

The Law and Special Education: Reading Response

Chapter 14 Reading Response- There are no specific page numbers on this, you've really got to cover the entire chapter on this one.

1. Describe how bullying and the school's response to it can be in violation of Section 504 of the Rehab Act and IDEA.

Because both of these laws have a part where the discrimination of students with disabilities, based solely on their disability, is against everything these laws stand for. In that understanding, bullying by peers, teachers, or school administrators is considered a violation of this law. Therefore, the school is held personally responsible for preventing and responding to disability-based harassment. Meaning the school, under these two laws, must provide a policy on harassment and bullying that will protect them from lawsuits and also in order to make it clear to the students the tolerance for bullying. These policies will also help make students more aware of the disabled culture.

2. Describe each of the 5 principle guidelines that schools must follow when dealing with bullying?

Principle 1: Develop and publicize the school district's policy for preventing and addressing bullying -- School districts need to adopt strong policies for preventing and addressing bullying, this should include; A statement of purpose, scope of the policy, the behavior the policy prohibits, specific procedures for reporting complaints, investigating complaints, and documenting actions taken, consequences for the offending student, and actions directed to the bully-victim, and monitoring procedures to ensure the policy is implemented correctly.

Principle 2: Adopt a research-based bullying prevention program -- If school districts use a program that has evidence of success and the program is communicated, publicized, and implemented with fidelity, the program will be more likely to prevent bullying rather than only having to deal with effects of bullying.

Principle 3: Provide professional development on prevention of bullying -- School districts should provide administrators, principals, teachers, staff, and the larger school community with up-to-date professional development activities to ensure that they use the research-based bully prevention programs with validity and understanding of them.

Principle 4: Be on the lookout for incidents of bullying -- Detecting and responding to bullying when it first occurs is extremely important. Bullying can take many forms, verbal, written, physical, and emotionally damaging acts, and can be done in secret, or out in the open.

Principle 5: Respond to incidents quickly and effectively -- The school personnel needs to eliminate the hostile environment created by the bullying, address the effects of the bullying on the victim, and take steps to ensure that the bullying does not recur.

3. List 5 of the requirements that charter schools must follow under the Every Student Succeeds Act.

- They are exempt from many state and local rules that inhibit the flexible operation and management of public schools.

- Must operate in pursuit of a specific set of educational objectives determined by the school's developer and agreed to by the authorized public chartering agency.
- Must agree to comply with the same Federal and State audit requirements as do other elementary schools and secondary schools in the State, unless such State audit requirements are waived by the State.
- Must meet all applicable Federal, State, and local health and safety requirements
- Has a written performance contract with the authorized public chartering agency in the State that includes a description of how student performance will be measured in charter schools compared to State assessments that are required of other schools and compared to any other assessments mutually agreeable to the authorized public chartering agency and the charter school.

4. Describe the obligations of charter schools in the context of IDEA and Section 504.

In respect to the IDEA, charter schools are considered public schools, so under that assumption, they have the same obligations law-wise as public schools. Their obligations include; "(a) publication and conduction of child find activities, (b) evaluate students suspected of having a disability and needing special education services, (c) provide special education and related services to eligible students with disabilities that confers a free appropriate public education (FAPE), (d) collaborate with a student's parents to develop an individualized education program that goes with his or her special education program, (e) place a student in the least restrictive environment (LRE) that is appropriate to the student's needs."(pg 361).

In respect to Section 504, charter schools within an LEA or a charter school operating as an LEA and receiving federal funding must follow the requirements of Section 504 of the Rehabilitation Act. Under this, these schools cannot discriminate based on disability. Although it is not required by the law, charter schools often have a Section 504 plan that lists the accommodations and modifications that help the student feel less discriminated by these schools.

5. Describe the 4 principles for charter schools with regard to students with disabilities that have come out of litigation and legislation.

Principle 1: Provide thorough professional development in federal education laws to charter school directors, administrators, teachers, and staff -- it is crucial that if charter schools are to meet the federal law requirements, the staff of those charter schools receive training in the requirements of IDEA, FERPA, Section 504 and any other federal education law. Also, they must be aware of any changes made to these laws by being updated every time there is a change.

Principle 2: Appoint a contact person in the charter school to address special education issues -- Every charter school should identify a primary staff member who is responsible for issues regarding special education.

Principle 3: Special education should be a foundational aspect of a charter school's educational program -- It is important to charter schools develop and maintain strong special education programs. When Charter schools have a positive learning environment that is sensitive to the needs of students with disabilities, not only do these students benefit, but all students do.

