

YOUR HANDS ARE (NOT) TIED: SCHOOL-BASED ETHICS WHEN PARENTS REVOKE SPECIAL EDUCATION CONSENT

RACHEL STEIN AND JILL SHARKEY

University of California at Santa Barbara

Parents currently have the unilateral ability to reject special education services. Yet, it is unclear how schools should support students with special education needs in this situation as schools may not challenge a parent's choice to revoke special education assessment consent or the provision of services. Guidelines for school professionals to address this quandary currently do not exist, thus this paper will draw on legal mandates, court precedents, and ethical analysis to provide recommendations for appropriate responses to these situations. In particular, what the related laws dictate, how to support students in the general education classroom, and how to deal with behavior and disciplinary infractions are discussed with attention to the National Association of School Psychologists's ethics for school psychologists. © 2014 Wiley Periodicals, Inc.

“Andres” is a 6-year-old boy in the first grade. In kindergarten, following a series of behavioral crises, he was assessed and found eligible for special education as a student with autism spectrum disorder. For the remainder of his kindergarten year, Andres spent part of his time in the general education classroom and part of his day in the Special Day Class. He also had aid support, particularly to help with transitioning and high frustration activities (e.g., reading). Andres started first grade and seemed to be doing well with this program. He did not have any more behavioral crises and was making progress on his Individualized Education Plan (IEP) goals. In November, prior to Andres's annual Individual Education Plan (IEP) meeting, Andres's parents wrote a letter to the school revoking consent for special education services and provisions.

Education law, at the state and federal levels, provides guidelines on how to identify, assess, and serve children with special needs. Yet, what is less clear for special education specialists and school psychologists is a school's role for students whose parents have revoked special education services. Although the law states that parents have a legal right to revoke special education services for their child (Individuals with Disabilities Education Act [IDEA], 2004b), what happens afterward is more ambiguous. The situation becomes especially uncertain when the student begins exhibiting challenging behaviors or acting in ways that disrupt the classroom and school environment. Guidelines for school professionals to address this quandary currently do not exist; thus, this article will draw on legal mandates, court precedents, and ethical analysis to provide some recommendations for appropriate responses to these situations. In particular, this article discusses what related laws dictate, how to support students in the general education classroom, and how to deal with behavior and disciplinary infractions. This article will explore the legal and ethical implications for school professionals when working with students who have suspected or identified special needs but whose parents have decided not to pursue assessment or have revoked their consent for special education.

A BRIEF HISTORY

In 1972, the cases of *Pennsylvania Association for Retarded Citizens (PARC) v. Pennsylvania* and *Mills v. District of Columbia Board of Education* ruled that children with disabilities could not be excluded from public education (Jacob, Decker, & Hartshorne, 2011; Yell, 2006). The Education

Correspondence to: Rachel Stein, Department of Counseling, Clinical, and School Psychology, University of California at Santa Barbara, Santa Barbara, CA 93106. E-mail: rstein@umail.ucsb.edu

for All Handicapped Children Act of 1975 further established the rights of children with disabilities as the right to be educated in the least restrictive environment, the right to a free education, and the right to an appropriate education (Yell, 2006). This legislation also established procedural rights and dictated that parents had the right to be involved in the identification, evaluation, and placement of their child in special education (Yell, 2006). Subsequent legislation has continued to emphasize the important role that parents play in the special education process. The IDEA outlines a number of rights and procedural safeguards afforded to parents (IDEA, 2004b). Since the inception of special education, the role of parents has not only been included in the special education process, but it has also been emphasized as a crucial part of the system. School psychologists must ensure that parents have a “voice about desired services for their child” (Jacob et al., 2011, p. 197). To provide a critical foundation for understanding ethical practices, the current laws pertaining to parent rights and procedural safeguards are outlined in more depth in the following sections.

SPECIAL EDUCATION RIGHTS FOR PARENTS AND SCHOOLS

When Congress signed IDEA, they were careful to include procedural safeguards to protect parents’ rights (Yell, 2006). This stems from the importance of parental involvement in the special education process and begins from the moment that assessment is suggested for a student. Congress also afforded schools with some of their own protected actions, such as mediation and due process procedures to settle any disputes that arise between schools and parents (Yell, 2006).

