

Summer, 2014

Baseball and Special Ed

by Kim Gibbons
MASE President and Executive Director
St. Croix River Education District

Although I enjoy America's pastime as much as the next person, I am not a baseball authority. But I do know a thing or two about teams, which is why I appreciate this quote by the baseball great, Casey Stengel, "Gettin' good players is easy. Gettin' 'em to play together is the hard part."

In each of our professional practices, "gettin' 'em to play together" is a focal and sometimes challenging goal. When we consider the multitudes of people involved in meeting the goals of our organizations, leading everyone in support of those goals is a rather impressive accomplishment. So as we complete the 2013-14 school year, I'd like to congratulate you on your leadership, thank you for persevering during the challenges, and celebrate with you the remarkable work you do every day to support the success of all of our students.

MASE's mission statement is, "MASE builds strong leaders who work on behalf of students with disabilities." The emphasis on leadership

is important. We all know the themes. Managers oversee current systems; leaders create the framework for the future. Managers drive toward order; leaders are comfortable with change chaos. Managers insure safety; leaders take calculated risks. Managers focus on established process; leaders focus on innovation. Et cetera. But knowing the themes and living as a leader are very different. Leadership is as difficult as it is rewarding, and so when I congratulate you on your leadership, I applaud you for taking those chances and making those changes that make the really big differences for our students.



Kim Gibbons

In these times of rapid, pervasive change, we encounter new challenges and possibilities almost daily. As leaders, we persevere, and find resources and solutions that we hadn't even imagined in the past. While we grapple with chaos, we find opportunities. Just think about how our ability to meet individual student needs has changed because of the existence of resources that not long ago we couldn't even imagine.

This year, we began a significant collaboration to address one of our greatest challenges. We know that students with learning disabilities amount to about 50 percent of those receiving special education services nationwide. Of the students who qualify as specific learning disabled, the majority qualify because they can't read.

Baseball...
Continued on Page 5

inside ...

Association Update	2
2014 Legislative Session Wrap-up	4
What I Learned During 40 Years of Service	6
The Results Are In	8
On the Move	9
2014 Stenswick-Benson Scholarship	9
Navigating the Bermuda Triangle	10
MASE Calendar	14

Association Update

by John Klaber
MASE Executive Director

As I write this last of the 2014 newsletter articles from the executive director of MASE, I reflect on the current school year and our efforts to influence the actions of those who have a significant impact on our lives as educational leaders serving students with disabilities.

First, the legislature is still in session, so we will have to await a final analysis of their work. We do have new statute regarding student behavior (bullying) and the school districts' responsibility to address such behavior. We made the sponsors of the bill aware of our organization's endorsement of the final negotiated version of the legislation. The work on a state-supported electronic special education paperwork system is marching forward. While we were not successful in stopping the perfect feel-good bill that on its own cannot address the challenges of excessive paperwork, we were able to influence the timelines for full implementation and other language. Four MASE members are representing our organization on a MDE work group helping to develop the RFP. Having had the opportunity to observe, firsthand, the efforts of that work group, I can assure you that our folks are ensuring that your interests are well represented and when ever possible are moving the conversation towards true paperwork reduction. MTSS, a plank of our legislative platform, appears to be moving forward slowly. A study group, including the University of Minnesota, is directed to complete further research and make a recommendation to the legislature. Discrepancy model language remains.

Second, earlier this school year, the Division of Compliance and Assistance at MDE posted open leadership positions. You, our members and our organization as a whole, contacted the commissioner asking that MDE view this as an opportunity to bring on board individuals who had experience walking in the shoes of those who have to implement special education rule. We also asked that consideration be given to formally bringing together the policy and compliance and assistance divisions as a single

department. While the latter may have been considered, there is no evidence that such a decision has been made. By contrast, our members share with me that their interactions with the Division of Compliance and Assistance under this new leadership has been noticeably more positive with a focus on assisting school districts in their efforts to be compliant. There is a growing sense that division staff are attempting to team with school districts and their efforts to effectively serve students with disabilities rather than appearing to be trying to catch us being bad.

Third, through the efforts of our Legislative Committee we had the largest turnout ever for our day at the capitol. Many MASE members visited multiple senators and representatives sharing with them our concerns and interests. In so doing, they elevated the status of our organization and have set the stage for an even larger presence next year. I would also remind you of the importance of actively supporting the campaigns of candidates who endorse our work. You may use our platform as a guide.

