

Communication and Conflict Resolution

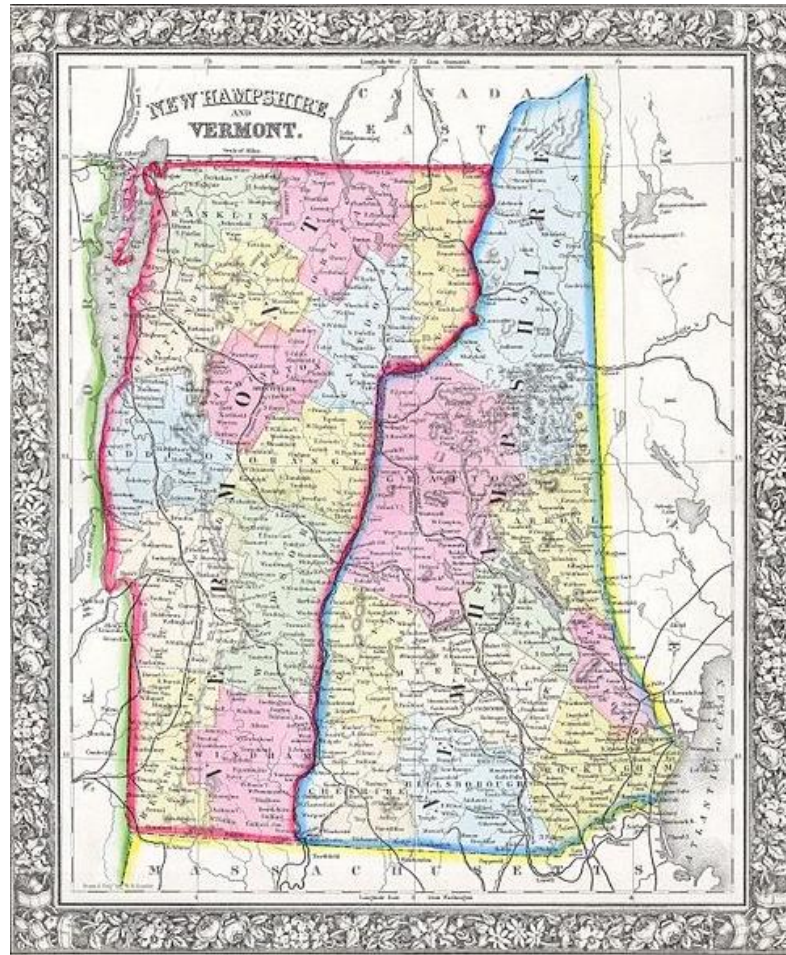
For Students with
Educational Disabilities
Vermont Family Network 10/22/14

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I'm an attorney who concentrates in
education law.



