

E1.028 beginning at 9:00 am

TO: Senator Florence Shapiro, Chair, Education Committee

Senator Kip Averitt

Senator Steve Ogden

Senator Dan Patrick

Senator Leticia Van de Putte

Senator Royce West

Senator Tommy Williams

Senator Judith Zaffirini

DATE: June 23, 2008

RE: Special Education Testimony

Thank you Senator Shapiro and members of the Education Committee for looking into this very important matter.

I would like to say first and foremost that I do not believe that vouchers will NOT solve the problems facing special education in Texas.

As a parent and an advocate observing special education in Texas very closely during the last 8 years, I will tell you frankly that nothing will happen to improve the fairly dismal outcomes for the majority of children with special needs who must depend on the ability of the local public schools in Texas without changing the following:

1. More pay for special education teachers, better support for on-going training and mentorship
2. Create a link with principal bonuses to outcome measures for special education, i.e. lack of complaints or testing results,
3. Better leadership from TEA. Fire Kathy Clayton and Gene Lenz and hiring people from out of state to run the IDEA compliance division at TEA
4. Making school monies spent on special education dispute resolution cases transparent to the public
5. Moving the dispute resolution process from TEA to the State Office of Administrative Hearings

But, if the legislature cannot find the will to give certified special education teachers, this does not include just an alternative certification, more than the token raise of \$400 they received at the end of the 80th legislative session, then just give it up—because nothing else said here today will really make much of a difference or will be more than a show for the public.

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Special Education Committee Hearing

More pay for special education teachers, better support for on-going training and mentorship

There are more than enough special education teachers in Texas, but the working conditions and pay are so low that most leave after 3 – 5 years. Salaries are so low that a teacher cannot support a family on just one salary. Additionally special ed teachers have few opportunities to go to conferences. In eight years, my son's Structured Teacher, who only teaches students with autism, has not had the opportunity to attend the state autism conference.

I am on the board with a local parent support group that frequently offers teacher scholarships to local conferences. We frequently have teachers turn one down because their principal will not pay for a substitute that would allow the teacher to attend. Also, this group offered to provide a training for paraprofessionals and teachers in the district for free. The autism coordinator was told by the Houston ISD not to schedule any in district trainings during the year because staff could not be spared the in-service days.

Another example: In 2007-2008 school year, my son was making the transition from a restricted classroom to a general education classroom. I asked the gen. ed. teacher if she had been given any time during the pre-term in-service to meet with my son's self contained classroom teacher. She replied she had not, and also didn't know anything about autism. This was going to be my son's very first experience in a general education classroom, and he had been placed with a teacher who knew nothing about his disability and had not been given a chance to get up to speed on his goals. I found a training that would help her, but when I asked the principal to pay for it, she said she had no budget. I then offered to pay for the teacher's training if the principal would pay for a substitute. The principal did pay for the substitute. I paid for the teacher's training. She paid for materials she found at the conference out of her own pocket. If I had not taken the initiative, this never would have happened. I also learned during the year that the general ed teacher had no idea that she had access to supports from the district school psychologist. She thought she had to figure it out on her own.

Create a link with principal bonuses to outcome measures for special education, i.e. lack of complaints or testing results,

Principals rule their campuses, yet most have little idea, if any, of their responsibilities and the rights of children and parents under IDEA2004. The vast majority of principals are so concerned about their TAKS testing results that they have little motivation to ensure that this very complicated and intimidating process is receptive to parent concerns and inputs about their child's educational program as was intended under IDEA2004. There is also little understanding that their job is to give kids the skills that keep them off of state services as adults.

Unless some concrete outcome measure—children who continue in the school's program, number of complaints filed or testing-- is tied to a principal's bonus, then they will continue to have no interest in ensuring they are fulfilling their responsibility as required by IDEA2004.

My brother-in-law was the vice principal at the junior Needville junior high when a youth with autism was needing to be restrained almost daily, and he was the only one big enough to be able to restrain him. One teacher had already quit, and my brother-in-law found a school 45 minutes away. He offered to pay for sending the boy to this school every day and was quite surprised when the family turned this

down and withdrew their son from school. What surprises me about this story is that the Behavior Treatment and Training Center—one of the premier resources for behavior consultants who are experts in developing programming for children with autism in the state of Texas is about a 15 minute drive from Needville. So why did this vice principal not think to contract with them and bring consultants in who could train the teacher, develop and monitor programming at the youth's home school at a fraction of the cost of his proposed solution? When I asked him this, he just shrugged his shoulders.

Better leadership from TEA.