Legally, parents are involved in the special education process as soon as they choose to allow a school to conduct an assessment of their child. Parents are also given the right to determine the appropriateness of their child’s individualized education plan and to agree to the services offered before they are implemented (IDEA, 2004b). The law also dictates that parents must be given a copy of their parent rights that includes information about dealing with disagreements between parents and schools. When Congress first enacted the Education for All Handicapped Children Act in 1975, they provided parents with procedural protections that have been continued and evolved under IDEA (Yell, 2006). Current law advises that a voluntary mediation process be initially tried for dispute resolution. If this impartial problem-solving process is unsuccessful or parents choose not to use mediation, a resolution session may be convened. The resolution process is legally binding and gives parents and schools 30 days to come to an agreed resolution for the disagreement (Yell, 2006). If the resolution process fails to provide a solution for the dispute, parents may request a due process hearing (IDEA, 2004b). Each state designates how it will conduct the due process hearings, but the state is required to ensure that parents have access to free or low-cost legal services and a hearing at a time and place that is convenient (IDEA, 2004b). Due process rulings may also be appealed by filing a civil action in a federal or state court (IDEA, 2004b).

Schools also have legal recourse when there is disagreement regarding special education; however, schools have some limitations to their rights and may only exercise them under certain circumstances. If a school seeks to conduct an initial assessment for a student and parents do not provide consent, a school may use procedural safeguards (e.g., mediation, due process) to try to obtain initial consent for assessment (IDEA, 2004b). However, if a school elects not to use procedural safeguards to get consent to conduct an assessment, they will not be found in violation of Child Find or evaluation procedures (IDEA, 2004b). Schools will also not infringe on the mandate to provide a Free and Appropriate Education in instances in which parents elect not to provide consent for a school to assess for special education. Importantly, schools may not use dispute resolution when parents do not consent to initial provision of special education services (IDEA, 2004b). Sections 614(a)(1)(D)(i)(II) and (ii)(II) of the IDEA require that parents have the unilateral ability to reject special education services. The IDEA.ed.gov website provides additional guidance

to inform understanding of the revocation of special education services, indicating that parents have the uninhibited right to provide revocation of consent in writing (U.S. Department of Education, 2008). Although schools may not challenge a parent's choice to revoke special education assessment consent or the provision of services, the law indicates that states may choose to implement additional procedures for instances when parents want to revoke special education consent (U.S. Department of Education, 2008), such as offering the parents further meetings to talk about a child's education and trying to remediate the situation (U.S. Department of Education, 2008). But these steps must be optional for parents and may not be used to delay or deny parents the right to remove special education provisions (U.S. Department of Education, 2008). Therefore, when parents make the decision to exclude their child with a disability from special education, schools have no legal recourse for fighting the decision, but instead must determine how to work with the student within the context of general education.

THE INTERSECTION OF GENERAL EDUCATION AND SPECIAL EDUCATION

Fundamentally, some tension exists between the greater needs of the relatively small number of children in special education and the large number of children in general education. Although special education legislation has focused on protecting the rights of students with disabilities, who were historically often ignored or treated unjustly, they also consider the rights of general education students. Courts have repeatedly ruled that when a student with an IEP has behaviors that are disruptive in the classroom, a change of placement may be considered. When a special education student has a propensity to cause disruption in the classroom, classroom behavior supports need to be the first step to try to address the situation (Yell, 2006). However, if a student is not benefitting from regular education or is inhibiting the education of others, the general education classroom may not be the student's Least Restrictive Environment (Jacob et al., 2011). Additionally, when the education of other students is affected, schools have a duty to consider whether the general education classroom is an appropriate placement (Jacob et al., 2011). In the case of *Clyde K. v. the Puyallup School District* (1994), the court considered the negative effect the student's presence had on the teacher and his peers to be the most important factor when considering an appropriate placement (Yell, 2006). The court determined that although students with disabilities need to receive an appropriate education, this did not mean that it was acceptable to ignore a student's behaviors or the impact on the education of other students (Yell, 2006).

Following the IDEA revisions of 1997, Drasgow, Yell, Bradley, and Shriner (1999) used court hearings and legislation to outline the kinds of behaviors that might result in a change of placement for special education students. They concluded that instances in which disruptive behaviors are affecting a teacher's ability to teach or other students' ability to learn warrant the consideration of alternative placement options. Additionally, when special education students are noncompliant, verbally or physically abusing others, engaging in property destruction, or acting aggressively, a change of placement might be necessary. Although, at times, many students engage in these types of behaviors, it is important to not just consider the frequency and severity of these behaviors, but their effect on other students as well. Although Drasgow et al. (1999) wrote this interpretation of the legal and court mandates prior to implementation of the 2004 revisions to IDEA, nothing suggests that these criteria do not still hold true. Therefore, changing the placement of a student with disabilities on the grounds that he or she is interfering with other students' learning in one of these ways is permissible.