Fourth, under the leadership of our current president, Kim Gibbons we have reached out to the leaders of the organizations representing elementary principals, middle/secondary principals, curriculum directors and superintendents to further our desire to team with them on behalf of all students, not just those with identified disabilities. To bring home to them that we truly believe that all students are best served when we all work together on their behalf, we emphasized the delivery of high quality differentiated instruction in the regular education setting and where we can find opportunities to share our skills and resources. We are attempting to bring down the silos created by special laws, rules and even specific



John Klaber

**Update ...
Continued on Page 3**

**IMPACT
Summer, 2014**

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John Klaber

Update ... Continued from Page 2

funding codes.

Fifth, in preparation for writing this article, I think about leaders in our organization, past and present. At the risk of failing to recognize truly deserving individuals, I want to mention the following: We are in very good hands with the likes of Kim Gibbons, Cherie Johnson and Todd Travis as president and presidents-elect. Nan Records has worked tirelessly to help keep the pipeline full of new and aspiring leaders. We have also benefited greatly from the efforts of those who have or will be soon retired. Personally, I want to thank Keith Erickson for his willingness to share his reflections on his life as a special education director. I also want to recognize Denny Ulmer and Gary Lewis who on so many occasions were willing to take the significant personal and professional risk to let the world know that "the emperor has no clothes".

Finally, I know that it is too late for this year, but not for next year. Make sure that you attend as many high school graduation ceremonies, as possible. As students walk or wheel across the stage, you will smile. In some instances this will be done out of sheer relief (you know what I am taking about). In other instances, you will smile out of personal satisfaction of what you and your staff have accomplished. But, best of all you will be reminded of the noble work that you do as a special education leader.

Visit the MASE Website!

The MASE Website is a resource for you! You'll find many member resources including the MASE calendar, publications, model contracts, legislative hot topics and more...

www.mnase.org

IMPACT is your newsletter and we encourage your input! If you have ideas or an article to share, please contact us at the MASE offices—(651) 789-4061 or email us at aranallo@mnasa.org.

2014 Legislative Session Wrap-Up

by Brad Lundell
MASE Lobbyist

The curtain has come down on the 2014 legislative session and while it was not a year in which earth-shattering reforms were enacted or huge increases in funding were provided, it was an interesting year that saw several items of interest to the special education community become law.

The most talked-about special education initiative during the 2014 was the online reporting system contained in HF 2568 (Sawatsky)/SF 2305 (Dahle). As many of you recall, \$1.8 million was approved last session to develop an on-line reporting system for special education paperwork. The provision approved last session was absent of any details describing what such a system would look like and what the goals of the system would be. HF 2568/SF 2305 fills in the framework of last year's provision, both stating goals and implementing a timeline for the full implementation of a single online reporting system for all school districts to use when submitting special education data to the state for monitoring and compliance purposes.

This proposal is not without controversy. Districts purchase their products with the specific needs of their district in mind. There are a number of providers of forms for the variety of information the state needs to ensure state laws and rules are being followed and districts are rightfully concerned that a single online system may prevent the kind of flexibility that they want in a student reporting system.

Throughout the committee process, the authors of HF 2568/SF 2305 worked to alleviate some of these concerns without deviating from the goal of creating a single online reporting system. Primary among these changes are a longer timeline for the phasing in of such a system and a formal working group with broad representation of stakeholders to make certain all angles in the discussion are represented and that any system would not be implemented until the 2018-2019 school year. The longer timeline allows for two things: (1) there is no rush to simply get things done, and (2) the state will know whether or

not the system needs to be mandatory. MDE has been preliminary discussions on this issue and I will be interested to see how the discussions proceed and whether or not the product of these discussions is something the special education provider community can wholeheartedly support.



Brad Lundell

Another item of interest that passed during the 2014 legislative session is a provision calling for the study of ways that multitiered systems of early intervention and instructional support (MTSS) can be implemented. The original bill (HF 2683/Bly and SF 2460/Wiger) was much more aggressive in promoting MTSS and the bill also repealed the portion of current special education rules that allows use of the discrepancy model for the identification of students with specific learning disabilities (SLD). There was ample pushback from the advocacy community, which for some reason wants to retain the option for school districts to use the discrepancy model for identifying SLD students and there was also concern that the bill as originally drafted was too high-handed in its promotion of one school of thought as it pertains to MTSS. Given those concerns, the language adopted in the omnibus education policy bill—HF 2397—only authorizes a study to be performed by MDE. MDE is urged to consult a broad range of stakeholders while conducting the study, so if any of you have opinions about MTSS and RtI and where they fit in the future of education policy in Minnesota, I urge you to contact MDE with your viewpoints. I will let you know who is going to be in charge of the study once that determination is made.

