

SENATE COMMITTEE ON EDUCATION HEARING TESTIMONY
AUGUST 18, 2008

Dear Madam Chair and Members of the Senate Committee on Education,

My name is Amy Sosa and I am a parent of two young adults and a 15 year old son with Asperger's; as well as an Educational Consultant and Advocate for families who have children with special needs in many school districts. I have been an advocate and have been navigating the special education system for well over 15 years. For over 20 years, we have resided in Coppell, Texas and our children have attended public schools here.

Currently our youngest son is going into the 10th grade in a private school. This will be the second year he will be in this school as a result of a due process complaint we filed against the Coppell ISD after an entire year trying to work with the district to resolve our differences. Our open due process hearing, which was one of the very few at that time open to the public, spanned over 5 days in November of 2007.

The initial reason that we began having problems with the Coppell ISD, all stemmed from our son being physically assaulted by peers at which time he sustained injuries and our request to have him transferred to his home campus away from the perpetrators. A transfer to another campus would not have caused the district to incur any additional expenses; however the district was refusing to do so.

The situation escalated to the point that a doctor recommended that we keep our son home from school (which turned out to be over 3 months with no education services from the Coppell ISD) due to school induced anxiety because of the incidents. We participated in two separate mediations with the district to no avail in addition to the many ARD meetings. With no other option than to enroll him in a private school to ensure his safety, we sought this placement through a due process hearing. We then proceeded to the due process hearing. Ultimately, the decision rendered by the hearing officer was that he found the school district had denied our son a free appropriate public education (FAPE) in several areas, yet awarded us nothing more than a few hours of compensatory education to be provided through CISD.

LITIGATION VERSUS EDUCATION: \$\$\$

Our son is now thriving and successful in the private school placement at our expense for nearly \$18,400.00 per year at a cost of over **\$36,800.00** to date not including the interest that is accumulating on the loans we have been forced to take out. We have also accumulated near **\$37,000.00** to date in legal expenses from the due process hearing. And this amount will continue to increase as we have been forced to file in federal court to obtain reimbursement of our legal fees which we are entitled to as a prevailing party under the law.

While in comparison and to the best of our knowledge the Coppell ISD has paid nearly **\$75,000.00** through March of this year just on our case alone to their legal firm. Legal expenditures paid by Coppell ISD since that date are unknown. At one point, more than 5-6 attorneys for the school district were billing the district for legal services rendered related to our case to include the lead shareholder, Jim Walsh who billed for services rendered on drafting and revising a "press release" Coppell ISD posted on their website home page to attempt to refute media coverage in our case.

The total amount that Coppell ISD paid their attorneys on all special education related matters from the 2006-2007 through the 2007-2008 school years was near **\$151,000.00**.

While these amounts sound like a lot of money, school districts are spending hundreds of thousands and even millions of dollars on private attorneys to represent them in special education matters. And the public would not be aware of this spending since it is never clearly represented in the district's budgets or financial audits. It is only through open records requests that we are able to access this information and that is exactly what we have been doing.

EXCLUDING PARENTS FROM CONFERENCES:

I have attended numerous conferences over the years related to special education and the relevant laws. Some conferences that I have attended have been sponsored by the regional education service centers where there are no limitations on who may attend. The other conferences that I have attended are offered by a variety of organizations that are mostly non-profits focused on a variety of disabilities.

While often helpful, these seminars by no means direct parents on successful strategies to win at due process and "defeat" the other party, as the seminars open only to school employees and their attorneys are typically designed to do. Instead, these parent seminars are appropriately focused on the components of developing an effective IEP and securing an appropriate education for children with special needs.

More recently I have begun attending conferences that are offered by organizations whose membership is made up of school superintendents, administrators and staff. I recently attended the Texas Council of Administrators of Special Education (TCASE) Summer Leadership 2008 conference. The conference was held in Austin over 3 days from July 15 through 17 at the Austin Renaissance Hotel.

