

**King George County Public Schools  
Special Education Advisory Committee  
Monday, February 29<sup>th</sup> 2016  
L.E. Smoot Memorial Library  
9533 Kings Hwy King George, Va 22485**

**Type of Meeting:** Regular Schedule SEAC with special guest presentation

**Meeting Facilitator:** Mollie Morris – SEAC Chair

**Attendees:**

General Public, KGCS Consultants and King George Co. Public Schools SEAC Members 2015-16: Mollie Morris, Dante Majeed, Melissa Lamb, Jessy Bryant, Ann Bueche, Casey Nice, Lolita Gunter, Kristin Tolliver, Shellie Renz and Dant Lucas

**Call to order and Introductions:** Meeting called to order at 6:02pm by Mollie Morris

**Housekeeping : Ground Rules**

- Respect confidentiality by not referring to families, students, or school employees by name.
- Respect each member and differing points of view
- Respect people's time and stay on agenda.
- Move off topic items will be considered "parking lot" discussions for later.

**Public Comment:** None

**Guest Speaker:** Hank Millward with the Virginia Department of Education - See Attached Power Point Printout Packet

**Reading and Acceptance of Meeting Minutes:** Minutes read by Melissa Lamb. Motion to approve minutes by Jessy Bryant, seconded by Mollie Morris. Motion carried with approved changes in the year invitees to 2015-16.

**Old Business:** None

**New business:**

- Guest Speaker for May meeting possibilities – Theresa Lee with VDOE on Behavior in the L.E. Smoot Library as location
- Annual plan presented by Ann Bueche

**Adjournment:** Motion for adjournment at 7:49pm by Jessy Bryant, seconded by Melissa Lamb. Motion carried.

**Reminder:** Next meeting May 23rd 2016 @ 6pm

# **Parental Rights and Dispute Resolution in Special Education**



**King George County Public Schools**

February 29, 2016

**VIRGINIA DEPARTMENT OF EDUCATION**

Division of Special Education and Student Services  
Office of Dispute Resolution and Administrative Services

## **FREE APPROPRAITE PUBLIC EDUCATION (FAPE)**

8 VAC 20-81-10 and 34 CFR 300.17 define "Free appropriate public education" or "FAPE" to mean:

- Education and related services that:
  1. Are provided at public expense, under public supervision and direction, and without charge;
  2. Meet the standards of the Virginia Board of Education;
  3. Include an appropriate preschool, elementary school, middle school or secondary school education in Virginia; and
  4. Are provided in conformity with an individualized education program that meets the requirements of the regulations.

8 VAC 20-81-100 and 34 CFR 300.109 further define FAPE as:

- Services provided to the child which address all of the child's identified special education and related services needs; and
- Where the services and placement needed by each child with a disability to receive a free appropriate public education is based on the child's unique needs and not on the child's disability.

## ROWLEY STANDARD

On June 28, 1982, in the U.S. Supreme Court decision, Board of Education of the Hendrick Hudson Central School District, Westchester County et al., versus Rowley by her parents Rowley et ux., the court determined FAPE (Free Appropriate Public Education) to be satisfied when the IEP (Individualized Education Plan) is reasonably calculated to enable the child to receive educational benefit.

Since that time the standard for progress in the IEP has been interpreted to mean "some educational progress." In the decision, it states, "The Act's intent was more to open the door of public education to handicapped children by means of specialized educational services than to guarantee any particular substantive level of education once inside." However, in the sentence preceding this statement it states, "The Act's legislative history shows that congress sought to make public education available to handicapped children, but did not intend to impose upon the States any greater substantive educational standard than is necessary to make such access to public education meaningful.

## WORKING COLLABORATIVELY



## **BUILDING AND MAINTAINING RELATIONSHIPS**

- Remove the emotions
- Understand that everyone involved is a “human being”
- Trust the “experts”
- Stay focused on the issue at hand
- Work in the present
- Work toward consensus
- Stay professional
- Offer and listen to options
- Become informed .....

## **BECOMING INFORMED**

- Know/exercise your rights
- Be aware of the school’s mandated obligations
- Know the difference in what is necessary for FAPE and what is not
- Keep up with the “changes”
- Ask for assistance



## PARENTAL RIGHTS



## PROCEDURAL SAFEGUARDS

- Must be provided one time per school year, and upon request of the parent.
- Must be written in understandable language and, if feasible, in the parent's native language.
- May be posted to school division website, but referral to the website does not constitute provision.
- Understand the document's content.
- Ask questions, if necessary.
- Know that not all regulatory requirements are included.

## UNDERSTAND TRUE MEANING OF NO!

- Merriam Webster defines "NO" in part to mean – "negation, dissent, denial, or refusal."