I want to thank all of you for the input and direction I received during the 2014 legislative session. I am your voice at the Capitol and I simply could not do my job if I didn't hear from you. So thanks!

Baseball ... Continued from Cover

can't read. Researchers have speculated that many students receiving services because of reading difficulties probably aren't disabled, but instead haven't been taught to read well using the science of reading instruction. About a year ago, the MASE and MASA (Minnesota Association of School Administrators) boards of directors met together to initiate a system-wide collaboration to address proposed solutions and policy recommendations supporting improved outcomes for all students. During the year, we have used the opportunities of conferences, communications, and meetings to grow and enhance this collaboration among stakeholder organizations, and it is my hope that we continue in this manner—which leads me to the subject of celebration.

One of the best aspects of membership in a professional association is the collegial network. These are the people who know what you need and can help you find it, who support you through the tough times, and who laugh with you when no one else "gets" the humor. I always knew this – but finishing a year of MASE presidency has given me the network immersion experience. I want to celebrate a year of really great work by outstanding people, and thank all of our members for leading on behalf of all students, especially those who need you most, and for engaging actively in MASE, our network that supports our professional practice.

I want to thank our board members for their thoughtful leadership and service, and for crafting our common agenda and dedicating the time it takes to represent all areas of the state. I am grateful to our committee chairs. Their focused work helps us dig deeply into our mission and translate it into plans of action. Huge thanks to our Executive Director John Klaber for being our voice and our professional presence at about a million meetings at the legislature, the department of education, and, most importantly, those Area Meetings that have improved his knowledge of Minnesota geography. And, speaking of meeting at the capitol, we appreciate our legislative consultant Brad Lundell, who may have been born at 75 Rev. Dr. Martin Luther King Jr. Boulevard, because he knows everyone there and certainly speaks the language (and on our behalf).

I'd like to celebrate our business partner members, who help us realize our objectives

through their support and partnership. Without their participation, we would not be able to offer the scope of member services we proudly provide. We truly value our partners in business and welcome them into the conversation that reinforces our mission.

Finally, thanks to our staff, who hold down our fort every day at "MASE World Headquarters." Their knowledge, skill, and commitment to our mission are constant advantages to our members, year after year.

Each year at our June board meeting, we transition the presidency by formally passing a gavel from the sitting president to the new. So, in a few days I will pass the gavel into the capable hands of your 2014-15 MASE President, Cherie Johnson. I know she will serve you all well, with great vision and enthusiasm. She is an exemplary leader and has been a MASE champion for a long time. I wish her great success in the new year.

And I wish for all of you ... deep satisfaction in your leadership practice ... great joy within and without work ... wonderful friend and family time ... and some time to play this summer! Our work can be really serious business, so remember to focus on the fun every once in awhile. After all, the great Casey Stengl commented on the importance of teams, but he also said, "All right everyone, line up alphabetically according to your height!"



What I Learned During 40 Years of Service

by Keith Erickson
*Retired Director of Special Services
Albert Lea Area Schools*

In the Beginning:

As I drove the 200 miles east to Aberdeen, I can still vividly recall the emotions I was feeling at the time – partly apprehension and outright fear and partly anticipation with a sense of excitement. You see, all special education administrators were summoned by the State Department of Education to learn specific details of a new Federal law that would be taking effect within the next two months entitled P.L. 94-142 – Education for All Handicapped Act. My existing world of special education leadership changed immensely on that day. How would we ever be able to implement so many programmatic changes with so many due process procedures within the required timeline? How would we even begin to measure the appropriateness and quality of the individual student educational plans that were now required? I could go on and on about all the questions that popped into my mind as I drove back from that meeting in the fall of 1975. As the months passed, I learned a tremendous amount about leadership, program development, program management, and of course staff development. Progress did not come easy as one can imagine, and it required significant persistence and patience as we transformed our practices to fulfill the new legal requirements. The field of special education has continually changed and evolved over the past 40 years, and the leaders in the field of special education have needed to do the same.