I attended in my capacity as an Educational Consultant and Advocate. When I registered for the conference, even though I was going as a consultant, there was no option listed during the registration process for parents.

Later, I understood why that could be the case. There is a different "flavor" to the presentations that are given by school district's lawyers knowing that parents and advocates are anticipated as the target audience, such as those that the regional education service centers provide. At the TCASE conference, the presentations were clearly not intended for parents or advocates to hear and the "flavor" was not palatable by any means.

The presentations that I attended that addressed special education law and other topics were given by attorneys from Walsh, Anderson, Brown, Schulze and Aldridge; Feldman & Rogers, Bracewell & Giuliani and other legal firms.

In fact, there was a large sign outside of the presentation that acknowledged the conference sponsors which included the following law firms.

Presidential Circle: WABSA
Gold: Bracewell & Giuliani
Bronze: Henslee Schwartz
Bronze: Richards Lindsay & Martin

While attending the presentations that were specific to special education law, I was rather appalled at many of the things that the school district administrators and other staff were instructed on. There were many strategies and tactics recommended to the attendees which were very similar to instruction on the Delphi technique. The Delphi Technique is an unethical method of achieving consensus on controversial topics in a group setting through careful manipulations.

"The Delphi Technique works. It is very effective with parents, teachers, school children, and community groups. The "targets" rarely, if ever, realize that they are being manipulated."
Source: The Education Reporter <http://www.eagleforum.org/educate/1998/nov98/focus.html>

Many of the things said by the presenters and attendees at the conference were very disturbing. Just one example of a statement made by an attorney during a presentation titled "Effective Strategies for Working Effectively with Advocates" was that if the school staff did not like the way an ARD meeting was going they could reschedule and "**call the cops**".

Between the comments made and much ensuing laughter at them, it was clear that these presentations were not intended to keep the focus on the "stakeholder" – the child. The conference was clearly never intended for parents, advocates or other professionals. There was some valuable information; however I felt it was overshadowed by other parts of the presentations which I found inappropriate, demeaning to children and parents as well as condescending and threatening.

On the second night of the conference, there was a reception to include a DJ and casino. The entertainment included a:

"Vegas-style night, featuring Blackjack (21), Roulette, Craps, Poker, Slots, Caribbean Stud, Let It Ride, and of course, dancing" as well as alcoholic beverages.

I attended with another parent and advocate and we observed many attorneys in attendance mingling with the school district administrators and staff. It is hard not to bristle at the experience of witnessing firsthand

our tax dollars funding a casino party to entertain school administrators that is both sponsored and heavily attended by the law firms who fight against students with special needs.

After my testimony here today, I expect that I will likely be on the radar or a bull's eye so to speak and may be prohibited from attending future conferences such as this. And I have already consulted with friends who are attorneys in the unfortunate event that the police are called on me for advocating for a child and his or her parents.

I very much appreciate the opportunity to share this information with you and hope that it is something that you will seriously consider now and as hearings continue in the future. Thanks for all the light that you are shedding on the plight of our children and families and the inadequacies of our state's educational system when it comes to children with special needs.

Sincerely,

Amy A. Sosa
506 Greenwich Lane
Coppell, TX 75019

TCASE Summer Leadership 2008 Conference July 15 – 17, 2008

(My notes taken at the conference attending as an Educational Consultant and children's Advocate)

In one presentation given by Jan Watson of WABSA with the topic "Effective Strategies for Working Effectively with Advocates", there were some very disturbing comments and *instructions* given to the attendees.

- If the school administrators are surprised with an advocate coming to an ARD, recess the ARD and consider having your attorney attend the follow-up ARD.
- If at any point of discomfort or legalize, recess and reschedule and contact your attorney
- "You don't have to be **hijacked or abused.**"
- Advocates have **no ethical standards.**
- Advocates bill by the hour and want 8 hour ARDs.
- If the staff **feels** fear or the ARD becomes loud "**reschedule and CALL POLICE.**"
- And Jan mentioned that in one case she filed "**No Trespass**" against the parent's attorney.

