

WHEN IT GETS PERSONAL:

***Strategies for Managing the Personal Side of Conflict, Disputes,
Complaints, Hearings and Litigation***

MASE Best Practices Institute 2009

May 8, 2009

**Presented By: Nancy Blumstein, Laura Tubbs Booth,
Karen Filla & Karen Orcutt**

**I. Introduction – Karen Filla – Telling the Story of a Special
Education Director’s Experience**

II. Strategies – Nancy Blumstein & Laura Tubbs Booth

A. Strategies To Implement Before a Conflict Occurs

1. Create the Expectation that Conflict Will Happen

- a) Set the expectation with your staff that complaints, hearings and litigation are going to happen and it’s not personal, nor is it necessarily a reflection on their performance
- b) Parents (and the District) are entitled to disagree and to use the procedures in the law to change the status quo
- c) The District has an obligation to ensure that parents know their rights
- d) The District has an obligation to ensure that staff become knowledgeable about the different types of conflicts that may arise and the forums in which they may need to defend their actions
- e) Staff persons need to understand if and/or how they may personally be affected by the conflict as well as the effect that a failure to prove its position may have on the School District

*This outline is intended to accompany a legal in-service. It is not legal advice.
Please consult your attorney with specific questions.*

2. Ownership

- a) As a District employee, when the staff acts, the District acts – foster a sense of “team” (“I did the testing on time, but the speech teacher never does”)
- b) Staff have a duty to the student and to the District – neither is served by acquiescing to demands that don’t serve the student or the District (“I knew that he had ASD but I agreed to vision therapy because the parent wanted it”)

3. Professional Detachment

- 1) Do not confuse a nice relationship with a parent with the need to be consciously competent and professional (“I don’t need data, mom really likes me”)
- 2) When the rubber meets the road, the MDE or a hearing officer will find staff are the experts (“I did not add written language to the IEP because mom did not want me to” will never be a defense)
- 3) Coach staff to create professional boundaries

4. Data is a Shield, Not a Burden

- a) Training should focus on efficient, effective ways to create and maintain data
- b) Data should be obviously linked to the IEP goals and objectives
- c) Data should be obviously aligned with state standards for grade level

III. When Hearing is Requested

A. Preparation is Key

This outline is intended to accompany a legal in-service. It is not legal advice. Please consult your attorney with specific questions.

1. Advise everyone involved of the request for hearing and provide the request to those that need it/want to review it
2. Establish communication
 - a) Set time to discuss how the process works
 - b) Set time for staff to discuss with you and among themselves what is concerning, bothering , angering them
 - c) Give staff an information packet (ie the complaint, response, the IEP , the last evaluation)
 - d) Assure staff that being involved does not suggest incompetency or lack of judgment, etc.

B. Provide Time

- 1) Recognize that staff may need time and assistance to get their records (data) in order – help them do this by providing someone who has been thru it or admin support to assist them
- 2) Consider giving staff time without student duties to get prepared

C. Provide Training

- 1) Staff should feel “consciously competent” before they testify (if they don’t understand the research basis to the reading program they deliver, there is no time like right now!)
- 2) Consider providing time for staff to meet with other experts in preparation for their testimony
- 3) Consider time for staff to work on hearing preparation and not be responsible for students and paper work

D. Attorney Time

- 1) Discuss the lack of personal liability with staff

This outline is intended to accompany a legal in-service. It is not legal advice. Please consult your attorney with specific questions.

- 2) Help them understand the process
- 3) Prepare for cross-examination
- 4) Recognize expertise (IDEA makes teachers experts; attorneys are not educational experts)
- 5) Use special education training to be a better witness

IV. After the Hearing

A. Decompress

- 1) Build in time to discuss what occurred
- 2) Affirm “out-loud” the competencies of those involved; reinforce that this is just a part of the process

B. Celebrate

- 1) The ending of the process
- 2) The good work of staff

C. Seize the Moment

- 1) Use the opportunity to learn how to program better, relate differently, avoid problems in the future
- 2) Ask staff involved to share the experience and train others

V. Conclusion – Resiliency - Dr. Karen Orcutt

A. Your Questions?

*This outline is intended to accompany a legal in-service. It is not legal advice.
Please consult your attorney with specific questions.*