The Original TSES Project:

In 1984 I was fortunate to be offered a special education director position in fairly large northern Minnesota cooperative. Although Minnesota was still struggling accepting the idea of mandated Birth to Three services, there were so many positive initiatives happening for students with disabilities in the Minnesota school systems that South Dakota just did not have the resources to implement. As I began my involvement with MASE, one of the reoccurring discussion and debate topics focused on how MASE and MDE could work together to prepare a special

education operational system which would be used by all Minnesota school districts to guide special education services. As a result of these discussions, MASE hosted the TSES Project and hired a consultant by the name of Donna Ford-Vierow, to facilitate the development of the first TSES. A task force committee was

developed for the project work, and this task force was representative of all stakeholders, including special education directors, elementary and secondary principals, state department staff, higher education institutions, and advocacy agencies. Finally, we had a written and formal document which tied all statutes, rules, and procedures from both state and federal level to guide our services and practices. If only it were that simple!!!! On the contrary, we all know that our positions and our daily practices depend on much more than merely abiding by such a document. We live in an ever-changing, very detailed and technical profession which requires us to constantly be on our toes and make decisions based on both risk and reward.

A Few Thoughts On Leadership Style:

As a “leader” in special education, we all know that leadership style is very situational and is constantly changing based on the specific circumstances being faced. That said, in the mid-1990’s I was introduced to a professional reference by Dr. Bruce Miles entitled, *The Leader’s Window: Mastering the Four Styles of Leadership to Build High-Performing Teams* (Beck and Yeager). For the past 20 years, the information and insights provided in this reference have continuously guided me. If you have not taken the time to read this book in your professional career, I would encourage you to do so. If you have already read this book, I would encourage you to pick it up again to review, as each time I do I learn more about myself and the actions that I have taken or that I need to take in a specific current situation.



Keith Erickson

**40 Years ...
Continued on Page 7**

40 Years ... Continued from Page 6

The authors describe four specific quadrants/windows in which leaders operate. In some situations (style 1), a leader needs to specifically “direct” the work at hand. In this quadrant, you make decisions on your own and without input from others. You direct what you need to have done, how you want it to be done, and why it should be done in a particular manner.

Operating in the (style 2) window, the leader focuses on “problem solving” by involving others in your responsibilities and making decisions based on input received from others. You seek input to analyze and solve the problem at hand.

If a leader feels confident and trusts that others are able to take the lead on an issue, the leader assumes the “developing” (style 3) role by supporting those people by helping them think through the problem and by asking questions to help them analyze and solve their own problem. I see this quadrant to be very similar with concepts and tenets of the Instructional Cognitive Coaching model.

The fourth and last quadrant/window (style 4) allows the leader to assume a “delegating” role by letting others make decisions on their own with little to no involvement on your part except for briefings and updates.

Back to my earlier comments regarding leadership being highly situational - depending on the situation and the people involved in that specific situation, the leader must decide which style he/she wishes to use to achieve the best or most effective outcome. Therefore, in my humble professional opinion, to be an effective leader one does not operate in one specific leadership style, but rather one employs each of the windows as the situation requires.

What Really Matters?

Over the years I have learned a few things which tend to guide my daily practice –

- Personal communication is THE key to effective leadership.
- Integrity above all else.
- Establish and maintain genuine relationships with colleagues, parents, and staff.
- Always give praise for a job well done – do not forget to celebrate successes.
- Collaboration with others is the best and only way to solve today's complex issues.

- Be a visible and accessible leader – an open door philosophy is a necessity.
- Be an advocate in the best sense of the word to those we serve.
- It is wise to establish lists and action plans for each work day, but do not be surprised or disappointed when the end of the day comes and you have not accomplished anything you planned to do that day.
- Stay committed to do whatever is needed to do the job, but also understand that family is the most important factor in this world.
- Give prudent thought to which battles are really worth the fight as it is much more worthwhile to reach compromise, if at all possible, for effective resolution.
- As my current superintendent openly and frequently states – we must “expect the best”, “first and foremost do what is best for kids”, and “always do the right thing”.

Final Thoughts:

We, as special education administrators, have the opportunity to network with each other on so many occasions and so many different levels. I cannot begin to relate the value I have seen from being active in the MASE organization at the state level, in our regional/area directors group activities, and through our MDE sponsored Director's Forum meetings. Being a special education administrator is not an easy job. One must stay connected with fellow colleagues to share the challenges, the accomplishments, to brainstorm ideas, to problem solve, and of course, to relax and unwind. I wish all of you nothing but the best in the future.



