

# Top Special Education Issues

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# MDLC

- Presentation Overview
  - What is the MDLC? Background Information: Role, Structure, Funding, Staff, Referrals
  - Overall Approach in working with Students, Parents and Districts
  - Hot Topics and Critical Issues

# MDLC

- State-Designated Protection and Advocacy System
- All States have a P&A
- Not a Private Law Firm, Part of Legal Aid
- Free Services, No Income Limit
- Different Mission, Different Role

# MDLC

- Statutory Access to Facilities to Investigate Abuse and Neglect, Restraints and Seclusion
- Structure: Part of Legal Aid of Minneapolis
- Can refer to other parts of statewide legal aid
- Staffing: Attorneys and Advocates

# MDLC

## Federal and State Funding Streams and Priorities

- Federal: Rehab Act, Social Security, AT, DD, Mental Illness, Individual Rights, TBI, Voting Rights
- Federal Sources Require Priority Statements
  - Abuse and Neglect
  - **Policy Advocacy**
  - Discipline
  - FAPE
  - Transition

# MDLC

- Divided in Teams: Community Services, Access and Discrimination; Employment and Youth Services
- Employment does some work with Transition and DRS
- Youth Services Encompasses Special Education and County-Based Services

# MDLC

- Referrals from and to PACER, Arc, NAMI-MN, private bar, and others
- Partnership with U of M Special Education Law Clinic, 2<sup>nd</sup> and 3<sup>rd</sup> year law students
- Clerks and volunteers from U of M, William Mitchell, and Hamline through MJF
- Pro Bono Opportunities

# Types of Involvement

- Types
  - Individual Advocacy: phone call assistance, IEP meetings, conciliation conferences, mediations, facilitated IEP meetings, complaints, hearings, court actions
  - Systemic Advocacy: training, outreach, common issues, complaints, court actions, rulemaking, legislation, research projects
  - Coordinated advocacy: county and school services

# Overall Approach

- With Parents and Students
  - Discuss concerns with client
  - Determine context and history of situation
  - Provide legal view of situation
  - Try and establish reasonable expectations of goals, timelines, parameters for discussion
  - Facilitate proper referrals and resources
  - Define roles and responsibilities
  - Develop timeframe for resolution

# Overall Approach

- With Districts and Counties
  - Start informally by sharing concern with district and request district perspective
  - Identify scope, extent, and type of concern
  - Discuss goals, suggestions and ideas
  - Determine possible strategies and **timeline** for resolution
  - Facilitate informal resolution
  - If necessary, engage ADR, complaint, or hearing options

# Strategies that Work

- Direct involvement by administrator as a caring problem solver
- Tone and communication
- Acknowledgement of (or sincere apology for) problems or issues
- Plan or actions to reestablish trust
- Immediate response
- Academic, functional and developmental progress
- Clear/justifiable rationale and contingency plan

# Continuum of Services County/School Based

- Connections between county and special education program: funding and services
- Voluntary & involuntary placements – county involvement pros and cons
- Lack of placement options
  - Children with MH needs, MH and DCD, DCD and behavior, SLD and MH, ELL/ESL, Level III to IV
- Process for placement and payment

# Critical Special Education Issues

## Discipline

- What kind of behaviors?
  - Fighting, threats, theft, hitting/pinching
- Significance?
  - Student cannot control the behavior; intentional but disability related
  - Impulsive, Lack communication skills, Lack social awareness
  - School safety
  - Role of school to evaluate, identify in IEP or BIP, and provide services
- And, student needs positive behavior intervention and supports to re-direct and replace inappropriate behavior, *not* consequences.

# Discipline

- A spiraling problem ...
- Pattern of behaviors
  - More suspensions, > 5 days, no services
  - Disenrollment by school
  - Expulsion or Administrative transfers in lieu of expulsion
- Use of law enforcement
  - Role undefined
  - Investigation violates legal process
  - Use of police report
  - Criminal penalties and juvenile court involvement

# Discipline

- Manifestation determination meetings
  - None at all!
  - Foregone conclusions
  - No access to investigation
  - No services or adaptations
- What's the result?
  - Behaviors lead to removal from school
  - In-School Suspension
  - Sent home the rest of the day
  - Out-of-School Suspension

# Discipline

- Use of 45-day unilateral placement
  - Misuse of new serious bodily injury standard
  - No functional behavior assessment
  - No behavior intervention plan
  - No IEP team involvement

# Truancy

- Standard:
- When used or threatened?
  - Mental Health, (un)excused absences), doctor's appointments, inaccurate record keeping, explainable reasons, discipline, homebound
- Process
  - Usually diversion first, some options available, can proceed to educational neglect charge

# Regulated Interventions

- Time out rooms, Seclusion, Mechanical and Manual
- Misuse and Misunderstanding
- Positive Behavioral Interventions and Supports (PBIS) should come first, unless an emergency
- Potential for Great Harm and Injury
- Rulemaking

# Transition and Termination of Services

- County and School Interaction in providing and planning for transition services
- Development of transition goals and opportunities
- If goals and needs not developed, more likely that services will be terminated
- Range of options is greatly different around state
- <http://www.lifesmarts.org/>

# Administration of Medication in Schools

- Use of naturopathic supplements more prevalent
- Ethical concerns for nurses
- Safety concerns for all

# Part C

- Minnesota is near the bottom in Part C service provision rates
- Problem with eligibility criteria
- Rulemaking efforts currently proceeding
- Questions remain about eligibility, transition from Part C to B, coordination of service provision, timeline compliance, etc

# Bullying/Harassment

- Racial, sexual, disability-related
- School response – appropriate?
  - Investigation
  - Documentation
  - Discipline

# Rulemaking/Legislative Issues

- Aversive and Deprivation Rules
- “Roll back” of Minnesota Laws that exceed IDEA
- Specific Learning Disabilities
- Part C

# Lingering Issues

- Timely and Complete Progress Reporting
- IEP Development/Consistency with Evaluation and Needs
- Transportation (length, transfers, supports on bus, discipline, restraint, extent)
- ESY determinations (timely, individual and data based and comprehensive)
- Meaningful and thoughtful goals/objectives
  - We like to see measure-able goals that are focused on the causes not symptoms; assets not deficits

# Critical Special Education Issues

- Wish List
  - Teacher/Administrator training, retention, preparation
  - Dispute resolution alternatives
  - Outreach to Schools, Broader Community
  - Coordination with other advocacy organizations and private bar
  - Racial Differences and Disparities

# Strategies that Work

- Direct involvement by administrator as a caring problem solver
- Tone and communication
- Acknowledgement (or sincere apology) for problems or issues
- Plan or actions to reestablish trust
- Immediate response
- Academic, functional and developmental progress
- Attorney/advocate/third-party involvement