Although IDEA legislation was created to protect the rights of students with disabilities, it is clear that the laws and court rulings have determined this cannot be at the expense of other students' education. However, what has not been addressed explicitly are situations in which parents have

revoked special education services for a student. In these circumstances, the same students who may have previously been subject to placement reconsideration under IDEA are left with a different set of considerations in instances where they are no longer a special education student. Buried deep within the question-and-answer supplement of IDEA, it is articulated that once a parent refuses special education services, under IDEA §300.534(c)(1)(ii), schools no longer consider that student as a child with a disability and that student is therefore subject to general education discipline procedures. Parents are expected to understand the potential discipline consequences that come with revoking consent for the provision of special education services (U.S. Department of Education, 2008). In these cases, it is important to consider the most ethical options for working with students within the legal constrictions. For instance, strategies may include ensuring that general education supports are available and that proactive disciplinary strategies are in place. The legally acceptable course of action and the ethical implications of the unusual situation of serving a child with special education needs solely in the regular education program need to be explored in depth.

WHEN SPECIAL EDUCATION IS REVOKED: LEGAL CONSIDERATIONS

The law clearly dictates that parents have the right to remove all special education services for their child (IDEA, 2004b). When this happens, a school must remove all provisions of special education and related services. Additionally, the student must be treated like all other students without IEPs and special services (IDEA, 2004a). Furthermore, schools may not use mediation or resolution processes in these instances (IDEA, 2004a). Therefore, when schools receive parent revocation of special education services in writing, a student must be treated like a general education student in all aspects of his or her education, including discipline.

As previously discussed, students with special education are afforded some additional protections when considering disciplinary options. Most notably, schools need to think about whether the disciplinary infractions are related to the student's disability and to address them accordingly. However, the same protections are not afforded to general education students, even those who may have previously had an IEP (U.S. Department of Education, 2008). Therefore, standard disciplinary actions ensue, and the school does not need to use IDEA discipline protections (U.S. Department of Education, 2008). Although schools deal with discipline in different ways, most use some form of suspension for students with more extreme forms of rule breaking and behavior. If these students are repeat offenders, a school may expel students and inform them that they may no longer attend that school. In these instances, the procedures differ and state laws regarding discipline are varied ("Discipline," 2013), but expulsion procedures may result in a student needing to enroll in a different school within the district or possibly an alternative school in the area. Although schools can legally follow this course of action, it does not help the student access his or her education. Because the mission of schools is to educate students and to become productive citizens, expelling a student whose behavior is the manifestation of a disability creates an ethical dilemma, even when expulsion is legally permissible.

When revisiting the case of Andres, the ethical and legal tensions become clear. In November of his first-grade year, when Andres's parents revoked special education consent, they left the school no legal option but to comply. Although the school psychologist had previously tried to explain to the family why special education services were beneficial for Andres's education, his parents disagreed. This left Andres, a student with known behavioral difficulties, in the general education classroom. Although this was the legal course of action, it left the school staff uneasy about the path ahead. They realized that Andres's behavioral difficulties were unlikely to dissipate suddenly and without special education provisions, there were limited options. Ultimately, they knew that behavioral infractions often culminated in disciplinary procedures.

WHEN SPECIAL EDUCATION IS REVOKED: ETHICAL CONSIDERATIONS

Although the law dictates that when parents revoke a student's special education services, that student needs to be treated like a general education student (IDEA, 2004a), the ethical implications of this situation are much more nuanced and complicated when considering the presence of a disability that cannot be acknowledged. Even though the law precludes schools from special education options under these circumstances, it is important to consider the most ethical course of action within a general education context.

The National Association of School Psychologists (NASP) Ethics Code provides guidance for analyzing this scenario. The NASP code of ethics is arranged into broad categories that contain more specific ethical principles; within each of these principles are particular standards of school-based practice (NASP, 2010). Due to both the breadth and specificity of the *Principles for Professional Ethics*, we analyze herein the relevant principles to guide ethical practice in instances when parents revoke special education services and behavior problems ensue.

RESPECTING THE DIGNITY AND RIGHTS OF ALL PERSONS (I)

School psychology must adhere to professional practices that respect the dignity of those with whom they work. Through their activities, school psychologists must regard autonomy, self-determination, privacy rights, and fair treatment for all as central tenets of their work.