SAVE THE DATE!

**2014 MASE
Fall Leadership
Conference**

October 22-24, 2014
Cragun's Resort, Brainerd

Mark your calendars today for the
annual MASE Fall Conference!

The Results Are In! 2014-15 Elections...

Congratulations to the following candidates who have been elected to MASE leadership positions. MASE appreciates these leaders for their commitment to MASE and Minnesota education and offers them thanks and best wishes as they begin their terms of service.

President-Elect: Todd Travis, Director of Special Education, Midwest Special Education Cooperative

Secretary: Julie Ladwig, Director of Special Education, Waseca Public Schools

Board Members

Area A (Region 8): Dustin Hinckley, Special Education Supervisor, Bemidji Regional Interdistrict Council

Area C (Region 4): Bardie Skjonsberg, School Psychologist/Director of Special Education, Frazee-Vergas Public Schools

Area E (Region 3): Diane McCarron, Director of Special Education, SW/WC Service Cooperative

Area F-2 (Region 1): Dan Armagost, Director of Special Education, Southern MN Special Education Consortium/Glenville-Emmons Schools

Area H (Region 9W): Laura Pingry-Kile, Director of Special Services, Eastern Carver County Schools

Other Representatives

CASE Liaison: Jill Skarvold, Director of Learner Support Services, Moorhead Area Public Schools

Committee Chairs

Nominations:

Jill Skarvold, Director of Learner Support Services, Moorhead Area Public Schools

Legislative:

Kim Gibbons, Executive Director, St. Croix River Education District and

Melissa Schaller, Director of Special Education, Intermediate School District 917

Federal Advocacy:

Todd Travis, Director of Special Education, Midwest Special Education Cooperative and

Darren Kermes, Executive Director, Southwest Metro Educational Cooperative

Professional Development:

Renae Ouillette, Director of Special Services, Lakeville Area Public Schools

Membership:

Reggie Engebritson, Executive Director, Northland Special Education Cooperative

Strategic Planning:

Todd Travis, Director of Special Education, Midwest Special Education Cooperative and
Teresa Ostlie, Director of Special Education, SW/WC Service Cooperative



Todd Travis

Have you renewed your membership?

Membership materials have been mailed. For more information or additional membership materials, contact the MASE office at (651/645-6272 or members@mnasa.org) or visit our website at (www.mnase.org).

Quality Conferences
Network of Your Colleagues
Skill Development Workshops
Publications
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and Much More!

Transitions

On the Move: Retirees & District Changes

Congratulations!

...to MASE members who are retiring this year

Jan Bootsma, Minnetonka Public Schools
Keith Erickson, Albert Lea Area Schools
Marilyn Hanson, White Bear Lake Area Schools
Debra Larson, Northland Community Schools
Gary Lewis, Northfield Public Schools
Allen Ralston, Clearbrook-Gonvick Minnesota School District
Denny Ulmer, BRIC
Judith Vold, Winona Area Schools
Deb Wall, Forest Lake Area Schools
Ellen Voit, Robbinsdale Area Schools

...to MASE members who are moving into new positions

Marsha Baisch, St. Paul Public Schools to St. Cloud Area Schools
Sarah Kloeckl, Burnsville-Eagan-Savage Independent School District to Albert Lea Area Schools
Jody Labernik, Deer River Schools to Grand Rapids School District
Kelly Lessman, Forest Lake Area Schools (position change within district)
Holle Spessard, River Bend Education District to Tri-City United Schools
Brenda Story, Grand Rapids School District to BRIC

Are You Moving?

Now is the time of year when many of our members are on the move! Help us keep track of you (and therefore keep your MASE benefits and services coming to you!). Just give Deb a call (651/645-6272 or 866/444-5251), fax her a note (651/645-7518), or email her at members@mnasa.org and she will update your records. Also, if you have new colleagues in your area who are not MASE members, let us know and we will send membership information to them.

Congratulations!

2014 Stenswick-Benson Scholarship Recipients Announced

The Stenswick-Benson scholarship fund began in 1991 in memory of two Minnesota Directors of Special Education: Ellsworth Stenswick from Bloomington and Loren Benson from Hopkins. Both are considered pioneers in the field of special education. These fine colleagues and their families wanted to make a lasting contribution to the field of special education by starting a fund to support aspiring leaders.