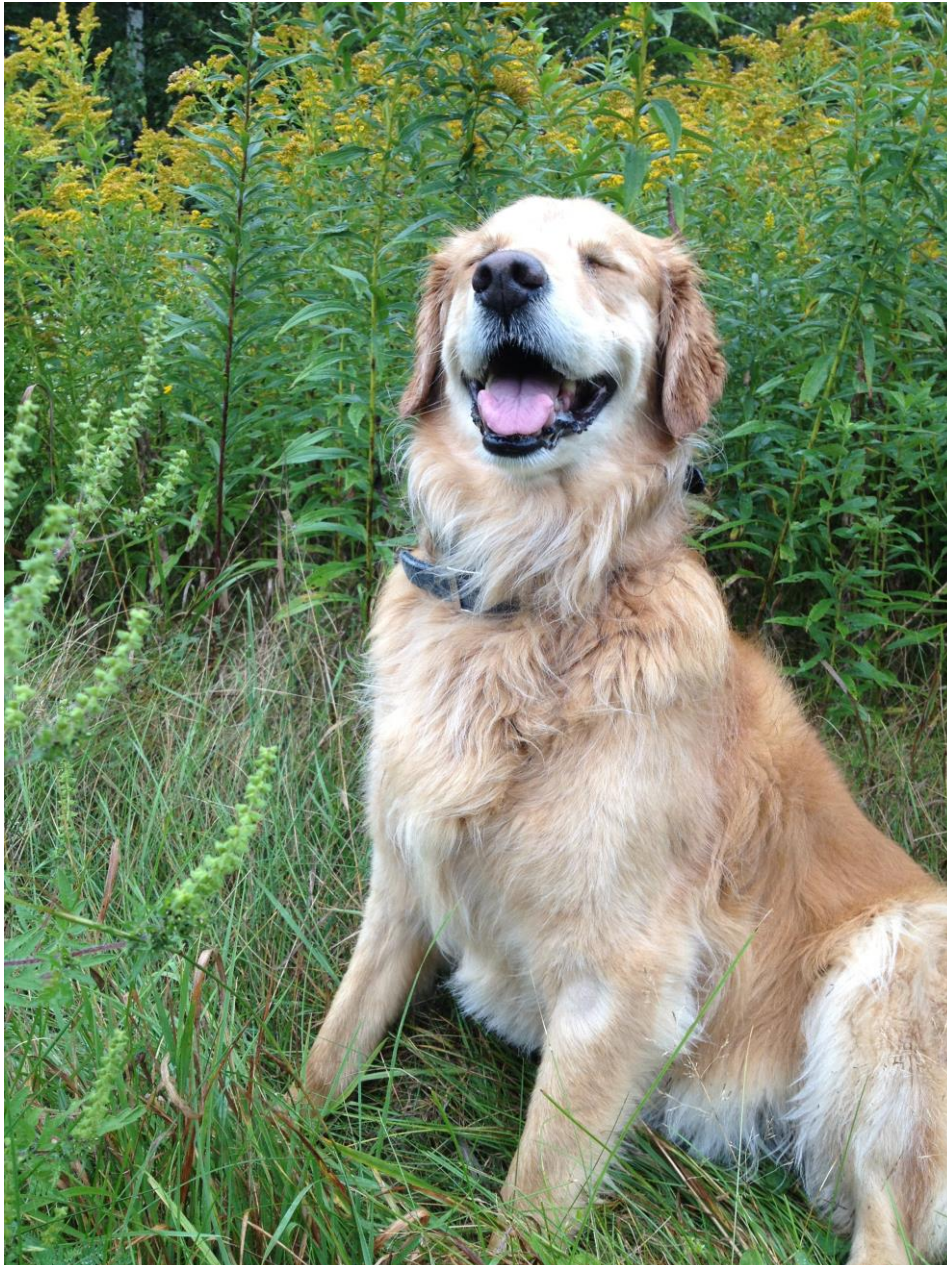
I practice in Vermont and New Hampshire



I spend free time with my dog ..



Her name is Scout and she's spoiled rotten (not my fault)



Communication and conflict resolution

The education of students with disabilities can be difficult, complex, stressful, expensive, and thankfully, it can be very rewarding as well.

The difficult parts of the process can lead to conflict between parents and professional educators.

- Today we will talk about some simple common sense things to consider when trying to resolve disputes or disagreements in the education setting.
- This webinar is not primarily focused on the laws and regulations related to students with disabilities.

Which students are we discussing?

First, IDEA eligible students

- **2362.1 Categories of Disability**
- **Vermont has 12 categories of disability.**
- **Autism Spectrum Disorder**
- **Deaf-Blindness**
- **Emotional Disturbance**
- **Hearing Loss**
- **Intellectual Disability**
- **Multiple Disabilities**
- **Orthopedic Impairment**
- **Other Health Impairment**
- **Specific Learning Disability**
- **Speech or Language Impairment**
- **Traumatic Brain Injury**
- **Visual Impairment**

IDEA students

Conflicts with respect to IDEA students may arise in a number of areas such as:

- *Is the student eligible for services?
- *How should the student be evaluated?
- *If eligible, what services should be provided?
- *Discipline issues
- *Summer Services
- *Type of School or location of school
- *Whether the student's needs are being met and whether the student is making progress

Second, Section 504 students

- Section 504 students include any students with a disability as that term is defined in federal law.
- The ED Section 504 regulation defines an "individual with handicaps" as any person who (i) has a physical or mental impairment which substantially limits one or more major life activities, (ii) has a record of such an impairment, or (iii) is regarded as having such an impairment. The regulation further defines a physical or mental impairment as (A) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or (B) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The definition does not set forth a list of specific diseases and conditions that constitute physical or mental impairments because of the difficulty of ensuring the comprehensiveness of any such list. The key factor in determining whether a person is considered an "individual with handicaps" covered by Section 504 is whether the physical or mental impairment results in a substantial limitation of one or more major life activities. Major life activities, as defined in the regulation, include functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

Section 504 issues

- Conflicts with respect to Section 504 students may arise in such issues as
- Is the student eligible for 504 services (even if not eligible for an IEP under the IDEA)?
- How do we provide an education for the student so that his/her needs are met as adequately as the needs of students without disabilities?
- What services should be included in the 504 plan?

Whether we are talking about a student who is eligible for an IEP or one who is eligible for a 504 plan, certain basic issues are important to bear in mind

- **RECORDS**

It's very important to keep all the records related to a student, and to keep them clearly organized in one easily accessible place, such as looseleaf binders. Additional binders are added over time.

