

## **What You Should Know Special Education, Christopher Placitella**

CP: Good Morning and welcome once again to Your Legal Rights. My name is Chris Placitella. I am a partner here at Wilentz, Goldman & Spitzer in Woodbridge, New Jersey and we are here today to talk about issues related to education and primarily special education, a growing problem here in the State of New Jersey and across the United States. How the school boards and parents work together to solve the issues of special education, especially given the limited budgetary demands that everyone seems to be facing these days in these economic times. During the course of today, I have with me Vi Lordi. She is a widely recognized authority on school and, specifically special education law, as it relates to children. She advises school boards and trains teachers on how to handle these issues throughout the State. Now, during the course of this presentation, we are going to take questions. If you have a question, you just submit the question on the interface that you are looking at and we will answer that question to the best of our ability. I caution you, however, that we are going to give you general answers. This is not specific legal advice. This is just to give you guidance on how to handle issues or how to address problems if you have specific legal advice you need to speak to your individual attorney or your board attorney and get that information. So, we are not giving you specific legal advice although we hope we will give you lots of guidance. In the event that you miss this broadcast or you would like to review the broadcast or show it to someone else, this broadcast will be on demand at our website at WilentzTV.com, probably tomorrow I would imagine, probably tomorrow you can go watch it at that point. Just go to the on demand section and we will be ready to go. Now, this will last about an hour. We will try to get to all of your questions and what I would like to do now is to welcome this morning Vi Lordi. Hi Vi, how are you?

VL: Good morning Chris, fine thank you.

CP: Thank you very much for taking the time to help us out here. I know being on two school boards. I'm probably one of the only two insane people in the state on two school boards but on two school boards issues relating to special education every month it seems like they got more and more difficult especially with the budget that the citizens and the towns and the boards have to handle so this is obviously a very, very important issue to the schools, to the boards of education and to the families. What I would like to do today is to start with the building blocks. I know for certain we will not get to all the issues but if we can start with the building blocks, get as far as we can and we will take it up at a separate point in time.

VL: That sounds like a fine idea.

CP: Why don't you just give the audience some of the benefit of your background in handling these kinds of matters and then we will get into it.

VL: Well, Chris I have been representing school boards for a good number of years now and as you mentioned earlier I generally represent school boards across the broad range of school law subjects. I have special expertise and, frankly, special interest in special education and related services. I have represented school boards and parents actually in special education due process matters, hearings, mediations, applications for emergency relief. What I try to do as best as we can is to represent school boards in trying to resolve special education issues before they get to points of dispute in front of a judge because the parents in the school district have to live together long after the lawyers are no longer on the scene. So, what we try to do is help our school boards engage in prevention of problems and actually help parents from time to time develop the skill and the patience to work step by step with school boards in order to identify their children's educational disabilities if the children are disabled and to develop programs and identify placements where those educational needs can be addressed.

CP: Maybe we can do some role playing here this morning. I would take the role of a parent with what I believe is a child with needs and you can talk to me about how the school board can work with that parent, what the issues are and how do you resolve those issues because ultimately we don't want the lawyers involved if we don't have to. The object here is to make the school board and the parent work together, correct?

VL: That's right.

CP: Okay. So I am a parent and my child is just beginning school. He or she is in the kindergarten or first grade and I have the belief that my child may have issues as it relates to learning. They have some special difficulties but I am not really sure and I just want to know what I need to do in order to explore my options when I come to you at the school.

VL: Well, if your child is in kindergarten or first grade and traditionally aged, your child should be five or six years old and you are actually making the decision to begin the question asking at a very important time because the educational experts tell us that early intervention, working early with youngsters is the best time to provide them with special education related services if they need it with the hope that they won't need it down the road. So, your first step would be to talk with a school staff member. You can talk for example initially with your child's teacher and say I have a concern about perhaps he is not, if the child is in first grade, he or she is not at that reading level that the other children are. If he is in kindergarten, not at that reading readiness level where the other children are. You see your neighbors' children at the same age moving more quickly than your child. You would talk with your child's teacher about that.

CP: Can I just stop you for a second?

VL: Sure.