Presentation given by Jose Martin of Richards Lindsay & Martin with the topic "Making LD Determinations Under the New Texas Model"

- If parents refuse consent to evaluate their child, give them their Procedural Safeguards "**so the can take you to Due Process.**"

Presentation given by David Richards of Richards Lindsay & Martin with the topic "Frequently Asked Questions on Grades, Grading & the IDEA"

- If you have a **litigious parent**, evaluate to **defend** versus no evaluation.
- If there is a **litigation threat**, do the evaluation.
- If there is a due process complaint and you are caring they "name a school after you" and if you are stupid they "name a lawsuit after you."
- "**Sue first the kids that can sue you.**"
- School staff should not air disagreement in an ARD in front of the parent. It's like handing the district checkbook to the parent."

Presentation given by Jim Walsh of WABSA with the topic "School Safety and Students with Disabilities"

- "**Look out** for the Doe family – will find **litigious** issues."
- When students violate the school code of conduct, be consistent when **calling the police.**
- When parents choose an evaluator to conduct an Independent Educational Evaluation (IEE), to "**cut out IEE's**, do background checks to **ferret** out those people." (referring to the independent evaluators)
- When discussing sending a student to an alternative placement such as In School Suspension (ISS) for violating the student code of conduct or "**FFZ – FAPE Free Zone**", Mr. Walsh told the audience that with regards to the number of days a student can be sent "Don't diddle it away, save it for when you **NEED to get that kid off the campus.**"
- For short term removals "use ISS" or "long term DAEP" to **CYA** to avoid it being a change of placement.
- If there is a non-census with an ARD meeting, determine if it is worth "fighting over" and talk to your lawyer to see if it is "**legally defensible.**"
- With regards to providing parents with the Procedural Safeguards, giving them to the parents is sufficient – "**You are not responsible for them understanding**" them.

Presentation given by Marc Charbonnet, Licensed Clinical Social Worker, Educational Consultant and Psychotherapist on the topic "The Director's Cut: FBA's & BIP's – Worthless or Worthwhile"

- When determining who should be involved with a Multi-disciplinary Team that develops Functional Behavior Assessments (FBA), **include the administration "because they are named in litigation."**
- When talking about a parent, he referred to them as "**Special Eddie's Mom.**"

Legal Panel presentation by Chris Borreca with Bracewell & Giuliani, Cynthia Buechler of Buechler & Associates and Jim Walsh of WABSA

- Ms. Buechler commented that when moving a student from under RtI (Response to Intervention) in the general education setting to eligibility under Section 504 and special education – **"Now the kid can sue you!"**
- If the student is in general education setting, you can discipline them and send to DAEP. If the student is under special education, then you have to give them the Procedural Safeguards and tell them **"who an attorney is to sue you."** And **"find the most incompetent one"** to tell them.
- Mr. Walsh commented that he Googled "Hard ARD" and found something. "PREPARING FOR THE "HARD" ARD. Why do we have to endure those "hard" ARDs? (This can be found at: http://prtl.uhcl.edu/portal/page/portal/CBAT/Professional_Development/Modules/PREPARING%20FOR%20THE%20HARD%20ARD.ppt
This is a Power Point that is obviously intended for school administrators and other staff and appears to be from the University of Houston Clear Lake.
http://prtl.uhcl.edu/portal/page/portal/HOMEPAGE/TAB_HOME
- When attorneys are involved, the "Devil is in the details", the **attorneys benefit** and so do the publishers.
- He commented that "being reasonable can **trump compliance.**"
- He cited case law where he commented there was an aggressive attorney, the school district filed **criminal trespassing** charges on the attorney who was acquitted and then sued the district and the special education director. **"Retaliation!"**

Other presentations that I attended were:

Nicholas Martin – "Diplomacy for School Officials and the Key to Effective IEP Teams" where the districts were taught how to say **NO**.

Kathy Clayton with TEA – State of the State with Special Education.

Robert Scott, Commission with TEA.