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Special-ed planning is skewed, critics say
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It's like a scene from a prime-time legal drama. There are whispers, tears and behind-the-scenes coaching from high-paid attorneys. But in these cases, the person whose fate is at stake is a child -- like 11-year-old Jeffrey, who is autistic, or 8-year-old Amber, who has developmental delays. And the setting isn't a courtroom, but a school library or office. These are the Admission, Review and Dismissal meetings, where parents and school officials are required by federal law to work together to plan the education of special-needs children. In most cases, the parents, teachers and administrators work together amicably, school officials say.

But in handling contentious cases, administrators are being trained to make the meeting environment uncomfortable for parents. The goal is to avoid prolonged discussions, lawyers say. If school officials expect parents to disagree with them about a child's education, they should crank down the thermostat and give parents straight-backed, unpadded chairs, Don Henslee, a lawyer from Austin, advised about 35 administrators during a Texas Association of School Boards training seminar last fall in Dallas. "The last thing we want is people getting comfortable," Henslee told them. "It is a war room. Accept it. Set it up as one." The meetings usually become contentious because parents haven't accepted their child's disability and they expect the district to "fix" it, school officials say. And the more severe the child's disability, the more likely the case will become heated, they say. "It's a real hard place for a parent to be," said Genni LaPlante, director of special education in the Keller school district. "Sometimes I have found that some parents have been fighting for their child's life. They've gone through just a litany of situations. ... I think they kind of come at us fighting sometimes," said LaPlante, whose teen-age son has Down syndrome and is a student in the district. But such training seminars fuel the suspicions of some parents and special-education advocates who say school districts resent having to spend money on students with disabilities. "I never cease to be amazed at how callous they are behind parents' backs," said Fort Worth lawyer Marvin Adams, who opted to home-school his autistic daughter, Calie, rather than keep fighting the Weatherford school district to get services for her.

In Texas, about 500,000 children are enrolled in special-education programs -- about 12 percent of students -- according to the Texas Education Agency. School districts across the state spend \$1.8 billion on special education every year. About \$10 billion is spent on regular education, which includes 70 percent of students. On average, schools spend \$600 a year more per student to educate special-education students than they do regular-education students, the agency says.

The federal Individuals with Disabilities Education Act says these children are entitled to a "free and appropriate education." Parents and educators are to be equal partners in determining the education goals for each child. The goals set during the meetings become the primary focus of the child's education. In some cases, they can be as simple as learning to shake a rattle or to blink once to answer "yes" and twice to answer "no." In others, the goals may be learning to read or obtaining job skills. Even without the concerted effort to make some parents uncomfortable, the meetings can be intimidating, many parents said. They are outnumbered by school officials, flooded with test scores and diagnoses about their children that they have never seen before, and confused by the administrators' use of acronyms and abbreviations -- ARDs, ADA, IEPs and IEEs.

Educators are often unyielding once they have decided what to offer the children, parents say. At one seven-hour ARD meeting, a parent from Carrollton had to face off with 17 Lewisville school district officials. The parent was offered two 10-minute breaks during that time. Another meeting was held in August in a school with a broken air conditioner. Another was conducted by flashlight after the school's electricity went out. Special-education lawyer Gary Mayerson of New York said he has seen school districts nationwide use intimidation tactics on parents. "They'll say, 'You have other children in the school

district, and we're going to be together a long time.' The translation is, 'Don't push us. We'll have opportunities to retaliate against your other children,' " he said.

School officials also have ways of making parents feel uncomfortable if they disagree or want different services. "They may say something like, 'We can't believe you have an issue with that. No parent has ever had an issue with that,' " Mayerson said. "They make you feel like you're an alien from the planet Pluto. The whole purpose is to get you to feel so intimidated that you don't make a peep." He said Texas is especially difficult for special-needs students. "My one-word pithy advice for any parent that lives in Texas is that they should move," Mayerson said. "I've given up believing that the system can work in Texas." If moving isn't an option, parents should keep detailed records, videotape their child's progress and pay for independent evaluations of their child's performance. Henslee said his tactics -- cold rooms and unpadded chairs -- are designed simply to keep difficult parents on task. He said his advice applies to less than 1 percent of cases, though he didn't state that at the training seminar. "You have no idea how many times we've been shouted at, yelled at, cursed at," said Henslee, whose firm -- Henslee, Fowler, Hepworth & Schwartz -- represents about 320 Texas school districts. "The circumstances have been beyond the bizarre."