- CP: Is there a point in time when I have some kind of rights triggered even before my child gets into school if I identify an issue like if I see that my child is not hitting certain milestones at least what I perceive they should be doing. Do I have any rights preschool to kind of take this issue up early?
- VL: You absolutely have rights. If your child prior to the age of three appears to you or perhaps to your pediatrician not to be reaching the milestones that you would expect or the pediatrician would expect the child to reach within appropriate time periods or by appropriate ages, then there can be a referral to the appropriate state agency at the local level, at the county level, for early intervention services. At three years old, a child becomes eligible for preschool services if you will from the school district in which you reside if your child is determined to be eligible for special education and related services as a preschool disabled child. Now, frequently the agency that is providing you with early intervention for your child, assuming your child needs it, will help you with the process of connecting with the school district if you will for the purpose of having the school district's staff meet your child, meet with you and start the processing determining whether your child is eligible as a preschool disabled child.
- CP: Okay but most school districts don't have programs set up for children that age, how that does that work?
- VL: Many school districts do have preschool disabled programs and all school districts in our state are required as a matter of Federal law, the individuals with disabilities education act, which we call, I refer to as IDEA, some people call it idea and by our own New Jersey Administrative Code what people frequently refer to as a special ed code are to provide for the needs of preschool disabled children. Children who are preschool age who have educational disabilities.
- CP: Okay but I guess what I was trying to get at is there is not at lot of facilities. How do they deal with that? If you don't have a facility in your community to deal with pre-school child, how does the school board handle that? Can they outsource it?
- VL: Well, as I said earlier, many, many school districts have pre-school disable programs in district. Where they may not have those programs, then the school district can join with another public school district to send their children there, school districts can also privately place children with disabilities in programs that are run by private organizations.
- CP: What happens most often are the issues identified? At what stage in the educational process, now I started with two and three year olds, but at what stage in the process in your experience are learning issues identified that the school district needs to begin to deal with.
- VL: Learning issues when you are talking specific children who may be suffering or suspected of suffering with specific learning disabilities, I generally see them in

my practice early in the elementary school years when reading becomes an issue, what I generally see with the pre-school disabled children are children who are not meeting those developmental goals.

CP: Okay, now I want to jump ahead just a little bit and I just wanted to cover the pre-school issue to make sure that people knew what the issues were. I now believe that my child needs to be evaluated, and I call my school board, or I go to somebody in administration and I say can you help me. What are the obligations of the school board or the school district at that point in time? What happens next?

VL: Generally speaking what will happen is that you'll be contacted by a person from the school's child study team for the purpose of setting up what I refer to as an identification meeting. Some people call it a pre-planning meeting, but it is essentially to sit down with you and to about what you perceive to be your child's needs. Sometimes the school district before the meeting may send out a staff member to meet your child and you at your home, observe the child, that may come later. That will definitely come later, it may come sooner in some instance, and a determination would be made about whether or not this is a child who should be evaluated, or a determination about whether or not the child is eligible for special ed and related services. And remember I keep saying special ed and related services. The child has to be eligible not only for instruction and special education, but also related services. Related services can be anything from speaking language services, physical therapy, occupational therapy, even transportation is a related service. So you sit down at that meeting and you talk about your youngster and a determination would be made about what evaluations if any should be done.

CP: What recommendations do you have, one of the things we try to do is prevent this, because often times you read and you hear about an adversarial process that ultimately causes issues with parents and school districts. What recommendations, based on your experience do you have to try prevent, to kind of pave the road, not to have an adversarial process happen, but to have a cooperative spirit so everybody seems to be rowing in the same direction.

VL: I have advice for both the parents on the one hand, and school district staff on the other, which I often talk about, and that is the parents need in my view to approach the school district with an open mind. Sometimes parents think different is better. Anything different from what my school can provide is better, because my school district is a public institution, it's a public system and it can't provide anything good. And I must tell you we have wonderful programs offered throughout our State by very fine school staff. So the first thing I would say to parents is don't go in distrusting. It is understandable to be upset, concerned and nervous. Go in with an open mind. These are people who are trained to work with parents who have youngsters who may have disabilities. To the staff I say, be approachable, be open, understand again that parents bring to the situation a sense perhaps of anxiously, initial distrust, confusion, they need to be guided, but

the also need to be treated with kindness and a great deal of patience. That is your first step. The second step is keeping an open mind. Don't be afraid to do evaluations, different kind of evaluations. If you have a youngster who is not meeting developmental milestones in the district, and the district says we would like to have a neurodevelopmentalist , essentially a neurologist, take a look at your child, don't be afraid, let them do that, because the more information that you can obtain, you know they say knowledge is power, the more information you can obtain the better you can work with your school district.

