless of how a change to the above factors is suggested, it is the responsibility of the public agency to make a final decision and actually implement any determined change.”

Letter to Lieberman, 52 IDELR 18 (OSEP 2008)

Potential Consequence: Stay-Put



- “During the pendency of any administrative or judicial proceeding regarding a due process complaint notice requesting a due process hearing under § 300.507, unless the State or local agency and the parents of the child agree otherwise, the child involved in the complaint must remain in his or her current educational placement.” 34 C.F.R. § 300.518.

H.D. v. Central Bucks Sch. Dist., 59 IDELR 275 (D. Pa. 2012)



- Court held the school district offered the student a FAPE in the LRE.
- Actions taken before recommending placement in a behavioral support program on another campus:
 - Completed and incorporated findings from an FBA
 - Made numerous revisions to the student’s BIP
 - Considered data from a BCBA
 - Provided classroom behavioral supports
 - Provided one-to-one pull-out support from the psychologist.



Tool #4: Expedited Hearing 

- If the school “believes that maintaining the current placement of the child is substantially likely to result in injury to the child or others” it “may appeal the decision by requesting a hearing.” 34 C.F.R. § 300.532(a).
- The “decision” referred to is the manifestation determination.
- How does this happen? See Next Slide...

Tool #4: How This Happens 

- IEP Team concludes that behavior is a manifestation of disability. Parents do not agree to a change of placement (Tool #2); nor do we have “special circumstances” (Tool #5).
- Thus the student must be returned to the current placement.
- School district deems this imminently dangerous, and thus employs Tool #4 by requesting a special education due process hearing.

Tool #4: What does it look like?



The hearing is expedited:

- The hearing “must occur within 20 school days of the date the complaint requesting the hearing is filed.”
- “The hearing officer must make a determination within 10 school days after the hearing.”

34 C.F.R. § 300.532(c)(2).

Tool #4: What is stay-put?



“[T]he child must remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the time period specified in § 300.530(c) [length of disciplinary assignment] or (g) [45 school days], whichever occurs first, unless the parent and the SEA or LEA agree otherwise.” 34 C.F.R. § 300.533.

Walton Cent. Sch. Dist. v. Kirk, 28 IDELR 597 (N.D.N.Y. 1998)



The Standard:

- The School District must show that maintaining the current placement of the child is substantially likely to result in injury to the child or others.
- As part of that showing, the court held, the school district must also show that it “has done all that it reasonably can to reduce the risk that the child will cause injury.”
- The actual occurrence of serious injury is not required.

Walton Cent. Sch. Dist. v. Kirk, 28 IDELR 597 (N.D.N.Y. 1998)



Standard Met:

- “The record is replete with numerous instances of Barringer's aggressive behavior toward both students and administrators, culminating with the assault on Principal Shirkey that precipitated the proposed change in placement. During that incident, Barringer punched and kicked Shirkey, and bit and punched two teachers. After this lawsuit was initiated, Barringer's behavior continued...”

Walton Cent. Sch. Dist. v. Kirk, 28 IDELR 597 (N.D.N.Y. 1998)



Standard Met:

- “After a confrontation in January of this year during which Barringer, who is not unfamiliar with the operation of firearms, threatened two students with remarks such as ‘I’ll get you mother f***r; you’re a dead man; I’ll kill you; I’ll put a bullet in the back of your head; I’ll slit your throat b***. . . I’ll f***g kill you,’ he addressed administrators’ attempts to intercede by threatening ‘I’ll f***ing go after them too.’”
- There was also expert testimony to support school’s position.



Tool #5: "Special Circumstances"



- Schools can order removal to IAES (Interim Alternative Educational Setting) for up to 45 school days without regard to manifestation in three situations:
 - Carrying or possessing a weapon;
 - Knowingly possessing, using, selling or soliciting the sale of illegal drugs;
 - Inflicting "serious bodily injury."
- 34 C.F.R. § 300.530(g).