Autonomy (I.1)

The NASP ethics code requires school psychologists to acknowledge and respect the individual's right to participate in decisions pertaining to his or her own well-being. When working with minors, this often means obtaining parent or guardian consent and student assent (NASP, 2010). Generally speaking, school psychologists work for what is in the best interest of the child, even when there is conflict among parents, schools, the child, and others involved in the child's education (NASP, 2010). More specifically, in cases in which parents are considering revoking services that a school psychologist thinks are important for a child's success in school, the school psychologist should present the strongest possible case describing why the services will benefit the child. However, if parents are not interested in their child receiving, or continuing to receive, special education services, school psychologists must respect this desire. Further, they should work to direct parents to additional and alternative resources (NASP, 2010). Fundamentally, both the law and ethics are consistent on this point; if a parent revokes special education services, schools and service providers must respect this decision.

What becomes more complicated are situations in which a student is no longer receiving supportive special education services and has behaviors that negatively impact the experience of other children in the classroom. For example, a student with autism spectrum disorder may exhibit disruptive behaviors in the classroom, such as tantruming when a routine is changed, even if the student's parent has elected for the student not to receive school-based services. In these instances, the school psychologist cannot clearly advocate for a single student because multiple students are affected. Additionally, the course of action that the school psychologist has already deemed best, special education services, is no longer an option. Rather, the school psychologist must work with the child as a general education student.

Privacy and Confidentiality (I.2)

The NASP ethics code includes standards on privacy and confidentiality. This dictates that school psychologists respect individuals' right to decide what they want to share about their personal emotions, thoughts, beliefs, or behaviors (NASP, 2010). In instances where special education consent

and services are revoked, schools are not required to make changes to a child's educational record. Rather, indications that they were previously in special education are permissible as part of the child's past educational record (U.S. Department of Education, 2008). School psychologists should be particularly mindful of the child's confidentiality in this instance because parents may feel strongly that the record of their child having been eligible for special education services be kept private. School professionals must respect the family's right to privacy and take care that information from student records, including those pertaining to special education, are held to the highest standards of confidentiality.

Fairness and Justice (I.3)

School psychologists need to encourage fairness and justice through their treatment of all people and their promotion of a school climate that also works toward fairness and justice. This includes trying to ensure that all students have the opportunity to receive an education in which they can learn as much as possible. When parents have made the decision that their child is best served as a general education student, they have exercised their right to involvement in their child's education. However, this may go against the recommendations of school professionals, including the school psychologist. Nonetheless, school psychologists still have a duty to promote fairness and justice. This may include working with the general education teacher to reduce bias or special treatment toward the student in question. But if the student exhibits extreme problematic behavior in the classroom, the school psychologist also needs to advocate for the fairness of a good education for other students as well. This may include helping the teacher to implement classroom behavior supports that are applicable for all students. If other options have been exhausted, this might also include advocating for disciplinary options that correct and engage behavior for all students displaying inappropriate behavior and therefore can be applied to the student in question. Thus, ensuring that discipline is applied fairly across all students with the goal of rehabilitation and education, rather than punishment, should be a primary consideration for school psychologists.

PROFESSIONAL COMPETENCE AND RESPONSIBILITY (II)

School psychologists act to benefit others, which includes practicing within their scope of competence, using scientifically based knowledge and accepting responsibility for their work (NASP, 2010).

Responsible Assessment and Intervention Practices (II.3)

The NASP code of ethics requires that school psychologists use professional practices in assessment and all types of interventions (NASP, 2010). This involves encouraging parent participation in all parts of a child's education, while maintaining a perspective that is sensitive to cultural considerations and alternative options. School psychologists need to keep this in mind when parents revoke special education services. It is possible that parents may not understand the services being offered or the special education system due to cultural differences or limited experience with the education system. Therefore, school psychologists should be open-minded and take the time to address any questions regarding special education. This should be done when the prospect of special education is originally brought up and throughout the initial special education process.

When parents are thinking of revoking special education services, it is also essential that school psychologists take the time to try to again explain the nature of special education and the services that are being provided to their child. This is critical in ensuring that parents are able to make a well-informed decision and understand the implications of revoking special education services. Once a parent has revoked special education services, school psychologists should still encourage parents'

involvement in their son or daughter's education and continue to advocate for special education services as appropriate. Although the amount of contact school psychologists have with parents of general education students may be varied, it is still important to promote parental involvement as much as possible.