CP: The stigma, the fear of stigma, ever blockade for communication between the parent and the teacher, if it is, how do you recommend that the parties get past that?

VL: The stigma is often a concern because parents are concerned understandably that their child may be labeled as a special education student forever, and be seen as different in the school setting, and no one wants his or her child to be different. What I have tried to help parents to understand and help school staff help parents understand is that the goal of special education is really for the child to no longer need special education. So again, the earlier the better, and we focus on providing youngsters as the law requires with the special education and what's called the least restrictive environment. Basically, people refer the neighborhood school to the extent a youngster can be provided with this special ed and related services in the neighborhood school, going to class with his next door neighbors, with his buddies, he or she play baseball or house with, however, that could help a great deal, and seeing that and understanding that the information about your child is confidential. The school staff understands generally speaking that this information remains with them, it is not something that they talk about with other parents, what the information about your child is between you and the school staff, that is very, very important, and that also helps to help parents to understand that put the concerns about stigma aside, worry more about where you are going with your child. Forget about what other people in you neighborhood might think, because parents worry about that. Don't worry about that, worry about what kinds of services you can work with the school district to develop for your child.

CP: We discussed the issue of a parent identifying issues early on with their children, assuming that that does not happen, what are the obligations of the school board and the teachers to actually have their eyes open in the classrooms at a very early age to identify issues, first, second, third grade.

VL: Absolutely, and you'll see it even at the kindergarten level where teachers are looking as they work with children, and how the children are progressing. If a teacher at that level, frankly at any level, but particularly now we are talking about the lower grades, a teacher sees that a youngster is not progressing as the teach believes the child should, the teacher can in our schools go to what used to be referred to as the pupil assistance committee, and there is a new name for it now, but what we called the PAC, and the pupil assistance committee is

composed of school staff members who will discuss the youngsters needs. The teacher brings the situation to the attention of the PAC, and some determination is made with respect to what kind of intervention can we implement sought of identification and referral and special ed evaluation to try to help this youngster experience success in the classroom. Even the parent should not expect to jump immediately into evaluation for special education. There is a plethora of interventions that can be developed and implemented for a youngster in the school setting, sort of special ed and if the teacher is the first line of action if you will. If the child has a problem, the teacher is trying to work a whole variety of different modalities to help the youngster, if that's not working here she may be taking to colleagues, how can I help, and then perhaps bring it to the PAC.

CP: I am assuming that at that point you recommend that if the teacher identifies any issue that they immediately speak with the parent and they identify the issue together, or do you have to go to a certain point before you get the parents involved.

VL: Within reason, earlier is better. We certainly don't won't want to overreact. It takes time to just adjust to school There is a big difference between kindergarten and first grade I've learned over the years from the educators, and we can see that in our children. But so you won't want to react too early, but you don't want to let a problem fester, so if a teacher has a concern, certainly talk to the parent early. But, I always suggest at least let our teacher do this, present it in a positive light as possible, because it doesn't have to be an obstacle that you can't overcome. You have to look at it as an opportunity to help the child.

CP: It is recommended, or is there a legal obligation on behalf of the teacher when they identify an issue to somehow record it so they can track any changes or improvements that student at an early time.

VL: Well I don't know of any obligation to record specific data, but I do know that our teachers can maintain anecdotal notes for the purpose of profession of your own recollection about how a child is doing, and, of course, there are progress reports that are given to parents four times a year, at least, in a regular education setting. And you know that there are early in the year what we used to call open houses, back to school night, where parents come in and they talk, and I know that in the numerous school districts that we represent the teachers are open to conferences with parents, sometimes before school, or after school, telephone calls are made, the key is to communicate.

CP: Now, once there has been a determination that these preliminary intervention methodologies still have not involved an issue, what is the next step. What happens next?

VL: Well that is your identification meeting that I talked about earlier with your pre-school disable youngster. That is where the appropriate group of people, school staff people, people with knowledge, a member of the child study team, I should

define the child study team quickly. There are 3 members of a child study team basically

CP: What is the function of a child study team?

VL: Child study team members evaluate children, monitor their progress and a member of a child study team is most frequently a child case manager when the child is classified as eligible for special education and related services. Three members of the child study team traditionally are the learning disabilities teacher consultant, somebody with some significant expertise in learning disabilities. A school social worker, and a school psychologist, each of these persons is certified by the New Jersey Department of Education in his or her discipline. And also we have a teacher in language specialist who serves as a member of an IEP team which we will talk about later. I'm not a child -----IEP team, and also can serve from time to time as a case manager for a classified child in appropriate instances.