Definitions



- "Weapon has the meaning given the term 'dangerous weapon' under paragraph (2) of the first subsection (g) of section 930 of title 18, United States Code." 34 C.F.R § 300.530(i)(4).
- "The term 'dangerous weapon' means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than 2 1/2 inches in length." 18 U.S.C. § 930(g)(2).

Definitions



- "Illegal drug means a controlled substance; but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under that Act or under any other provision of Federal law." 34 C.F.R. § 300.530(i)(2).
- "Controlled substance means a drug or other substance identified under schedules I, II, III, IV, or V in section (21 U.S.C. 812(c))." 34 C.F.R. § 300.530(i)(1).

Definitions



- “Serious bodily injury has the meaning given the term ‘serious bodily injury’ under paragraph (3) of subsection (h) of section 1365 of title 18, United States Code.” 34 C.F.R. § 300.530(i)(3).
- IDEA borrows it from Title 18 of the United States Code. Title 18 is the federal criminal and penal code of the United States Government.

Definitions



- “The term ‘serious bodily injury’ means bodily injury which involves—
- (A) a substantial risk of death
 - (B) extreme physical pain;
 - (C) protracted and obvious disfigurement; or
 - (D) protracted loss or impairment of the function of a bodily member, organ, or mental faculty.”
- 19 U.S.C. § 1365(h)(3).

Definitions



- Compare the definition of “serious bodily injury” (a special circumstance) to “bodily injury” (not a special circumstance):
- The term “bodily injury” means—
- (A) a cut, abrasion, bruise, burn, or disfigurement;
 - (B) physical pain;
 - (C) illness;
 - (D) impairment of the function of a bodily member, organ, or mental faculty; or
 - (E) any other injury to the body, no matter how temporary.
- 18 U.S.C. § 1365(h)(4).

Tool #5: MDR?



- Even in cases of “special circumstances” the IEP Team must conduct an MDR.
- However, the outcome of the MDR does not drive the placement decision. Student can go to IAES regardless.
- The student must also “receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur.” 34 C.F.R. § 300.530(d)(1)(ii).

Kicked Shin, Stomped Toes in West Virginia



- 4th grader kicks teacher in the shins, and stomps on her toes.
- Redness, but no bruises or bleeding. Teacher goes home, but did not require immediate medical attention.
- Ruling: teacher was in PAIN but not EXTREME PAIN.
- This is not a “serious bodily injury.”

In re Student with a Disability, 108 LRP 45824 (SEA W. Va. 2008)

Broken Nose in Pennsylvania



- “Student kicked and punched the other student several times, breaking the other student’s nose.”
- Pennsylvania hearing officer: “Student’s behavior was injurious, frightening and intimidating” but “a broken nose does not fit within IDEA’s narrow definition of serious bodily injury.”

Quote from Hearing Officer



“For what it’s worth, I note that a unilateral IAES [Interim Alternative Educational Setting] is an extraordinary governmental power that deprives disabled children of the pendency protections usually associated with most other disputed changes in placement. Apparently, Congress intended this power to be used only in the most egregious circumstances.”

Pocono Mountain School District, 109 LRP 26432 (SEA Pa. 2008).

Kicked in the Knee in Arizona



- Student continued to escalate even after the classroom was cleared of other students. Principal is called. Teacher, aide and principal attempt physical restraint.
- Principal uses cell to call for help; student tried to grab phone; student kicked principal in the knee.

How Bad Was It?



- Principal was in pain, but not extreme pain. He did not cry out, drop to the floor, become unconscious or call for ambulance.
- Did not see a doctor until three weeks later. Took Aleve and used ice. Knee was swollen, shoulder hurt.
- School violated the law by removing the student to IAES.

Bisbee Unified Sch. Dist. No. 2, 54 IDELR 39 (SEA Ariz. 2010).

Punched in the Head in Kansas



- 83-pound 12-year old punched teacher aide in the head four times.
- Aide rated it as a 7 out of 10 on pain scale. Said she had experienced worse in her lifetime.
- Dizzy. Blurry vision. Took Advil, which worked.
- Not a “serious bodily injury.”