School psychologists can also promote responsible intervention by helping to ensure that schools have effective general education supports in place. Although what this looks like will vary from school to school and, depending on resources, general education interventions will be important to help all students succeed. For example, this may include using reflective think sheets, positive behavior support reward systems, or restorative justice practices. Implementing a response to intervention (RTI) framework may also be a viable option to ensure that general education supports are adequate. The advantage of using an RTI model is that students who are struggling have access to empirically validated programs at lower tiers of the model without needing to use special education interventions (Shapiro, 2011). Furthermore, the systematic data collection that is a feature of RTI (Shapiro, 2011) would provide additional evidence if the general education instruction, even with additional supports, was still ineffective. This might be persuasive if parents who had previously revoked special education reconsider this option. Although a complete description of setting up an RTI framework is beyond the scope of this article, it provides guidelines for putting together more comprehensive general education intervention programs. Regardless, the case of a student who needs intervention supports but cannot be involved in special education highlights the need for general education support systems to be in place.

RESPONSIBILITY TO SCHOOLS, FAMILIES, COMMUNITIES, THE PROFESSION, AND SOCIETY (IV)

School psychologists work to create healthy environments at school, within the community, and for families. They are proactive in righting injustices and enacting reform to positively affect children and schools. School psychologists act in legal and ethical manners and work to advance professional excellence.

Promoting Healthy School, Family, and Community Environments (IV.1.1)

School psychologists work to support a positive environment for multiple parties within a school setting, including parents, children, and the system. However, despite serving a multitude of individuals, school psychologists continue to focus on serving the best interest of the children (Jacob et al., 2011). Promoting the best interests of children includes defending the legal rights of children and families (NASP, 2010). When the behavior of one student is affecting the educational experiences of other students, school psychologists need to work to maintain a productive and supportive school and classroom environment. However, this can be challenging when multiple students are involved. In the case of a student who has had special education services removed, school psychologists should provide classroom-based and general education supports as much as possible. Specifically, the most ethical recourse is to maintain the student in the classroom prior to resorting to disciplinary action. However, if the student's behaviors are interfering with other students' education, a school psychologist needs to consider proactive disciplinary actions and additional general education options to safeguard the educational rights of all students in the classroom.

Respect for the Law and the Relationship of Law and Ethics (IV.2)

When a parent revokes special education services that a school psychologist believes are important for the student's education, there may be conflict between law and ethics. Legally, as previously described, the parent has the right to withdraw these services. However, ethically, a

school psychologist may not believe that removing services is in the best interest of the child. The ethics code says that when law and ethics conflict, school psychologists may adhere to the law as long as they do not infringe on basic human rights (NASP, 2010). Nonetheless, this puts a school psychologist in a difficult situation. Ideally, school psychologists always work toward beneficence, promoting good for all students. However, in a situation where parents have already exercised their right to withdraw services, a school psychologist may feel that they are not in a position to promote what is best. When this happens, it is crucial that school psychologists try not to perpetuate a situation that brings harm to the education of any student. As previously described, this may include supporting the student in the ways that are available to them (e.g., classroom-wide behavior supports), while maintaining the right of parents to remove special education services.

Although there were few legal options available to the school when Andres's parents revoked special education, important ethical considerations were still necessary. First, the school personnel realized that they needed to honor the autonomy of Andres's parents to make the decision to remove special education services and provisions. However, to ensure appropriate practice, the school psychologist and school had a duty to make sure that this was a fully informed decision. In other words, they realized that they had to inform Andres's parents of what revoking special education meant for Andres's education—including the implications academically, socially, and behaviorally. When these conversations failed to dissuade Andres's parents of the benefits of special education for Andres, the school had to engage in other ethical considerations.

Once Andres's parents revoked special education consent, the school's responsibilities changed slightly. In particular, the school had to promote a healthy school environment for all students, both Andres and his classmates. As Andres's behaviors, without the support of special education, began to negatively affect his classroom, the school began to consider its options. Once the behavior began to interfere with the teacher's ability to teach, the other students' ability to learn, and the general safety and comfort of the classroom, the school had to decide how to intervene.

RECOMMENDATIONS

When a parent chooses to revoke special education services, a conflict between law and ethics may result. However, school psychologists can do a number of things to mitigate these instances. To begin with, the work of school psychologists should begin long before a parent decides to revoke services. School psychologists need to build relationships with families so they can trust and work with the special education team and the school psychologist. Further, when school psychologists talk about special education, they need to offer explanations that help parents understand the rationale behind proposed services and how they can benefit their child. It is also crucial that parents not only understand that they are an important part of the special education process, but that they also feel included and comfortable being involved. However, in instances in which these steps are unsuccessful and a parent still decides to revoke special education services, school psychologists can still act in a legal and ethical manner.