The scholarship fund started with a \$4500 contribution from family and friends of Ellsworth and Loren and an additional contribution from the Huestad Foundation. The fund has increased to more than \$150,000 as a result of the biannual fundraisers during the MASE Fall Leadership Conference. Scholarships are awarded to individuals completing exemplary graduate studies in the field of special education at a Minnesota public college or university.

This year we had 22 applications for four scholarships. Sincere thanks to MASE members for your generous contributions! Congratulations to the recipients of the 2014 Stenswick Benson Scholarships:

- **Michele Mogan**, Minnesota State University Moorhead
- **Susan Bartling**, University of Minnesota Twin Cities
- **Amber Messner**, Saint Mary's University, Minnesota
- **Tanya Tacker**, St. Cloud State University

Special thanks to the Scholarship Committee:

- *Chair Shannon Erickson, Fergus Falls Area Special Education Cooperative*
- *Candy Malm, PAWN Cooperative*
- *Eva Pohl, BRIC Cooperative*
- *Patty Popp, St. Cloud*
- *Keith Erickson, Albert Lea*

Navigating the Bermuda Triangle of Medical Provider-Parent-School District Communications

by Nancy E. Blumstein, Erin E. Benson and
Ashley R. Geisendorfer; Attorneys
Ratwik, Roszak & Maloney, P.A.

It is no secret that clear and effective communication between special educators, parents, and medical providers is an important part of the provision of special education. Communication between special educators and medical providers can be instrumental in an IEP team's evaluation of a student's needs and determination of the appropriate program of education for the student. At the same time, parents have a right to keep their child's medical information private and to choose what they release to the student's school. Parents want to participate in the IEP team process and to have their opinions and their student's medical providers' observations considered. However, sometimes Parents may wish to control how a medical provider's opinion is interpreted. They may also want to control what information is provided to the medical provider from the school, and vice versa. When parents act as intermediary between school districts and medical providers, all parties can get stuck in a Bermuda Triangle of misinformation. This article highlights multiple challenges that may arise when limited information is communicated between medical providers, parents and special educators, and provides guidance on how to avoid these problems.

When parents control the flow of information between their student's medical provider and school, critical information can be distorted and the value of medical opinions can be compromised. The challenge for special educators is to communicate directly with the medical provider so that the medical provider can offer meaningful opinions which are truly reflective of the students' presentation in school. Often when a parent acts as the messenger between the school and the medical provider, the medical provider misses out on a complete picture of the child's school behavior and academic performance. It is exceedingly rare that a parent will deliberately keep the doctor in the dark. More often, the parent simply does not have first-hand knowledge of her child's

performance in school. Parents can only report what they know or perceive to be true. Much of the time, what a parent "knows" about what is occurring at a child's school is based on a student's report and by selective questions the parent asks and the answer received. When information is filtered through an intermediary or limited in scope, the picture of the situation at school can be distorted. This is particularly true if a parent has strong feelings about the school.

For example, in *K.E. v. Indep. Sch. Dist. No. 15*, 54 IDELR 215 (D. Minn. 2010), aff'd 674 F.3d 795, 57 IDELR 61 (8th Cir. 2011), the student's doctor recommended day treatment for the student. When queried at hearing as to the basis for this recommendation, the doctor testified that she reached her opinion that the student needed to be removed from her school and placed in a therapeutic setting immediately after she first met with the student in May 2008. At this first meeting, the student became upset and cried when she spoke about school. The doctor admitted that she did not seek information directly from the school about the student's school performance. Instead, she simply accepted the parent's and student's reports at face value. The result was a letter from the doctor describing the student's school performance and behavior in a manner which was completely inconsistent with what educators observed at school.



Nancy Blumstein



Erin Benson



Ashley Geisendorfer

**Communications ...
Continued on Page 11**

Communications ... Continued from Page 10

Communicating directly with a student's medical provider also gives special educators the ability to ask questions to determine on what information the providers' diagnosis or recommendation is based. This exercise can help educators find out whether new information exists that the IEP team should consider. In addition, special educators should keep in mind that a parent report of a diagnosis is merely a parent report; it is not an actual diagnosis. Direct communication with a student's medical provider allows educators access to medical information that has not been filtered through a parent's perspective.