CP: Well, can you, should the evaluators also take into account what the other experts say from the family, and look at those, or should do them independently and then look.

VL: Well, you know I have talked with school staff and outside experts from different disciplines and different perspectives. Some people will say I don't want to see anything, other independent evaluators that I work with say I don't want to see anything until I see the child, I don't want to go in with any pre-conceived notions. And, I have others who want to look at the entire file before they observe the child.

CP: So there is no right or wrong.

VL: I think it's an art, not a science with respect to the evaluative process, although there are standardize tests that are done in many of these evaluations.

CP: Any pitfalls in evaluative process itself, that school boards and parents should be aware of to avoid problems later on that you are aware of?

VL: Again, communicate, explain to the parents what the evaluation is about. A parent brings in a young child to be evaluated, parents frequently don't know, most of us don't know what are these evaluations all about. What kind of tests are going to be done in a learning evaluation. You want to do a test of my child psychologically, what does that mean? My child doesn't have any mental problems. Explain to the parents that essentially what psychological testing does is measure cognitive ability, and a variety of other items.

CP: Is there any requirement or recommendation that during this process that things be committed the processes themselves be committed to writing and what are they?

VL: I'm sorry.

- CP: Before their ultimate report. In other words you say, make sure the parent understands this is what is going on. Is there something that should be put in writing, signed off on for protection of everybody.
- VL: Yes, absolutely. There is as a result of this evaluation, planning meeting, you move from the IV part of the meeting into the evaluation planning. You actually have an evaluation plan that the parent signs off on, and most importantly, a consent form to evaluate the child. The school district cannot evaluate a child in the absence of the express written consent of the parent.
- CP: Okay, now.
- VL: Initially, we'll talk about .... there is some more later.
- CP: In the identification process is their report generated at the conclusion of the identification process, or is it just an informal.
- VL: Well you have your evaluation plan.
- CP: Right.
- VL: You got your consent.
- CP: Right.
- VL: When the evaluations are undertaken there will be a report generated in each discipline in which the child was tested.
- CP: And then that put in a summary report.
- VL: It is sometimes, some of the independent evaluators, some of the districts also will do a summary report, but generally speaking in my experience, what will happen is each of the disciplines will generate a report, those reports are then transmitted to the parents. Under our code, a parent is entitled to have those reports 10 days before the next step, and the next step is what's called an eligibility conference.
- CP: Well, what's the communication obligation when you have assembled these reports and you send them over to the parents? You are not just going to stick them in the mail. Is there some kind of communication this is what the reports are, this is what they are supposed to address. If I am a school board, what steps should I go through to smooth the way as much as possible when I am just transmitting the reports, because those reports I would imagine under certain circumstances can be dramatic and emotional.
- VL: That is exactly right.
- CP: So what do you recommend?

- VL: What I recommend again is communication. The case manager, the person in charge of the situation should be, and we may not quite have a case manager at that point because the child has not been determined to be eligible, but the person who has been charged with the obligation and responsibility for following up with the parent, and convening the meeting, should pick up the phone Mrs. So and So, the reports are all ready. Now I am going to send them to you, understand that I am doing that before the eligibility meeting because we were required to do that, and take a look at them, if you have any concerns, even before the meeting, please feel free to give me a call.
- CP: Well that is great advice, so you're not saying that you send it and you shut down until the meeting, you're saying keep the trust, build the trust as you go through.
- VL: There are going to be some parents, and I can understand this, who are going to fill the need, and the next day they call you, "I've got to know now", "I've got to know now". So that the school staff will say, can we schedule that meeting before hand, before the 10 days expires. I am very careful about documenting appropriate items. My advice would be, okay you can have the meeting before the expiration of 10 days if you wish to, get the parents to sign off on an agreement to do the meeting prior to the expiration of the 10 days.
- CP: Okay, now I am going to jump ahead just a little bit, and then I may back up again. I seem to do that a lot. The next step is the eligibility meeting. What is that? Just what is it; I just want to make sure I fill in all the gaps in between.
- VL: The code calls it essentially as I recall an eligibility conference, and the purpose of the eligibility conference is to review the reports, and to make a determination about whether the child is eligible for special education and related services. If it's a preschool child, they would be eligible as pre-school disabled. That's the category for pre-school disabled for children who are under five years old. When a child reaches five years old the eligibility determination goes to whether or not the child satisfies one or more of 13 disability categories.
- CP: Does the parent have the right to go and have those reports reviewed by their own experts, is that something that is recommended, is that something that happens. I'm assuming that there is a lot of pain in that 10 day process for people.
- VL: Parents absolutely have the right to have any one they wish to review the reports. The reports are, after all, concerning their own child. So, sometimes a parent will already be represented by counsel. So those reports, and if the parents are represented by counsel, my school boards will call me, since that is my experience, and say the parents are represented by counsel, will get the reports to you, I transmit them, lawyers talk to lawyers, I transmit those reports to the attorney for the parents, and the attorney for the parents will sit down and talk with the parents about those reports. What may happen is that the attorney for the parents may determine to send those reports to the parents own expert for review, that sometimes elongates the process.