## NOTHING MORE THAN A REQUEST FOR ADDITIONAL INFORMATION

## PARENTAL PARTICIPATION (Generally)

- Right to advocate for your child without fear of retaliation.
- Right to advance notice/invitation of all meetings.
- Right to have meeting at a mutually agreed upon date, time, and location.
- Right to audio record eligibility, IEP, and manifestation determination meetings.
- Right to request to video record.

## **PARENTAL PARTICIPATION (In Meetings)**

- Right to **discuss** your concerns/input.
- Right to **bring and have reviewed** any type of documentation.
- Right to bring other individuals and **have them assist you during meetings.**

## **REQUEST EVALUATION**

- New disability area
- Reevaluation before triennial due date
- Related services (speech, OT, PT, etc.)
- Functional behavioral assessment (FBA)
- Behavioral intervention plan (BIP)

## **INDEPENDENT EDUCATIONAL EVALUATION (IEE)**

- Any and all evaluation(s) that you may disagree with.
- Receive criteria from school division.
- No cost to you.
- Must be reviewed by eligibility/IEP team when completed.

## **PROGRESS REPORTS**

- Ensure they are received on time
- Ensure the progress reported was evaluated as required by the IEP (as it was written and consented to)
- Ask for documentation of progress monitoring
- Request IEP meeting to address any lack of or slippage in expected progress (regulations place this requirement on the school division)



## **REVIEW YOUR CHILD'S EDUCATIONAL RECORD**

- Review – vs – copy of
- Before any SPED Meetings
- During the SPED meeting
- Periodically during the year
- Request amendment of record as you deem appropriate

## **PARENTAL CONSENT**

- The parent has been fully informed of all information relevant to the activity in their native language or other mode of communication.
- Consent is voluntary and revocable (but revocation is not retroactive.)
- It is not the same as "agree."
- Must be written documentation.

## PARENTAL CONSENT (Continued)

- **Required before:**

- Initial evaluations or reevaluations;
- Change in identification;
- Initial provision of special education & related services;
- Before revision to the services can be implemented;
- Partial or complete termination of services;
- Accessing personally identifiable information; and
- Accessing insurance proceeds

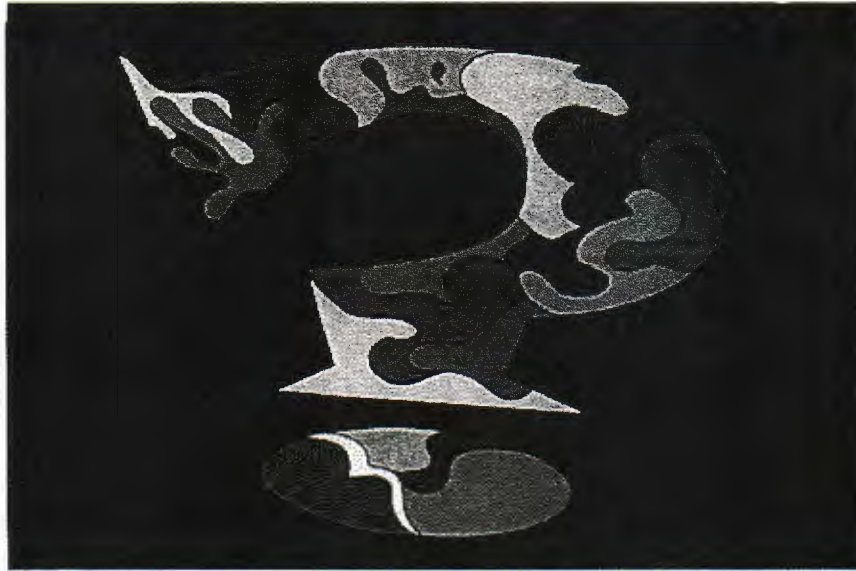


## PARENTAL CONSENT (Continued)

- **NOT Required before:**

- Screenings for appropriate instructional strategies;
- Review of existing data;
- Administration of test or evaluation that is administered to all students
  - unless parental consent required for all students;
- Administration of test/evaluation included in IEP to measure progress toward goals or benchmarks; or
- Teacher's or related service provider's observations or ongoing evaluations.
- Educational placement when discipline is not a manifestation of disability

## QUESTIONS AND ANSWERS



### **DISAGREEMENTS ON FAPE ARE OFTEN UNAVOIDABLE**

- Communication barriers
- Loss of focus
- Overwhelmed
- Participants in meetings are unprepared
- Participants in meetings feeling they are not valued/trusted – or that they don't have a voice
- Missing information/Misinterpretations
- Others???????