Allowing a parent to control the flow of information may create in the parent an expectation that the parent can dictate communication and the course of an evaluation. *Shelby S. v. Conroe Independent School District* provides an extreme example of the problems that can occur when a parent seeks to control all communication between the school and a student's medical provider. 45 IDELR 269 (5th Cir. 2006), cert. denied 549 U.S. 1111 (2007). In that case, the student, Shelby, suffered from a rare autonomic nervous system disorder which made her prone to sudden "crises" that could result in unconsciousness, cyanosis, heart attack, and death. Her medical crises required quick intervention. The school district found the student—who was previously homeschooled—eligible for special education under the OHI category, and began working with the student's guardian and doctor to develop an IEP. At the beginning of her first year of public schooling, the student's guardian accompanied her to class. The guardian disrupted the classroom and within two weeks of the start of the school year, the district informed the guardian that she could no longer attend class with the student. In response, the guardian stopped sending the student to school.

Shortly thereafter, the student's doctor wrote to the district, identifying the guardian as the student's designated caregiver. The doctor also instructed the district that the guardian was to train an appropriate classroom aide for the student, after which the doctor would evaluate and approve the designated aide. The doctor also specified that any other alternate aide would be trained by the guardian and subject to the same verification and approval process. The doctor directed the school to allow the guardian access to the student upon the guardian's

request, and for the guardian to be called immediately if the student so requested. Finally, the doctor directed the district to "take heed of [the guardian's] information and experience dealing with [the student's] healthcare needs."

Over the course of several months, the student's IEP team, including the guardian, met to discuss the student's IEP and her doctor's letter. They discussed the need for the guardian to be in the classroom as the student's aide. The team did not agree on this and other issues, and instead, concluded that it needed additional information about the student to revise her IEP. The team asked for the guardian's permission to speak with the student's doctor regarding the student's need for supportive services in the classroom. The guardian agreed but on several conditions: she would allow the team to ask only 14 questions, in writing, subject to her approval. The guardian edited the questions before providing them to the doctor, and then edited the doctor's responses before providing them to the school. The team decided to arrange an outside medical evaluation but the guardian refused to give consent.

The school district then initiated a due process hearing and requested permission to go forward with an outside medical evaluation over the guardian's objection. At hearing, the guardian argued that the evaluation could endanger the student, was unwarranted in light of existing information, and would violate the student's constitutional rights to privacy if undertaken without the guardian's consent. The state agency officer held that the district was justified in attempting to obtain more information about the student to develop an IEP that would meet her needs, even absent the guardian's consent. The officer opined that:

A student with such extreme symptoms would logically require extensive cooperation and coordination between school personnel and the student health care providers. In order to know how to serve a student with such medical needs, the student's [IEP team] should access the student's medical history and the student's specialist, at a minimum. The necessary and appropriate responses to the disability would be revealed by the information derived from a medical evaluation. . . .

**Communications ...
Continued on Page 12**

Communications ... Continued from Page 11

This record shows that Conroe ISD attempted to learn as much about Shelby as it could, with limited success. Shelby's guardian limited the medical information about Shelby that the District could learn. Members of Shelby's [IEP team] were not allowed free access to Shelby's specialist . . . In the face of conflicting or missing information about Shelby's eligibility for specific accommodations and support services, the District was almost obligated to augment its information in order to develop an IEP which would met Shelby's unique educational needs.

Conroe Independent School District, 39 IDELR 199 (Texas SEA, 2003).

The hearing officer also noted that restricted channels of communication limited the doctor's knowledge of the education environment as much as it limited the school's knowledge of the student's medical needs. The hearing officer's decision was affirmed by a federal district court and by the Fifth Circuit Court of Appeals. Essentially adopting the hearing officer's analysis, the Fifth Circuit found that the district was entitled to perform a medical assessment on the student because in order to develop an IEP consistent with the student's extreme symptoms, the team needed access to her medical history and doctor. The guardian obstructed the team's ability to access that crucial information, and so the district's decision to seek an outside medical examination was justified.

