

Introduction

If you are the parent of a child with a disability, you represent your child's interests. To effectively advocate for your child, you need to be aware of recent legal developments and decisions that may affect your child's education.

If you work as a teacher, related service provider, or administrator, you may receive incorrect legal advice. You need to know about new developments in special education law.

If you are an attorney or advocate who assists children with disabilities and their families, you have an ethical responsibility to be current on cases and other legal issues.

We wrote *Wrightslaw: Special Education Legal Developments and Cases 2015* to make it easier for you to stay up-to-date on new developments and decisions. This book includes legal developments and key decisions from the Courts of Appeals in IDEA cases during 2015.

Why You Need This Book

Wrightslaw: Special Education Legal Developments and Cases 2015 is unique.

Unique? You bet!

In this book, you have special education legal news and developments, from jury trials and settlements in teacher abuse cases to legal pleadings in a case that may be decided by the Supreme Court.

In this book, you have all key decisions in special education cases from the Courts of Appeals and cases initiated and settled by the Department of Justice in 2015.

You have all "Dear Colleague" Policy and Guidance letters published by the Office of Special Education Programs (OSEP) and the Office of Special Education and Rehabilitation Services (OSERS). These Guidance letters are very useful when you need to educate school staff and administrators about their legal responsibilities.

You need *Wrightslaw: Special Education Legal Developments and Cases 2015* because you want to know -- or you **need** to know -- about exciting new developments in special education law.

Exciting? Yes, legal developments and cases can be exciting!

It's exciting when a Court of Appeals refuses to allow a special education director to use the cloak of "qualified immunity" after she retaliated against a father who advocated for his child by filing false child abuse complaints against him.

It's important for you to know that cases are being dismissed because parents failed to exhaust their administrative remedies (request a special education due process hearing) before filing suit in federal court.

In Chapter 2, you will see how this issue, known as "Exhaustion," affected the family of a child with a disability whose school refused to allow her service dog to accompany her in school. The parents have appealed an adverse Court of Appeals decision to the U.S. Supreme Court.

If you advocate for children with disabilities, including your own children, you need to know the answers to these questions.

Can a parent request an Independent Educational Evaluation (IEE) in an area that was not previously assessed by the school district? (See OSEP Letter to Debbie Baus, page 33)

What corrective actions can a State Department of Education order a school district to take after that district failed to provide a child with FAPE? (See OSEP Letter to Deaton, page 34)

Can a school district unilaterally amend a child's IEP during a resolution meeting and make the revised IEP the subject of the due process hearing? (See OSEP Letter to Cohen, page 36)

Although the Individuals with Disabilities Act (IDEA 2004) has not been revised and reauthorized since 2004, the law continues to evolve. As you read cases, letter opinions, and Dear Colleague letters in Special Education Legal Developments and Cases 2015, you will see how the law is changing.

Here are a few examples.

The U.S. Department of Education issued a Policy Paper that says annual IEP goals must be aligned with State academic content standards for the grade in which the child is enrolled. You need to read this Policy Letter with new requirements for IEPs published by the Office of Special Educations (OSEP) in November 2015. (see page 38)

Did you know that schools must notify parents of their right to ask the school to destroy their child's Personally Identifiable Information (PII) when it is no longer needed to provide educational services? Did you know that the school must destroy the PII at the parent's request? (see page 38)

Have you read the Settlement Agreement between the U.S. Attorney's Office and Detroit Public Schools that requires the public schools to provide sign language interpreters to parents who are deaf and hard of hearing so they can participate in educational decision-making? (see page 37)

How to Use This Book

Wrightslaw: Special Education Legal Developments and Cases 2015 is divided into four Chapters.

Chapter 1 introduces legal terms and concepts. You learn about statutes, regulations, case law, judicial interpretations, and factors that cause law to evolve and change. This chapter includes an overview of the federal laws that govern the education of children with disabilities.

Chapter 2 is about legal news and developments. This chapter includes developing law about “exhaustion of administrative remedies” in a case that may be decided by the Supreme Court. You will learn about jury trials and verdicts, monetary damages, and multi-million dollar settlements in teacher abuse cases.

Chapter 2 also includes actions and opinions from the U.S. Department of Justice (DOJ) and U. S. Department of Education in “Dear Colleague” letters from the Office of Special Education and Rehabilitation Services (OSERS) and the Office of Special Education Programs (OSEP).

Chapter 3 begins with a Table of Decisions by Courts of Appeals in 2015. This Table of Decisions includes the date, court, synopsis of the legal issues, outcome, and prevailing party in each case. Each case in the Table of Decisions is linked to a summary of the case. We used the Court's words to describe the issues in the case and the rulings. Each decision includes a link to the full text of the decision as published in Google Scholar.

Chapter 4 is about legal research. This chapter includes a tutorial about how to use Google Scholar as a legal research tool. Google Scholar is an accessible search engine that indexes the full text of federal and state legal decisions.

An Index is at the end of the book. In addition to the Table of Contents and index, the search feature in *Wrightslaw: Special Education Legal Developments and Cases 2015* is a fast, easy way to locate information on issues that are of interest to you.

Assume you want to locate information about “abuse.” You can use the “Find” or “Search” commands to find all entries of “abuse” in the book. An easier strategy is to use the “Control” or “Command” shortcut keys (depending on whether you are using a Windows or Apple computer) and the letter “F.”

Wrightslaw: Special Education Legal Developments and Cases 2015 is a legal reference book. We suggest that you begin by reviewing Chapters 1, 2, and the Table of Decisions in Chapter 3.

We recommend that you skim the case summaries that follow the Table of Decisions in Chapter 3. Next, read Chapter 4 and practice finding cases on Google Scholar.

After you finish the Google Scholar Tutorial, return to the case summaries in Chapter 3.

Links in the Table of Decisions in Chapter Three will allow you to download the full text of decisions from Google Scholar.

In Summation

Now that you've finished reading this Introduction, you have a clearer sense of how this book is organized and how to get the most out of the book. In Chapter 2, you'll catch up on legal news and see how the law is evolving.

When you learn about this new information, you may feel excited