RTI provides utility in many situations, but has a new emphasis when special education is not a possibility. School psychologists can help facilitate an RTI framework that provides as many general education supports and interventions as possible. This is beneficial for all general education students and accounts for many instances in which some remediation may be useful without the intensity of special education. For students whose parents have revoked special education, these interventions may mean that the student is able to achieve some academic success that may not be possible otherwise. RTI also provides school psychologists with a systematic way of collecting data. This is beneficial so that if the parent reconsiders the option of special education at a later time, the data can support whether general education or special education is indicated. There are many

is not an ethical practice for any student who is frequently involved in discipline; exclusion is a particular concern for the students discussed in this article. Research indicates that exclusionary discipline policies disproportionately affect special education and minority students (Sharkey, Bates, & Furlong, 2004).

When a student qualifies for special education services but does not receive them due to revocation of parent consent, discipline becomes especially tricky. Legally, the school must revoke special education and treat the student as a general education student. The ethical way to proceed when the student is experiencing trouble with behavior or acting in ways that interfere with the learning of other students once the student is in general education is less clear. In these instances, the following steps are recommended. First, the school psychologist should use consultation to identify classroom supports (implemented by the teacher) to develop a classroom-wide behavior support system that is designed to assist any student struggling with behavior in the classroom. Second, general education individual and small-group instruction should be explored as much as they are available (e.g., classroom aides, reading tutors). This will enhance the student's learning and lessen opportunities to distract others. Finally, if a student's behavior is causing problems in the classroom and is not resolved using these methods, disciplinary action may be needed. Exclusionary discipline policies should be used as a last resort, after other methods have been exhausted.

Chin, Dowdy, Jimerson, and Rime (2011) offered a decision-making discipline guide for choosing alternatives to suspensions that includes a range of options, from self-management plans to social emotional training. A crucial part of the considerations outlined by Chin et al. (2011) is determining the function of behavior and what kind of corresponding interventions are helpful. Broadly, these can be classified as interventions to remediate poor decisions, interventions to build skills that are lacking, or interventions to fulfill a social-emotional need. Whether these interventions take the form of social-emotional learning, counseling, or reflective practices, it is important that schools think about the resources that are available to them and how to best proactively support student discipline needs (Figure 2).

Revocation of special education services when they are indicated for a student creates an ethical quandary for school psychologists. In particular, this becomes a problem when the student is not only struggling academically, but behaviorally as well. Therefore, school psychologists need to be mindful of the general education resources and procedures that are in place. These can be helpful for all students, but are especially important in these instances. If strong general education policies and practices are implemented, a school psychologist can help ensure that a student is supported academically and behaviorally, even in these more difficult circumstances.

ADDITIONAL CONSIDERATIONS

Even after revoking consent for special education, parents always have the right to request an evaluation. If a parent revokes consent for special education and then asks for reenrollment, this must be treated as a request for initial evaluation under §300.301 (IDEA, 2004a). This is especially important to consider in instances in which a child may be struggling without special education supports. For example, if a child whose parents have revoked special education is exhibiting behaviors in the classroom and becoming involved with school disciplinary procedures, a parent may reconsider their decision. Although this is always within their rights, it is important to explain to the parent why the assessment will be treated as an initial evaluation and once again ensure that they have the information to make an informed decision. The law is not clear on the details of requests for evaluation following a revocation of services, but merely states that parents may always make this request and that it must be treated as an initial assessment (U.S. Department of Education, 2008).

Schools and school psychologists always need to be careful to document their activities and decisions, and in potentially contentious situations, this becomes even more important. When parents

