

General and Special Education Working Together Implementing an IEP

Presented by
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1

Background

- Parent disagreed with IEP and placement for 2004-05 school year.
- Parent placed hearing-impaired child in private program, sought reimbursement.
- Hearing officer ruled in favor of parent.
- Federal district court did, too.
- 5th Circuit affirmed. Parent wins. We learn.

2

Program not individualized on the basis of the student's evaluation and performance

- Parents' expert testified that the IEP did not provide for noise desensitization, sequencing training and gap-detection work.
- The expert's evaluation was not presented to the IEP Team and was done AFTER the IEP for the 2004-05 school year was prepared.
- But....

3

Program not individualized on the basis of the student's evaluation and performance

- The IEP Team had recommended an audiological evaluation over one year earlier.
- When the IEP for 2004-05 was prepared, the audiological evaluation had not been done.

4

Program not individualized on the basis of the student's evaluation and performance

“In light of [Dr.] Battin's testimony, we find that noise desensitization, sequencing training, and gap-detection work were necessary to address V.P.'s specific auditory-processing problems and were not offered merely as a means of maximizing her potential or making her more competitive with the other members of her class.”

5

Program violated LRE requirements

- Although the student was being educated in a regular classroom, the school violated LRE requirements.
- Court held that HISD failed to provide the services necessary to enable V.P. to be successful in the mainstream.

6

Program violated LRE requirements

- The teacher wore a mike, but the other students did not. This limited the benefit of interaction with non-disabled peers.
- The plan to have the mike passed around to students as they spoke was not implemented.
- V.P. removed her hearing aids before recess and there was no evidence that the IEP Team ever addressed this.

7

IEP Not Implemented

The problem was not with the IEP Team meetings; it was what happened between the meetings.

8

IEP Not Implemented: the FM System

“First, due to poor communication and collaboration...the FM loop system in V.P.’s classroom was out of service for approximately two months. Furthermore, while the FM loop was broken, school personnel allowed V.P. to wear the alternative headphone system over her hearing aids, which was improper and potentially harmful.”

9

IEP Disregarded

“Second, the special education chair instructed V.P.’s classroom teacher to provide testing and assignment modifications, despite the fact that no such modifications were included in V.P.’s IEP. The special education chair’s unilateral decision to change the IEP suggests a lack of coordination and collaboration with V.P.’s other key stakeholders.”

10

IEP Not Implemented: Content Mastery

“Third, the IEP Committee did not effectively communicate and collaborate to timely address V.P.’s failure to attend content mastery. Although there is evidence that V.P.’s mother made the decision...the school staff failed to follow up on V.P.’s extended absence.”

Note: The failure to attend went on for more than two months.

11

IEP Not Implemented: Where’s the Aide?

“Finally, V.P.’s classroom teacher testified that in November 2003, V.P.’s one-on-one aide stopped coming to work with V.P. for approximately three to four weeks at the direction of the school principal, despite the fact that V.P.’s IEP called for one-on-one assistance.”

12

Insufficient Training and Supports for School Personnel

“Although the school provided its personnel with a one-page tip sheet for working with an auditory or speech-impaired child, such minimal training was insufficient.”

The court also faulted the school for inadequate training of and by the nurse regarding the FM system.

13

Ineffective Teaching

“Moreover, despite such training, V.P.’s classroom teacher, one of the most important stakeholders, explained that she was unable to communicate effectively with V.P. and evaluate her progress.”

14

Student did not receive a meaningful educational benefit

- The district pointed to passing grades and promotion from first to second grade as evidence of progress.
- The district court disregarded the grades and promotion.
- The 5th Circuit found that the district court did not “clearly err.”

15

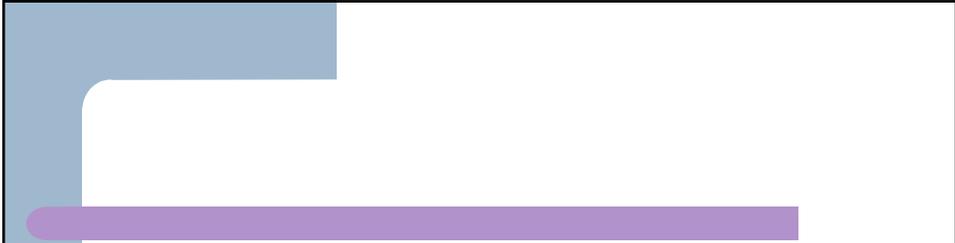
No meaningful educational benefit? “But she PASSED!”

Classroom teacher testified that V.P.’s grades improved when she started “modifying more work product for her, including giving her fewer test items.”

Teacher testified that without these modifications, V.P. would not pass.

Teacher made these modifications at the direction of the chair; they were not in the IEP.

16



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