Fire Kathy Clayton and Gene Lenz and hiring people from out of state to run the IDEA compliance division at TEA

By now, I'm sure that you are aware that Texas has received a letter from the US Office of Special Education Programs that Texas has been downgraded to a "needs intervention" status in a couple of categories—and this happened while both Kathy Clayton and Gene Lenz oversaw this.

Attached to this testimony is a document that was distributed at a TCASE (Texas Council of Special Administrators) 2001 Summer Leadership Conference in which parents of children with autism were mocked. While TCASE is a separate entity from TEA, there is a tremendous amount of overlap in support and professional development with the IDEA Coordination division. Nona Mathews, listed as one of the players, is still an employee at Walsh, Anderson, Brown, Schulze, & Aldridge, P.C.—a law firm that has built a profitable business representing school districts and training superintendents through regional service center trainings.

The incidence of autism has been rising for awhile. I have been coming to Austin to testify since 2004. I was shocked to find that most legislators had never heard of autism, were unaware of the coming impact on the school and other social service systems—and for this I fault the IDEA coordination section of TEA as well as many employees at the agency now known as DADS. If these employees had been conscientiously doing a job that served the tax payers of this state who provide their salaries, they would have been doing everything in their power to make everyone aware of this coming problem.

Children with autism are very difficult to teach and their teachers require very specialized training and **experience** working with children with autism. Rather than raising a call to the schools to gear up for this coming tidal wave of children, TEA silently drug its reluctant feet on every issue related to providing effective school programming for children. I have personally dealt with Kathy Clayton when I was a member of the Autism Rule Study Group and found her to be unbelievably incompetent, misleading in her directives to the point of suspecting of her of lying. Her actions have worked to disenfranchise parents as much as she can from the process, to keep cronyism alive, and drive competent people away from their jobs.

Also, TEA office of IDEA Coordination has taken an unofficial position against Applied Behavior Analysis—a theory whose various methodologies that research has repeated proven effective.

Making school monies spent on special education dispute resolution cases transparent to the public

Currently, districts are easily able to hide the amount of money that they spend on legal costs for disputes with parents. If tax payers understood that districts are using them as a bottomless source of legal fees to deny parents relatively low cost of services, (ex. spending \$10,000 to deny \$2,000 worth of services). Until the public can easily hold districts accountable for poor budgeting decisions like this, this situation of denying necessary services to children will continue.

Moving the dispute resolution process from TEA to the State Office of Administrative Hearings

The current dispute resolution process is fraught with cronyism and other problems for parents. Parents in Texas do not have even a level playing field when it comes to raise issues with the school. In Texas parents win disputes 1% of the time as opposed to 30% nationally. This speaks to the need to reform this situation.

Please see the attached report produced for the Texas Attorney General's Office regarding problems with the current hearing officer system within the dispute resolution system.

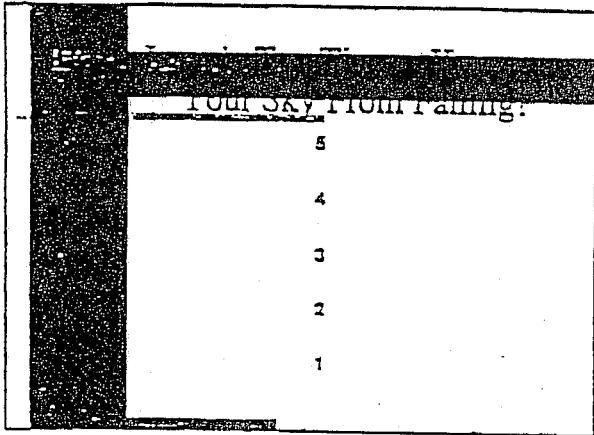
Autism:

The Sky Is Falling!



By: Chicken Little
Nona Matthews, as Henry Penny
Pamela Carroll, as Goosey Lucy
Bobbye Records, as Ducky Lucky

attachment 1



NOTES

10 - Just basic not easy

9

8 - Art of Lang

7 - List w/ not said

6 - Courage to elim. people who get in the way

5 - Best Prac.

4 - Int. of job.

3 - Inv. parents to training

2 - Courage to write boldacious goals

1 - Money for good attorney



A Case for Change

Improving Teacher Termination and Non-Renewal Hearings and
Special Education Due Process Hearings at the Texas Education Agency

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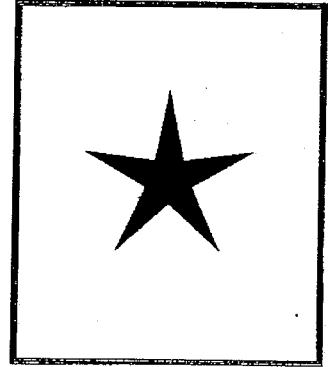
August 2005

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Attachment 2



Summary of Key Recommendations

This report contains recommendations for improvements to the Texas Education Agency's (TEA) teacher termination and non-renewal hearings and special education due process hearings. Although improvements are in order for both systems, the hearing functions should remain a key part of the agency's operations. This summary contains highlights of key recommendations, which are explored in-depth in the body of the report. Some recommendations are applicable to both teacher termination and non-renewal hearings and special education due process hearings.