Shelby S. presents a unique situation in many respects. The student's disability was rare and her medical crises were possibly fatal if interventions were not initiated promptly and effectively. The guardian likely felt that her presence was a matter of life and death for the student. In his decision, the hearing office chastised the school for prohibiting the guardian from attending school with the student. The hearing officer opined that if the student had come to school without her guardian, she would be at risk of experiencing a life-threatening medical crisis with no one at the school trained to intervene. However, it is important to remember that ultimately it is the school district's duty under IDEA to provide the services necessary to allow the student to receive a free appropriate public education. Moreover, schools

have the clear discretion to select and assign staff to serve students. See *Slama v. Indep. Sch. Dist. No. 2580*, 259 F.Supp.2d 880, 39 IDELR 3 (D. Minn. 2003). In *Shelby S.*, the school district improperly delegated its discretion to the guardian and created in her an unreasonable expectation that she could dictate decisions related to the child's education. The school district's subsequent decision to ban the guardian from the classroom likely influenced the doctor's and guardian's decision to stridently assert their control over the course of the evaluation.

While *Shelby S.* involves extreme facts, it is not uncommon for parents to interpret or provide additional commentary about a doctor's note, report, or appointment. For example, a doctor's note prescribes a student to use a knee walker for travel over long distances. Based on this note, a teacher reasonably believes that the knee walker can be left outside the classroom because the student can walk the short distance to retrieve the knee walker before heading to her next class. The parent disagrees and directs the school to allow her child to use the knee walker at all times.

In a situation like this, the school could take many different approaches to resolve the issue. It could accede to the parent's demand. Indeed, it may be tempting to give in to a demanding parent's request "just this once." However, this can create in the parent the expectation that he or she can dictate accommodations and other forms of educational programming which may lead to conflict later on. Instead, the school should ask for further medical documentation or support for the parent's demand. In addition, the school should be responsive to a parent's request, find out what is motivating the request, and if there is another way to address the parent's underlying concern.

Medical providers can and often do offer school districts valuable recommendations and insights regarding the special education and related services that they believe a student should receive. In order to elicit the best information from medical providers, it is important for the school district to go directly to the source, rather than have a parent act as an intermediary. It is crucial to talk to parents early on about the need for medical information and the role it plays in the special education evaluation process.

**Communications ...
Continued on Page 13**

Communications ... Continued from Page 12

Explain that having direct access to the doctor will expedite the process. Explain that special educators will often have follow-up questions to a doctor's report or will often need clarification of medical jargon. Explain that the school wishes to ease the burden on the parent and avoid relying on the parent to gather the information and act as a go-between. By taking a proactive approach, a school district can show its interest in the student and understanding that the special education evaluation can be stressful for parents. When framing the school district's request to seek medical information directly, it is important to avoid suggesting or insinuating that the parent will not accurately report information.

In sum, educators can minimize communication problems surrounding medical needs through communicating early and often. Whenever possible, the district should seek out information directly from medical providers in

the first instance and when notes, reports, and conclusions are unclear. The District should avoid creating an expectation in parents or doctors that they can dictate the school's response to a child's needs. At the same time, educators should be sensitive to the different sets of goals and expectation these parties have. The more a school district can foster open communication and collaboration between parents, medical professional, and educators, the better support students will receive.



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MASE Calendar

2014

Thursday - Friday, June 19 - 20

MASE Board of Directors Retreat, Madden's

Monday, September 1

Labor Day Holiday - MASE Offices Closed

Friday, September 5

MDE Directors' Forum, St. Paul

Monday - Tuesday, September 29-30

RtI Summit, St. Paul

Friday, October 10

Annual School Law Seminar, Minneapolis

Wednesday - Friday, October 22-24

MASE Fall Leadership Conference, Cragun's

Wednesday - Friday, November 12-14

CLM Fall Conference, Cragun's

Thursday - Saturday, November 13-15

CASE Annual Conference, San Antonio, TX

Thursday - Friday, November 27-28

Thanksgiving Holiday - MASE Offices Closed

Friday, December 5

MDE Directors' Forum, St. Paul

Wednesday - Friday, December 24-26

Winter Holiday - MASE Offices Closed

2015

Thursday, January 1

Winter Holiday - MASE Offices Closed

Friday, March 6

MDE Director's Forum, St. Paul

Thursday-Friday, March 12-13

MASA/MASE Spring Conference, Brooklyn Park

Friday, April 3

Spring Holiday - MASE Offices Closed

Wednesday - Saturday, April 8 - 11

CASE CEC, San Diego, CA

Wednesday - Friday, May 6-8

MASE Best Practices Conference, Madden's

Friday, May 15

MDE Director's Forum, St. Paul

Monday, May 25

Memorial Day Holiday - MASE Offices Closed

Thursday-Friday, June 18-19

MASE Board of Directors Retreat, Minneapolis