In re Student with a Disability, 54 IDELR 139 (SEA Kan. 2010)

Concussion in California



- “Student’s conduct that resulted in a mild concussion to one pupil and a broken nose to another pupil did not involve serious bodily injury. There was no evidence of extreme physical pain, substantial risk of death, or protracted injuries of the kind described in the federal definition.”

Tehachapi Unified Sch. Dist., 106 LRP 22450 (SEA Cal. 2006)

Biting the Arm in Colorado



- “Student was involved in an incident at the School that escalated to the point where he assaulted District administrative and security personnel, and bit one staff member on the arm, causing injury.”
- This behavior was “violent” and “extremely troubling” but did not meet “the stringent definition of ‘serious bodily injury.’”

El Paso County Sch. Dist. Eleven, 107 LRP 33382 (SEA Colo. 2007)

What About Rape?



- “Certain federal cases have held that rape met this definition of serious bodily injury because the victim suffered protracted impairment of mental faculties.”

Questions and Answers on Discipline Procedures, Question B-1, 52 IDELR 231 (OSERS Revised June 2009).



Tool #6: Disciplinary Change of Placement



- The school can propose disciplinary action in excess of 10 consecutive school days.
- Must be based on violation of the code of conduct.
- Must be equal treatment with non-disabled student.
- Must NOT be a manifestation of disability.

Tool #6: The Regulation



“For disciplinary changes in placement...if the behavior that gave rise to the violation of the school code is determined not to be a manifestation.....school personnel may apply the relevant disciplinary procedures....in the same manner and for the same duration as the procedures would be applied to children without disabilities, except as provided in paragraph (d) of this section.” 34 C.F.R. § 300.530(c).

Tool #6: Process



- School officials determine that the student violated code of conduct.
- IEP Team conducts manifestation determination.
- If NOT a manifestation, disciplinary removal occurs, but...
- School must continue to provide appropriate services.

Tool #6: Role of IEP Team following MDR



- The IEP Team:
- Decides the services necessary “to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child’s IEP.” 34 C.F.R. § 300.530(d)(1)(i).
 - Determines “the interim alternative educational setting for services....” 34 C.F.R. §300.531.
 - Ensures that the child receives “as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.” 34 C.F.R. § 300.530(d)(1)(ii).



Tool #7: FAPE Free Zone

- It is not a denial of FAPE to fail to serve a student for ten school days, cumulatively, during a school year.
- No services are required, so long as non-disabled students would be treated the same for similar misconduct.

See 34 C.F.R. §§ 300.530(b)(1) and (d)(3).

34 C.F.R. § 300.530(d)(3).

- "A public agency is only required to provide services during periods of removal to a child with a disability who has been removed from his or her current placement for 10 school days or less in that school year, if it provides services to a child without disabilities who is similarly removed." 34 C.F.R. §300.530(d)(3).



Summary and Limits on Tool #8

- The school must determine if this “subsequent” removal, combined with earlier removals, has created a “change of placement” (C.O.P.)
- Tool #8 is not available if the removal constitutes a change of placement.
- If not a C.O.P., those “subsequent days of removal” must be accompanied by services.
- You must consult with a teacher about what services are needed.

Tool #8: Short Term Removals After FFZ

- “School personnel...may remove a child with a disability who violates a code of student conduct from his or her current placement to an appropriate interim alternative education setting, another setting, or suspension, for not more than 10 consecutive school days (to the extent those alternatives are applied to children without disabilities), **and for additional removals of not more than 10 consecutive school days in that same school year for separate incidents of misconduct (as long as those removals do not constitute a change of placement under §300.536).**” 34 C.F.R. § 300.530(b)(1) *(emphasis added)*.

Change of Placement Arising from Short-Term Cumulative Removals



There is a cumulative day change of placement:

- The child has been subjected to a series of removals that constitute a pattern—
 - (i) Because the series of removals total more than 10 school days in a school year;
 - (ii) Because the child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals; and
 - (iii) Because of such additional factors as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another.