Records should be

- *Complete (medical, educational, evaluations, IEPs, etc)
- *Chronological (the records read like a story and they are easy for anyone who is new to the child to digest)
- *Contain Tabs for each school year (to easily locate 2nd grade or 5th grade)
- *Continually updated (every document that is created by an evaluator or by the school gets included in the back of the records binder.)

Why a records system is important

- It will keep you from going nuts
- It gives you a place to put all the documents that come to your house.
- It allows you or anyone else to easily review the student's history
- It allows you or anyone else to get a feel for whether the student is making progress over time
- It allows for the “big picture” i.e. what has happened with this student and what is happening now and what needs to change

When a conflict arises

1. Focus on the records- look at the student's chronological records and look for the big issues and the big picture. Look for issues such as
 - a. How long has the student been receiving services
 - b. If we compare the testing and other data over time, do we see progress in the scores and in the data reported by school staff
 - c. What is missing from the picture – what do the records tell you about issues the student has that may not have received enough attention

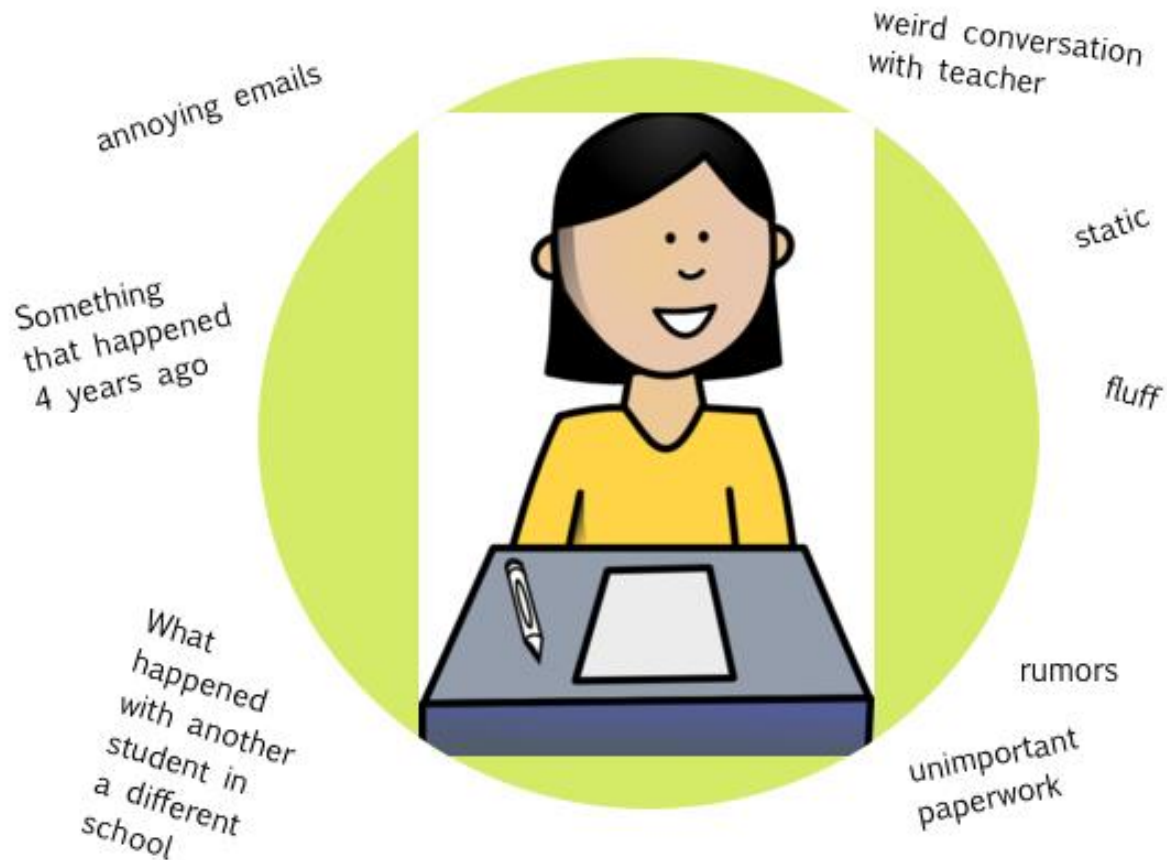
When a conflict arises

Don't get sidetracked



When a conflict arises

Stay focused on the student and not the “static”



Identify your goal

- By reviewing the documentary history, and by staying completely focused on the student, try to identify:
 - What is your goal for the student?
 - What are you trying to accomplish?
 - Not just a generic statement such as “I want my child to succeed”, or “I want what’s best for my child” but rather **what is it specifically that you believe your child needs that she or he is not getting?**

Your goal is not a Cadillac



But it's something better than this



Your goal is to ensure:

1. That the student's unique **academic** and **functional** needs are met and
2. That the student receives an appropriate education and
3. That the student makes meaningful progress

When you think about academic and functional needs, do not focus only on reading, writing and math, but also on those skills that are required for students to “function” in school, or later, in the workplace, or in postsecondary education, or when they need independent living skills. These are functional skills such as conflict resolution, teamwork, work completion, healthy choices, independent decision making, etc. These skills are just as important as academic skills.