CP: It's a little disconcerting that we are talking about attorneys this early in the process. But, what is the function of an attorney for a family at this point in the process. What purpose do they serve? I don't want lawyers to get mad at me out there; I'm just asking the questions.

VL: Well, sometimes my understanding is that parents retain attorneys at this level at the very very beginning of the process because they are concerned that they are not going to be treated fairly by the school district. Or they are so concerned that they are losing time. We often get the problem, and if they bring in an attorney in the problem will be solved more readily. I can't tell you the number of times my school staff has said to me, they did not need a lawyer, mom and dad, we would have done this anyway. We were going in that direction. I'm not suggesting my colleagues representing parents primarily do a wonderful job in their representation. My own view as a school board lawyer, give us the opportunity to work this process from beginning of evaluation process to end is 90 days.

CP: Well does kind of at this point, does that kind of break down the communication between the school and the family. Should they still be communicating while the lawyers are already involved in this process? How does all of that dynamic work at this point, if there is a lawyer involved this early on.

VL: Once the lawyers get involved in the process no matter how personable we may try to be the school staff and the parents in my experience begin to feel uncomfortable dealing with one another. Begin to feel uncomfortable if not unable to make decisions, because they feel they have to pass it all through the attorney.

CP: Well what kind of recommendations do you give a board at that point when a lawyer makes an appearance, even before the eligibility meeting? What do you tell the teachers, the special ed teachers, the administration. How do they handle that situation?

VL: My view is do what you would ordinarily do in the fine way you do it, let's talk about the process, we will review the process, and I would review the process with a new staff member the same way I would review it frankly with a staff member who has been there for twenty years. We go over the process step by step. I might have to do more explaining to the newer staff member, but we go over it step by step because every case is a fresh situation. And, what I try to do is to help the school staff do what they do so well, get the parents trust, and I try to encourage counsel for the parents, let's work together. When I say counsel for the parents initially most often my response to them is, "I think we can work this out, let's work together to help the school staff and the parent develop an amicable relationship."

CP: Because once they get a lawyer then the school board call you, correct?

VL: That's right.

- CP: And so what will you do at that point as a school board's attorney to try to still keep the trust building and the road paved to a solution? You call the lawyer up and you try to diffuse any anxiety I'm assuming, but what specifically would you do in order to try to make things work the best?
- VL: Well I would certainly in talking with the other attorney I confirmed that any communications would be with me and not with the school staff, but the attorney. But beyond that I encourage the school staff, and I say this to the attorney, encourage the school staff and the parents who work together, let's get the evaluations done, let them get to know each other, and by the way are we really needed at that identification meeting, at that eligibility conference, because I am not going unless you attorney for the parents are going. Having attorney's at a meeting changes the tone of the meeting, sometimes however, when there are disputes, significant disputes between parents and school districts, significantly discussed, the attorney's can help diffuse the issue too.
- CP: I have about 1 question before we go to the next meeting and that is the identification of legal counsel on behalf of the school board, I read more and more of what I know from my own experience that more and more school boards are going to special counsel just for these kinds of issues verses an attorney who just generally represents the school board, what are the advantages and disadvantages of that kind of approach?
- VL: Representing the school board in a special education case is not the same as doing a public school contract law issue, a construction issue, a teacher discipline, a student discipline issue; it's very specialized and requires frankly sometimes the law is the easiest part.
- CP: Well, and I would surmise that there are actually 2 things your looking at, a lawyer has 2 qualities, 1) to prevent litigation from ever occurring; and then 2) you know a dispute should arise somebody who has a knowledge and experience to resolve it, to get just a litigator doesn't necessarily serve the school board well I'm assuming, based upon my experience.
- VL: I don't think it serves either party well in that regard, because special education, although there lots of special education cases out there that has been litigated, one should not in my view look at special education as litigation, again your goal is to try to resolve an issue. Most of the cases are, that I have, don't go to trial, even though we are in front of the Judge we all have the good fortune in New Jersey at the Office of Administrative Law the Judges give us some significant latitude in trying to work cases through, resolve the issues and their often helpful in that regard.
- CP: OK now finally we are going to get to the eligibility meeting, it feels like it took a long time to get there, but who goes to the eligibility meeting and what is the purpose and just give us a general overview and then I'll pro-view a little.