Proposals include suggestions to improve the agency's administration of hearings and to expand and improve information available to the public. The availability of public information is a crucial cornerstone of the agency's function. In teacher termination and non-renewal hearings and special education due process hearings, the livelihood of teachers and the education of children are at stake. Whether parties are represented by counsel or appear at a hearing *pro se*, they deserve as much information as necessary to adequately prepare their case.

Common recommendations for teacher termination and non-renewal hearings and special education due process hearings include:

- Develop qualitative performance criteria for certified hearing examiner and special education hearing officer contract performance.
- Perform outreach in the legal community to recruit additional qualified applicants, and increase the hourly compensation to \$125 per hour for certified hearing examiners and special education hearing officers.

- Publish procedure manuals for certified hearing examiners and special education hearing officers for consistent process guidance.
- Upgrade website search capabilities for local hearing decisions, commissioner decisions, and special education due process hearing decisions.
- Post relevant education-related court decisions on the TEA website to allow certified hearing examiners and special education hearing officers and the public to conduct thorough legal research.
- Provide a standard format for all decisions, and greater clarity for special education due process decision case summaries.
- Administer surveys to participants in teacher termination and non-renewal hearings and special education due process hearings and mediations. Compile and interpret the information for improved agency services.

Although numerous improvements to the certified hearing examiner structure have been made since its inception in 1995, systematic improvements are needed. Recommendations for certified hearing examiners begin with the recruitment process and follow through to decision-making.

Recommendations exclusive to certified hearing examiners include:

- Develop objective criteria to assess the relative skills and abilities of each applicant in order to select the most qualified attorneys as certified hearing examiners.
- Expand agency training for certified hearing examiners, particularly in the areas of evidence, procedure and decision writing. Require completion of mock hearings and hearing observations prior to service.
- Develop a policy manual for hearing examiners that includes relevant commissioner decisions and court cases to encourage more consistent decision-making and application of legal precedent.
- Standardize hearing examiner billing to address school district claims of over-billing.

- Allow certified hearing examiners and attorneys in their firm to perform legal work for districts in which they do not hear cases to expand the pool of qualified applicants.
- Establish an administrative process to provide mediators for teacher termination and non-renewal cases under Chapter 21.

Examining public concerns regarding special education due process hearings provides a beginning point for reforms. The goal of the recommendations concerning special education due process hearings is to eliminate the appearance of bias and to improve decision making, and as important, to provide increased public access to crucial information on special education due process hearings and mediations.

Recommendations exclusive to special education hearing officers include:

- Prohibit special education hearing officers from hearing special education due process hearings and Section 504 cases in the same school district during the term of their contract.
- Add agency training on conducting hearings with pro se parties where successful methods of conducting hearings with unrepresented parents are discussed.
- Increase decision writing training. Provide special education hearing officers with additional resources on administrative law decision writing and use of precedent.

Recommendations for improved public access to information on special education due process hearings include:

- Develop core materials and training for districts and parents for special education disputes, including information on effective communication and advocacy, collaborative problem solving, long-term relationship building, and avoiding stalemates.
- Publish a Texas Parent's Guide to Special Education.

- Develop a package of procedural information to mail to parents immediately after they request a special education due process hearing, and a standard statement on appeal rights and remedies to provide to parties with each hearing examiner decision.
- Develop extensive resource materials for parents, such as an online tutorial, a glossary of terms, mock hearing and mediation videos, and sample forms and worksheets. Make them available on-line and in other formats by request.
- Create an Office of Parent Ombudsman to assist parents in navigating the special education system.
- Develop a model for IDEA 2004 resolution sessions, including a pilot program that utilizes neutral facilitators through an education service center.
- Communicate the effectiveness of TEA special education mediations directly to school districts and parents of children in special education.
- Simplify documents currently on the TEA website, including the due process hearing request form.

The TEA has shown commendable interest in improving the teacher termination and non-renewal hearing system and its special education due process hearing system. Of course, these recommendations cannot be accomplished without agency direction and sufficient funding, whether from existing or new resources. In this report, every effort has been made to identify what actions, whether legislative, agency rule or management, would be required for each recommendation.

By continuing to research ideas in Texas and beyond, and by listening to the public, parties and practitioners, the Texas Education Agency can address needed reforms in teacher termination and non-renewal hearings and special education due process hearings.