# WHAT CAN YOU DO WHEN YOU ARE IN A DISPUTE WITH THE SCHOOL DIVISION?



## RESOLVING DISPUTES

- **Types of Disputes**
  - Procedural Violation – Actions and Inactions
    - Federal Regulations
    - State Regulations
    - Local policy and procedures
  - Disagreement – Decisions
  - Misunderstandings
  - Family Education Rights and Privacy Act (FERPA)
  - Harassment
  - Discrimination
- **How to Determine What Type**
  - Legal Counsel
  - Advocacy
  - Contact VDOE
  - Contact School Division's Central Office
  - Contact Child's School Administration
  - Talk With Child's Teacher
  - Contact Parent Resource Center or PEATC
  - Do Your Own Research



## **RESOLVING DISPUTES (Continued)**

- **Keys to Resolution**
  - Early identification
  - Communicate concerns
    - Provide facts
    - Identify specific incidents
  - Work collaboratively
- **Know when it is time to seek assistance**
- **Use dispute resolution sources**
  - Local school division
  - Family Policy and Compliance Office (FPCO)
  - VDOE
  - OCR

## **MEDIATION**

- **Voluntary for both parties**
- **Cannot be used to deny or delay right to due process hearing**
- **Qualified, trained, impartial mediator**
- **Not an employee of VDOE**
  - Being paid by VDOE does not make them an employee
- **Not an employee of school division that is party to dispute**
- **Mediator cannot have personal or professional interest**
- **Assigned by VDOE**
  - From a list maintained by VDOE of qualified mediators
  - Randomly, rotational, or other impartial basis

## **MEDIATION (Continued)**

- Provided at no cost
- Scheduled in a timely manner at location convenient to both parties
- Formal agreement developed
  - Discussions are confidential
  - Discussion cannot be used as evidence in due process hearing or civil proceeding
  - Signed by both parties
- Agreement is enforceable in State court or district court of the United States

## **STATE COMPLAINT PROCESSS**

- General information
  - Violation that occurred no more than one year prior to VDOE's receipt of the complaint
  - Filed by individual or organization
  - If not parent or child at age of majority, must have consent to provide additional information
  - Cannot be submitted anonymously
  - Any portion of complaint that is also in due process must be placed in abeyance pending due process hearing results
  - Due process findings on an issue are binding
  - Complaint alleging failure to implement due process hearing decision subject to complaint resolution process

## DUE PROCESS

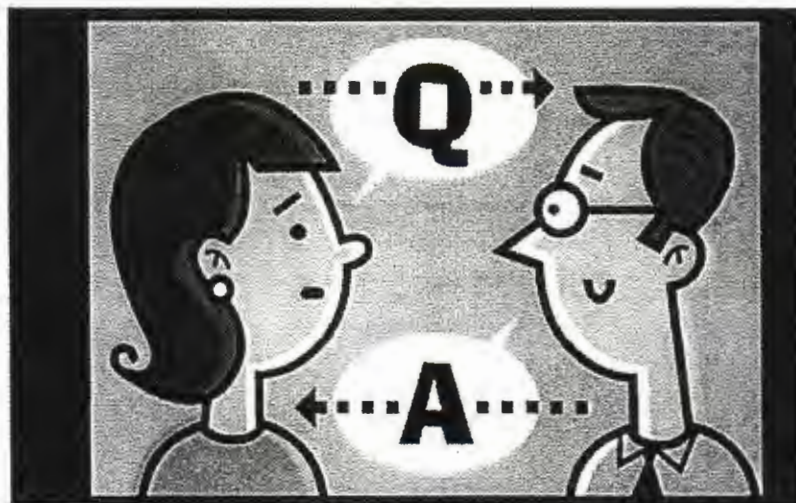
### ▪ General information

- Parent or school division may file due process complaint on any matter associated with the identification, evaluation, educational placement, or provision of FAPE
- Violations that occurred not more than two years before the date that the parent or school division should have known of the action forming the basis for the complaint
- School division must inform parent of any free or low-cost legal or other relevant services available
  - If parents request it
  - If parent or school division files a due process complaint
- Must remain confidential
- The party filing the complaint must forward a copy to VDOE

## WHEN YOU AGREE TO DISAGREE

- ***Address the issue of discontent as early as possible.***
- Contact the School Division's Special Ed. Director
- Ombudsman/Coordinator of Family Involvement
- Call VDOE for technical assistance
- Mediation
- Complaints
- Due Process

## QUESTIONS AND ANSWERS



## OVERARCHING GOAL OF VDOE

Improving outcomes for all students  
with disabilities in Virginia.



Creating a Win-Win Situation





## CONTACT INFORMATION

Henry J. Millward, Jr.

"Hank"

**Associate Director**

**Coordinator of Complaints and Family Engagement**

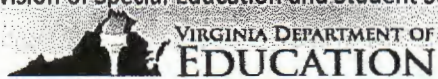
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Division of Special Education and Student Services



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Tracy Lee, Family Engagement Specialist  
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