



Volume 2, Issue 1
Surviving a Special Education
Conflict

Released:
October 17, 2013

Berrien Regional Education Service Agency's

Special Education SENTINEL

A NEWSLETTER FOR SPECIAL EDUCATION STAFF IN BERRIEN COUNTY

Contact Information:

Berrien Regional Education
Service Agency
711 St. Joseph Ave.
Berrien Springs, MI
49103-1583
(269) 471-7725
www.berrienresa.org

Eric Hoppstock
Assistant Superintendent/
Chief Academic Officer
eric.hoppstock@berrienresa.org

Craig Blasko
Supervisor of Ancillary Services and
Programs
craig.blasko@berrienresa.org

Shari Lidgard-Pullins,
Supervisor of Ancillary Services and
Compliance
shari.lidgard@berrienresa.org

Tina Lawson
Principal, Blossomland Learning Center
tina.lawson@berrienresa.org

Sally Brueck
Asst. Principal,
Blossomland Learning Center
sally.brueck@berrienresa.org

Mike Marinello
Principal, Lighthouse Education Center
mike.marinello@berrienresa.org

Sandi Brueck
Asst. Principal,
Lighthouse Education Center
sandi.brueck@berrienresa.org

The views and perspectives shared in
the "Special Education Sentinel" may
not necessarily reflect those of the
Berrien Regional Education Service
Agency, affiliated schools, staff or
board members.

To receive the "Special Education
Sentinel" electronically, please visit
www.berrienresa.org and visit the
Communication page. Additional
newsletters are also available.

Surviving a Special Education Conflict

The Michigan Department of Education (MDE), Office of Special Education and Early Intervention Services (OSE-EIS), reports that special education due process complaints are on the rise. This is consistent with a trend around the county seeing more and more complaints relative to special education. Despite all the procedural requirements and safeguards conflicts exist and once they begin, it will likely impact the entire staff within the building. There are no easy, quick fixes to make conflict go away and usually the conflict has been brewing for some time before it presents itself, usually at the most inconvenient of times. By anticipating conflict and developing the processes and skills to deal with conflict you can substantially reduce the number of conflicts and lessen their severity when they arise.

Sherry Hall Culves (Surviving a Special Education Battle, American School Board Journal, October 2013) focuses on 10 steps you can take to plan for, assess, and mitigate the risks associated with costly special education conflicts.

- 1. Triage your caseload** – Know which cases are likely to explode. Nurture the family and address communication lapses, try to resolve programmatic concerns before they get worse. At the same time, consider compiling records, audit records and identify areas of concern. Shore up deficiencies now, so if you have to you can testify that the concerns have been addressed.
- 2. Know your procedural requirements** – Special education is full of procedural requirements that will trip up even the most seasoned special education personnel. Create checklists, timelines, and responsibility charts to help your system stay afloat and avoid procedural violations. Missing deadlines is one of the most common procedural violations that schools make in following special education rules. Also, watch out for rules relating to student discipline, prior written notice, education evaluations, and implementation of an IEP.
- 3. Don't create inflexible mandates** – It is not about what "we" provide, it is about what the student needs. Schools often forget this and let their "own" rules do them in. For example, "we only provide so many weeks of support" or "we don't use that program here" can be a violation of the student's needs. Be aware the "one-size" rules do not fit all.
- 4. Don't let administrators get sidelined** – Compartmentalize staff duties. Too often, the bright stars of a department are overrun with responsibilities and pulled in many different directions. Separation of duties will ensure that you don't keep putting a Band-Aid on the problem. Leaving the extraordinary cases to novice or ill-equipped IEP teams is a recipe for disaster. Most districts believe that their special education coordinators can fill this roll, but experience has shown that a designated triage team is the better course.



- 
5. **Be an advocate for process** – A slippery slope develops when schools bypass the IEP process and a lone administrator agrees to IEP services or placements in order to make a family happy and a potential dispute go away. You may have effectively resolved the immediate problem, but that family will never believe they have to abide by the process again and neither will any of their friends (or their friends' friends).
 6. **Have a settlement plan** – Clearly define who has authority to settle cases on behalf of the district. You need to identify ahead of time the parameters of authority so that there is a consistent practice across the district, and the representatives attending mediations and early resolution sessions understand their authority. Some districts allow their special education director/coordinator to settle dispute as long as within their budget. Others require superintendent or board approval before any settlement can take place. You should work with your school lawyer ahead of time to develop a skeleton settlement agreement to use when going into early resolution sessions without their presence. Remember, the law only allows the district's lawyer to be present if the family has a lawyer in attendance. Finalize settlement language prior to ending a resolution session. The extra time is worth the effort and expense in the long run.
 7. **Don't let technology be a barrier** – If your IEP software won't do something, fix the problem or find a way to work around it. Do not allow the team's decisions to go undocumented. Be aware of the fact that most software systems track access and users and will reveal whether there have been breaches in confidentiality or a lack of dissemination of the IEP.
 8. **Support your teachers** – Navigating contentious IEP conflicts can drain the resolve of even the most dedicated teachers. It is critical that you support teachers involved in a dispute and give them the time and resources they need to do the extra work required to successfully make it through. On the other hand, teachers who are not fulfilling their duties and responsibilities must be quickly held accountable. An incompetent or unwilling teacher can quickly cost the district many times their annual salary.
 9. **Take disproportionality seriously** – The U.S. Department of Education and the Michigan Department of Education, Office of Special Education monitors districts to determine whether you are proportionately serving students based on race and ethnicity. When you fall out of the acceptable range, not only will you incur increased monitoring and reporting requirements, but you also give parents' attorneys a head start against you in their discrimination claims. Parents who are frustrated by IDEA's lack of damages provisions might use a disproportionality finding against you.
 10. **Invest in training** – Teachers need training too. The multitude of requirements on IEP teams—from data collection to procedural compliance to the newest trends in education—cannot be managed without substantive, high-quality training at every level. This would include school administrators and general education teachers. This is often one of the first items on the cutting block, but the move can cost dearly once conflict erupts. A properly trained and monitored staff is your front line of defense to successfully navigating special education conflicts.



Additional Resources

Culves, S.H. Surviving a Special Ed Battle, American School Board Journal, October 2013, pp. 23-25.

<http://www.asbj.com>

The Michigan Special Education Mediation Program (MSEMP) helps parents, educators, and service providers develop productive relationships for resolving issues in early intervention and special education.

<http://msemp.cenmi.org/>

