

63RD CONFERENCE ON EXCEPTIONAL CHILDREN

Believing In Achieving

SHERATON FOUR SEASONS | KOURY CONVENTION CENTER | GREENSBORO, NC



Brace for Impact: How to Successfully Survive Contentious Meetings and Legal Challenges

Dr. Mike Marcela
Exceptional Children Program Director
Watauga County Schools





Objectives

- Review the four types of legal challenges in NC;
- Tips on how to react, prepare for, behave during and survive legal challenges;
- Tips on handling contentious IEP meetings;
- Address questions.



Who is in our session?

- Administrators
 - EC Directors/Program Specialists
 - Principals/Assistant Principals
- Teachers
- Advocates
- Parents



• **Has anyone here...**

(by show of hands)

- Been part of state complaint, mediation or due process case?
- Is now part of a state complaint, mediation or due process case?
- Would like to be part of a state complaint, mediation or due process case?



Legal Options in IDEA / NC

- Independent Educational Evaluation (IEE);
- State Complaint;
- Mediation;
- Contested Case Hearing/Due Process.



Independent Educational Evaluations (IEE)

- Parent requests in writing;
- District must have completed their evaluation;
- District either provides or files due process;
 - Parameters on IEE: Cost, Evaluator, Location
- IEP team required to review results.



State Complaint

- Parent writes DPI;
- DPI determines if appropriate for state complaint;
- Sends letter to LEA;
- LEA has 20 calendar days to respond in writing;
- DPI investigates complaint;
- Letter of Finding within 60 calendar days of receipt of complaint.



Mediation

- Parent files for mediation with DPI or LEA;
- DPI notifies LEA and appoints mediator;
- LEA, Parent and Mediator arrange meeting;
- LEA has 30 calendar days to hold mediation;
- If successful, agreement in writing;
- If not successful, parent can file for due process.



Contested Case Hearing/ Due Process

- Parent (or LEA) files petition;
- DPI determines appropriateness and notifies LEA;
- Resolution Meeting within 15 calendar days;
- If no resolution, Mediation within 30 calendar days;
- If not resolved, goes to hearing;
- Hearing should occur with decision within 45 days.



Reacting to the News:

- Don't take it personally;
- Let others involved know immediately;
- Full disclosure to your LEA administrator;
- Gather any and all documentation;
- Prepare for future activities (Interviews, discussions, testimony, etc.)



Preparing for the next step(s)

- Review your documentation—know the situation;
- Pre-meet and discuss options for resolution;
- Realize that you are an expert!



During the Mediation/ Resolution meeting:

- Trust the process---it works!
- Be mindful of body language and facial expressions;
- Listen for underlying emotions, reasons and “key” words;
- Be patient while the parent speaks.



During the Mediation/ Resolution meeting:

- Feel free to talk about the issues at hand, but....
- Be careful what you say and how you say it;
(If you aren't sure if you should say something, it is probably best not to say it)
- It is okay to vent and talk freely with the mediator;
- Don't throw your fellow educators under the bus.



Drafting the Agreement

- Think outside the box;
- Think as if you are in the “magic room”;
- Only agree and put it writing things that you can and are willing to do;
- Be careful with the language you use---Clarity with appropriate detail is a MUST.



After it's over....

- Develop and implement the tenets of the agreement;
- Debrief with your school staff:
 - Everyone's reactions and feelings about the case;
 - What was good, what was not so good;
 - What can we change to avoid future difficulties;
 - Develop and implement a plan to change procedures;
 - Keep in touch with your administrator(s)



If it goes to court....

- Listen to your attorney;
- Know your documentation;
- Remember you are the expert;
- Stay calm, cool and collected.



Other items

- Personal liability and IDEA;
- Employment and involvement in legal challenges;
- The importance of documentation

63RD CONFERENCE ON EXCEPTIONAL CHILDREN

Believing In Achieving

SHERATON FOUR SEASONS | KOURY CONVENTION CENTER | GREENSBORO, NC



Preventative Measures:

Tips for Handling Contentious Meetings.





Prior to the Meeting:

- Pre-meet with school staff to discuss the meeting;
- Get the appropriate help in place;
- Prepare draft documents and share in advance;
- Draft an agenda;
- Gather the necessary information and resources.



During the Meeting:

- Set parameters for attendance;
- Set parameters for behavior:
 - Voice levels, Language, Topics, Scope
- Watch body language/reactions/wording, etc.
- Use effective meeting strategies:
 - Reminders, breaks, timekeeper, note-keeper



During the Meeting:

- Use a facilitator;
- Stay calm;
- Maintain the Integrity of the IEP team:
 - Don't bend unnecessarily just to avoid legal challenges;
 - Agree to disagree—it's ok for not everyone to be happy;
 - Provide Handbook of Parent's Rights.



After it's over....

- Debrief with your school staff:
 - Everyone's reactions and feelings about the meeting;
 - What was good, what was not so good;
 - What can we change to avoid future difficulties;
 - Develop a plan to implement your agreements;
 - Keep in touch with your administrator(s)
- Make sure you adhere to your agreements!



Questions?

- Contact:

Mike Marcela, Ed.D.
Watauga County Schools
175 Pioneer Trail
Boone, NC 28607

marcelam@watauga.k12.nc.us

828-264-7190