ALL OF THESE SKILLS ARE MAY BE **NEEDS** OF A PARTICULAR STUDENT

How do you identify your goal?

- By reviewing the existing records and making the determination that the information in the existing records supports your contention that certain changes must be made in order for the student's needs to be met or
- By obtaining new evaluation data to either prove or disprove your belief that changes must be made and if so what specific changes must be made

- If existing information in your records supports your belief that changes are needed, you may consider these steps:
- Write up your proposed changes in a simple and user friendly way with reference to the documents from your records that you are relying on.
- Be as specific as possible about what you are requesting.
- Then request a meeting with appropriate school staff to discuss your requests. Send your information to the school in advance of the meeting so that school staff have an opportunity to review and prepare.

Almost all school district staff

1. Are professional
2. Are open to suggestions
3. Entered the field of education to help students
4. Are wicked busy and might not have the time to compile historical records, look at the big picture based such a review, and consider all the alternatives that you as a parent might consider
5. Appreciate a parent who is organized and prepared with suggestions based on facts

You may be able to resolve your concerns in this way

Barriers to effective advocacy

- Lack of organization
- Lack of focus
- Lack of clarity
- Lack of specificity
- Emotional impacts because you love your child
- Emotional impacts are the main and most common reason why help may be necessary even if the other issues are handled well

What if you cannot identify your goal by reviewing the existing records?

- Then you will need additional evaluation information and additional input about the student's needs.
- It is very common for parents to feel that changes are needed, but to be unsure about what those changes should be.
- Additional evaluation information, often from a source outside of the school district, may be necessary.

When is independent information necessary ?

- If you and the school staff are in disagreement, it is often helpful to get another opinion, another perspective, and another set of recommendations from an outside source.
- The existing records on the student have not been sufficient to resolve the issues. The school district staff have conducted the evaluations that they felt were appropriate.

Your Independent Evaluation

An independent evaluation is just what it sounds like- it's done by someone who is independent and not an employee of the parent or the school district. The evaluator conducts the evaluation and makes independent recommendations about the needs of the student.

Payment Issues

Your input to the independent evaluation

- What you might provide to the independent evaluator
 1. All relevant documents from your chronological binder of records- for complete background and history. Do not swamp an evaluator with emails and meeting minutes and related documents. Provide the evaluator with documents readily useful to an understanding of the student
 2. The questions you are hoping to have answered

Examples

- a. Does my daughter qualify for services as a student with a learning disability?
- b. What are my daughter's current skill levels in the area of reading fluency?
- c. What services does my daughter need in reading fluency in order to improve her skill level? Please include frequency and duration and intensity of services (e.g. 5x wk 50 min. 1:1)

(The Team will ultimately decide but input is very helpful)

Note this question is based upon NEED and not any of the following:

How can my daughter get the best possible reading services?

How can my daughter get the reading services necessary to reach her full potential ?

What are the optimal reading services for my daughter?

3. You might request that the evaluator conduct some apples to apples testing- if a particular test instrument has been used in the past to measure reading fluency, ask the evaluator about using it again as a way to measure progress over time.

Sharing Independent Evaluation Results with the Team

When you receive independent evaluation results, you share the results with the team.

Using your background information and the answers you have obtained to the questions in your evaluation, you are prepared to offer specific proposals for the improvement of the student's IEP, in terms of the present levels of performance, the historical perspective, and the services needed in terms of duration, frequency and intensity.

Emails are convenient and dangerous

1. Emails last forever.
2. Email battles are never good.
3. Don't vent with emails.
4. Only use email for constructive purposes.
5. Don't write anything you'll regret.

Golden Rule

Respectful advocacy

In all of your advocacy efforts

- Advocate with respect for the other team members
- Stay focused on the student and not things outside the circle of the student
- Be clear and organized and realistic
- Try to resolve things early and without lawyers
- If you can't resolve the case get help

AND- there are always other tools to use

- We have not covered mediation, resolution sessions, or due process hearings, all of which are available steps if your informal efforts do not resolve the issues.
- Even if your own efforts do not resolve the case, everything you will have done will be useful if your case needs to be heard at a more formal level, because your efforts will clarify and crystallize the issues to be heard.