Principle 4: Charter schools must adhere to the IDEA regulations -- Even though Charter schools are free of many state regulations, they are still legally obligated to provide FAPE and the LRE.

6. What is the relationship between IDEA and RTI? List the 4 principles that have come out of litigation and legislation specific to IDEA and RTI.

The relationship between IDEA and RTI is mainly to deal with the problem of identifying students with learning disabilities, which was a harder one to diagnose. IDEA wanted to prohibit the use of discrepancy models that are unreliable in getting a diagnosis of learning disability and therefore RTI was born in order to provide that assessment for learning disabilities.

Principle 1: Ensure that school district administrators, teachers, and staff understand their responsibilities under the IDEA -- School districts should implement professional development activities to keep administrators, teachers, and staff aware of current developments in the law so that there is no need for due process hearings.

Principle 2: Develop an RTI/MTSS system based on best practices -- RTI is still relatively new, but there is a lot of evidence of what works best when using it.

Principle 3: Use instructional practices and progress monitoring systems that are based on evidence and research -- With respect to identifying students with disabilities, the data-based progress monitoring system is particularly important. Data gathered from RTI can help with decision making and seeing as to whether the student qualifies for special education.

Principle 4: Ensure that the RTI/MTSS system does not interfere with the IDEA's child find or evaluation requirements -- Schools that adopt or develop RTI systems must ensure this system does not interfere with the student's rights under IDEA. All these rights are far more important than RTI policies.

7. Describe each of the following under the Family Educational Rights and Privacy Act:

- a. Definition of Educational Records** — All records besides those records made by educational personnel that are in sole possession of the maker and are not accessible or revealed to other persons except substitutes (e.g., personal notes made by a child's teacher, a school psychologist's interview records) or records of the law enforcement unit of an educational agency, are covered by FERPA and the IDEA.
- b. Accessibility Rights** — "Parents and eligible students over 18 years of age have the right to see, inspect, reproduce, and challenge the accuracy of educational records." (Pg 372).
- c. Amending Records** — If parents find there is something missing or incorrect in the records, they can request the school to remend or fix these mistakes.
- d. Confidentiality of Information** — All files are confidential, so a third party cannot access records unless given permission by the parents of the student, or the student themselves if they are 18+.
- e. Destruction of Records** — When the LEA no longer needs a record, they must notify the parents and the parents can request a copy of the record or may request

that it be destroyed. If destruction is requested, LEA can keep records that are permanent but must destroy all others.

- f. Enforcement of FERPA** — Schools that are receiving federal financial assistance, violate FERPA when they deny parents access to records, to inspect and review.

8. Describe what Tort Laws are and the difference between intentional torts and negligence.

“Tort laws are laws that offer remedies to individuals harmed by the unreasonable actions of others.” (Pg.374). This law is the route of almost all civil suits. Intentional torts are when a person attempts or intends to harm another. This generally has to do with physical violence against others. On the other hand, negligence leads to an injury that is neither expected nor intended but is rather a result of conduct that falls below the standard of proper care of another human that often results in them injuring themselves.

9. Describe one of the personal injury suits that have been filed and received monetary damages.

Hatfield vs. O’Neill, In this case, the school nurse had noticed that some students with profound disabilities were coming to her office too often, and it was found that the Special Education teacher was hitting these students. Although she was fired, the parents decided to file an action against the school district and the teacher after she was acquitted of all aggravated child abuse. The court ruled in favor of the parents.

10. What is a defense of contributory liability?

If it can be shown that the student contributed to the injury, the teacher may use a defense of contributory negligence. The student’s age has a strong influence on whether or not the teacher is acquitted of charges or not since students who are under the age of six couldn’t likely do anything that would account for the teacher to have the right to harm them.

11. Describe the 4 principles that serve as lessons that outline what actions districts should take to ensure all involved parties are aware of their care and supervisory duties under the law.

Principle 1: Develop policies and procedures — School districts should develop policies regarding standards of care and supervision. These policies should be in writing and all staff should be aware of them.

Principle 2: Provide professional development — Staff should be trained in their responsibilities under the law and the training should emphasize the school’s personnel responsibilities regarding students’ safety and protection.

Principle 3: Involve students’ IEP teams of section 504 teams — A students’ IEP or section 504 team should address potential safety risks and plan for them. These plans should include actions that will be taken to minimize these risks.

Principle 4: If you see something occurring that you know to be wrong, report it to your supervisor — If any school employee sees something occurs that they think is wrong it should be reported to school officials.