34 C.F.R. §300.536(a)(2).

Tool #8: Services During Short Term Removals After FFZ



- "After a child with a disability has been removed from his or her current placement for 10 school days in the same school year, during any subsequent days of removal the public agency must provide services to [enable the child to participate in the general curriculum and progress toward meeting IEP goals]." 34 C.F.R. § 300.530(b)(2).

Tool #8: Who decides services during short term removals after FFZ?

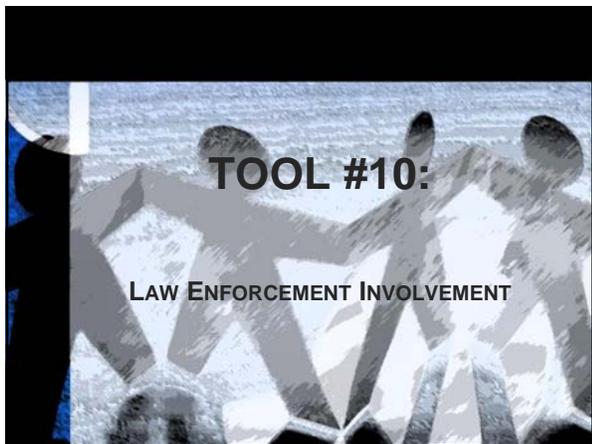


- "[S]chool personnel, in consultation with at least one of the child's teachers, [must] determine the extent to which services are needed, as provided in § 300.101(a)[guarantee of a FAPE], so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP." 34 C.F.R. § 300.530(d)(4).



Tool #9: Leadership at the Non-Consensus IEP Meeting 

- Many of these tools require IEP team action. Many of those IEP meetings will end in non-consensus.
- IEP teams can come to closure without consensus, but that process requires leadership.
- Remember that in special ed, leaders listen first; then lead.
- The leader takes responsibility for clear communication with the parent.



Tool #10: Law Enforcement



IDEA expressly acknowledges that school officials can report alleged crimes to law enforcement:

- “Nothing in this part prohibits an agency from reporting a crime committed by a child with a disability to appropriate authorities or prevents State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a child with a disability.” 34 C.F.R. § 300.535(a).

Tool #10: Law Enforcement



- As OSERS notes: “Under most State and local laws, school personnel must report certain crimes that occur on school grounds to the appropriate authorities.”

Questions and Answers on Discipline Procedures, Question B-1, 52 IDELR 231 (OSERS Revised June 2009).

Tool #10: Controversy



- Schools are getting much criticism over the use of criminal procedures, like ticketing and citations, for minor offenses.
- No one questions the authority of the school to file criminal charges for serious misconduct.

Tool #10: Sending the Records



- When reporting a possible crime, you must send copies of the “special education and disciplinary records” for consideration by the authorities to whom you report.
- But this transmission of records must be in conformity with FERPA. Therefore, you must have parental consent, or fit within an exception to parental consent.

Tool #10: Sending the Records 34 C.F.R. § 300.535(b)



“Transmittal of records.

- (1) An agency reporting a crime committed by a child with a disability must ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom the agency reports the crime.
- (2) An agency reporting a crime under this section may transmit copies of the child’s special education and disciplinary records only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act.”

How to Proceed



- When you think it is time to use one of these tools, start with this: will I propose an EDUCATIONAL change, or a DISCIPLINARY REMOVAL?
- This is based on your preliminary view of the connection between disability and behavior.

Remember.....

- If Tool #1 works, you won't need the other 9.
- Focus on crafting and monitoring strong BIPs.
- Your IAES and your MRE "more restrictive environment" should also focus on improved behavior.
- Lobby your district to create strong, quality IAES and self-contained units.

The information in this handout was created by Walsh, Anderson, Gallegos, Green and Treviño, P.C. It is intended to be used for general information only and is not to be considered specific legal advice. If specific legal advice is sought, consult an attorney.

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