Both sides agree that parental mistrust is often the reason that meetings become contentious. "Mistrust is probably the biggest issue I see overall," said LaPlante, the Keller district's special education director. LaPlante said only a few dozen of the district's 2,500 annual Admission, Review and Dismissal meetings are difficult. Districts say the mistrust results from unrealistic expectations by parents, who are encouraged by special-education advocates to sue if those expectations aren't met. Some parents ask districts to provide expensive one-on-one training, in-home therapy or reimbursement for private-school tuition. By law, school officials cannot use financial or staffing constraints as reasons to not provide services. But the expensive items usually cause the most disagreement, parents said. Many of the disputes can be blamed on the advocates, Henslee said. "In our experience, some have acted rudely and abusively," he said. "I think it's a small minority of advocates that tend to create large problems." Teresa Williamson, special services coordinator for Arlington schools, said there are about 6,000 students receiving special-education services in the district.

Last year, Williamson's office performed almost 9,000 ARD meetings. Most of them went well, she said. "Communication is the key," she said. "The more parents understand the process and terminologies, the more involved they'll feel." Williamson said her staff often spends time with parents before or after a meeting making sure they understand the issues. "We certainly don't want parents to leave feeling like they haven't been a part of the process," she said. "It has become a more complicated and litigious process over the years. But I believe the process is a good one if the focus is on communicating and doing what's best for the child." Williamson said she is reluctant to blame any one party for causing discord in the meetings. "That's kind of speculative, and I'm more of a factual person," she said. "Certainly there are advocates and attorneys that come, and that doesn't make the process what it is intended to be. When that happens, it takes the focus off the child." Parents must remember that they are a partner in developing educational goals for their children but not necessarily in deciding how to meet those goals, Henslee said.

If parents want to challenge the district's decision, they have the right to a due-process hearing, he said. In the 2000-01 school year, parents in Texas filed 379 such due-process complaints. Of those, 73 went to hearings, the Texas Education Agency says. Almost always, school districts prevail in the hearings, which are conducted by a hearing officer assigned by the agency. But it costs an average of \$35,000 for a district to contest a case, Henslee said. That money could be better spent on educating parents about their rights, he said. Parents said they don't trust school officials because they try to keep parents in the dark about their legal rights and are unwilling to listen and respond to parents' wishes for their children. Henslee's advice encourages districts to fight with parents, said Marianna Bond, immediate past president of the Autism Society of Greater Tarrant County. "He is encouraging school districts to go in with an adversarial attitude. What he's encouraging is for the school district to break the law," she said. "It's so contrary to what education is supposed to be about."

Bond, who has two autistic children in the Birdville school district, said most parents start out trusting the school district. But as they become more educated about their legal rights and more frustrated by their

child's lack of progress, trust diminishes. "I am very, very cynical," said one Tarrant County parent, who asked that her name not be used for fear of retaliation against her child. She says school officials lied and played power games at meetings. Carie McDonald of Carrollton said that during three years of conferring with the Lewisville school district, administrators told her little about the law. It wasn't until she met with an advocacy group that she learned her rights and those of her 8-year-old daughter, Amber. "When we figured all this out, all bets were off. We were no longer these little puppets," she said. Since she was placed in private school in 2001, Amber's IQ has nearly doubled, McDonald said.

Advocates and lawyers encourage parents to be persistent with public schools to win more services for their children. "It's an economic issue -- bottom line. And your job for your kid is to push them to the front of the line," said Pete Wright, a lawyer from Virginia who instructed parents at an advocacy conference last month in Oklahoma.

By learning their legal rights, parents have a stronger hand, Wright and others say. Laura Gibbs of Roanoke, whose 7-year-old daughter, Summer, is autistic, said her relationship with the Northwest school district improved after she studied the law. "I can remember my first ARD meeting, sitting there thinking, 'I don't have any idea what they're talking about,'" said Gibbs, who has attended more than 25 such meetings. "They used so many acronyms, and you're afraid to ask because you don't want to look stupid." She withdrew Summer from the district for a few weeks and threatened to sue. Gradually, the relationship improved, Gibbs said, and she obtained more services for her daughter. Now, she goes into the meetings with a business mind-set.

Staff Writer L. Lamor Williams contributed to this report.
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