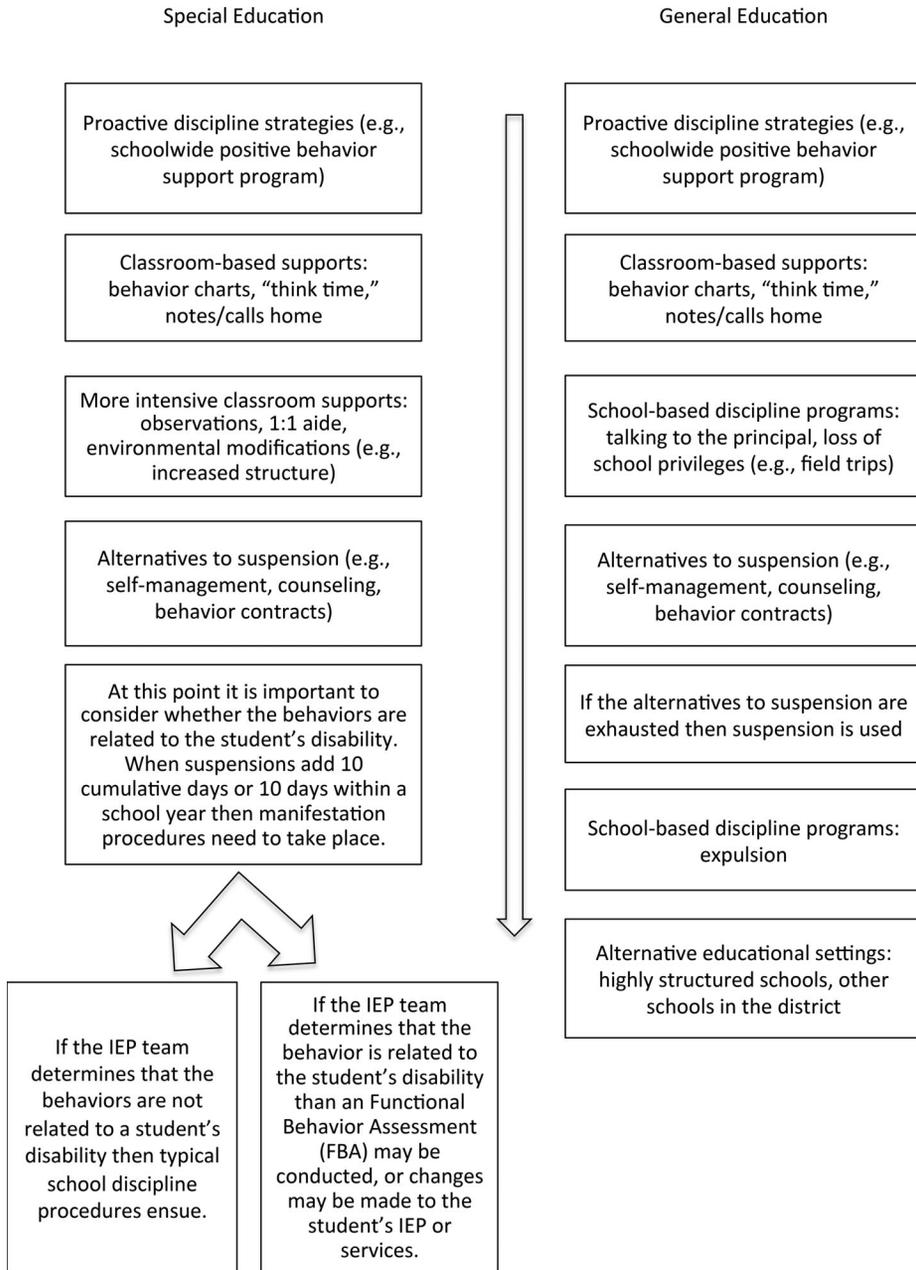


FIGURE 2. A sample of the progression of disciplinary action for general and special education students including alternative and proactive discipline procedures.

revoke special education services, they must do so in writing. Schools need to maintain a record of this documentation. It is also suggested that schools document their own professional opinions regarding the situation. This provides conclusive records in case the parents later do not agree with a school's treatment of their child (e.g., using disciplinary action) or decide to request a reinstatement of special education.

Once Andres was no longer eligible for special education, his school immediately began to examine its other options. The school was able to place him into a small reading group within his general education classroom and provide weekly writing support with a few other students. Although his teacher had already used a written and visual schedule to inform students about the day's activities, she began to use it as a priming tool throughout the day. However, despite these attempts to support Andres, his behavior remained unpredictable and elevated.

The school worked to provide behavior support by using an expanded version of the teacher's classroom management system, in which students were rewarded for good behavior and had consequences (e.g., missing recess) for not meeting behavioral expectations. When it became clear that these measures were only having limited impact on Andres, the school began to wonder what else they could do to support his behavior. Because they could not single him out beyond what they would do for any general education student, they realized that there were few options. When Andres hit another student during class one day, he was sent to the principal's office. She spoke to him about his actions and tried to make him understand that his behavior was unacceptable; however, it was not clear that he understood. The principal also informed Andres's parents of these measures and reported that if his behavior continued, there would be additional disciplinary consequences. Although the school worked to use preventative and proactive measures, they worried that eventually, all of their options except for exclusionary policies or considering alternative school placements would be exhausted.

CONCLUSION

The law clearly gives parents the right to revoke special education services, even when this goes against the recommendation of school professionals. When this happens, schools need to determine how to best serve the student within general education and ensure that other students can still access the education they deserve. To do this, schools need to think about what general education services they can use to support the student and whether the student's disability will have an effect on other students. When the student exhibits behaviors that interrupt classroom proceedings, school personnel need to consider additional general education supports. What is available varies by school, but may include a classroom-wide behavior management program, additional adults in the classroom (e.g., classroom aids) and opportunities for smaller group instruction (e.g., reading tutors; Figure 1). However, if these general education measures are exhausted without success, then a school may need to use disciplinary procedures. Since the student is no longer classified as a special education student, typical disciplinary trajectories should be followed (Figure 2). In extreme cases, this may result in suspension or even expulsion.

Schools may feel that they are in a difficult position when a parent removes important special education services. Yet, it is important for schools to understand that this is legally permissible, and it is their duty to try to act as ethically as possible after this happens. The specific steps that schools can take will vary depending on the available resources. Although the law provides clear guidance for what to do when special education is revoked, the ethical response to these situations is less certain. However, what is most important is that schools and school professionals are mindful of the choices they make and their rationale. Ultimately, what is most important is to work toward beneficence for all students.

REFERENCES

- Chin, J. K., Dowdy, E., Jimerson, S. R., & Rime, J. W. (2011). Alternatives to suspensions: Rationale and recommendations. *Journal of School Violence, 11*, 156–173.
- Clyde K. v. Puyallup School District, 35 F.3d 1396 (9th Cir. 1994)

- Discipline. (2013). Retrieved from Education Rights Center website: <http://www.educationrightscenter.org/Discipline.html>
- Drasgow, E., Yell, M. L., Bradley, R., & Shriner, J. G. (1999). IDEA Amendments of 1997: A school-wide model for conducting function behavioral assessments and developing behavior intervention plans. *Education and Treatment of Children, 22*, 244–266.
- Fenning, P., & Sharkey, J. D. (2012). Addressing discipline disproportionality with systemic schoolwide approaches. In A. L. Noltemeyer & C. S. McLoughlin (Eds.), *Disproportionality in education and special education* (pp. 199–213). Springfield, IL: Charles C Thomas.
- Jacob, S., Decker, D. M., & Hartshorne, T. S. (2011). *Ethics and law for school psychologists* (2nd ed.). Hoboken, NJ: John Wiley & Sons.
- Individuals with Disabilities Education Act of 2004 Regulations. (2004a). 34 C.F.R. § 300.300 et seq. Retrieved from <http://idea.ed.gov/explore/view/p/%2Croot%2Cregs%2C300%2CD%2C300%252E300%2C>
- Individuals with Disabilities Education Act of 2004 Regulations. (2004b). 34 C.F.R. § 300.500 et seq. Retrieved from <http://idea.ed.gov/explore/view/p/%2Croot%2Cregs%2C300%2CE%2C>
- National Association of School Psychologists. (2010). *Principles for professional ethics*. Bethesda, MD: Author
- Shapiro, E. S. (2011). *Academic skills problems: Direct assessment and intervention* (4th ed.). New York, NY: The Guilford Press.
- Sharkey, J. D., Bates, M. P., & Furlong, M. J. (2004). Ethical considerations regarding the prediction of violent behavior in schools. In M. J. Furlong, M. P. Bates, D. C. Smith, & P. E. Kingery (Eds.), *Appraisal and prediction of school violence: Methods, issues, and contexts* (pp. 1–11). Hauppauge, NY: NovaScience Publishers.
- Sharkey, J. D., & Fenning, P. A. (2012). Rationale for designing school contexts in support of proactive discipline. *Journal of School Violence, 11*, 95–104.
- U.S. Department of Education. (2008). *Individuals with Disabilities Education Act of 2004 Supplemental Regulations*. Retrieved from for me. Here it is again: <http://idea.ed.gov/explore/view/p/%2Croot%2Cdynamic%2CQaCorner%2C11%2C>
- Yell, M. L. (2006). *The law and special education* (2nd ed.). Upper Saddle River, NJ: Pearson Education.