- VL: OK, there are a number of people who are required by the New Jersey Administrative Code to be at that eligibility meeting. One can look at the Administrative Code for those people who like numbers, the New Jersey Administrative Code at Chapter 6A:14-1, if you look at that Chapter you will see the specific participants required to be there, but essentially its school staff people, people who done the evaluation, parents, anybody the parent wants there who the parent believes can be helpful at the meeting as well. The purpose of the eligibility conferences that at the earliest determine whether not the child is eligible, the evaluation reports are review, their explained to the parent. The speech and language specialist who did a speech and language evaluation of the child is going to explain his/her report, and then once the parents questions have been answered the staff is explained the report, the next step is what does the group think, is the child eligible or not, if a determination is made the child is eligible for special ed and related services, there is a next step.
- CP: And what is that, well once that determination is made before you get to the next step what kind of documentation results from that meeting if at all and what are the specific steps that the school board needs to go through to make sure that documentation is correct.
- VL: Some of the school boards I represent will have a parent sign off on the eligibility determination, I agree that my child is eligible for special ed in related services, if the child is 8 or 9 on the basis of and the disability category will be listed, specific learning, disability could autism or though hopefully that would have been caught a lot earlier and a number of up to 13 categories, there is no requirement in the special education code that I can find, believe me I have looked for parental consent to eligibility, parental consent comes very importantly in the next what we'll call initial step.
- CP: What is the next step? I have a few questions, but I want get through each and I'll ask you the questions.
- VL: OK, the next step is the development of an individualized education program which is called an IEP for the child and in many instances in my experience in most instances, if at the eligibility conference the child is determined to be eligible, the group moved into IEP meeting, they go to the next step, and begin the development of the IEP for the child.
- CP: Alright, can I stop you 1 second.
- VL: Yes.
- CP: Let's say there is a disagreement over whether the child is eligible, the parent believes the child should be eligible, the school board does not think the level of concern rate rises to that issue, what happens at that point?, and I'll get to the IEP, we probably won't get pass that today, but I just want to understand what are the rights and obligations of both parties at that point and time.

- VL: If the parent says I believe my child is eligible and the districts says not, the parent has the right to request independent evaluations, I am assuming and I think reasonably that if the parent doesn't agree with the districts determination is because the parent doesn't agree with the substance of the evaluations or the conclusions of the evaluators, the parent can say I disagree I want independent evaluations.
- CP: OK, so there is an independent evaluation done, are report is done?
- VL: Yes, for example what if parent wanted an independent learning evaluation or sometimes called an educational evaluation that would be done at the boards expense and a report would be generated into and committed to the school staff, the school staff would, the case manager or a person otherwise designated to be the parents contact person would transmit that report to apparently go through a process again where the parent would come in and view the discussion of the report.
- CP: OK, suppose there is an independent evaluation that agrees with the school board, but the parent still doesn't agree, does the parent have any rights at that point?, what kind of action can the parent take?, and what should the school board be ready to deal with?
- VL: The parent who doesn't agree with the independent evaluation may very well have, if he or she can afford it, up paying private evaluation as well and that private evaluations, evaluations a parent pays for is not paid for by the school district, that is how I distinguish among these evaluations, and I encourage parents give us private evaluation reports for school districts, let the school district staff look it over, if the private evaluation does not result in agreement by the school district in spite of who is eligible, the parents next step, if the parent wishes, is to seek mediation or to go directly to make a direct request for a due process.
- CP: OK, well I am going to save the litigation pieces for the next show, but I just wanted to kind of fill in the pieces to let people know where the areas of dispute might arise, we are now at the IEP process, just describe the IEP process, what the parent should expect what the school board should do to make the process as smooth as possible and avoid problems related to the IEP process itself.
- VL: If the school staff knew that it was essentially due that it was going to recommend eligibility that it was going to recommend classification, sometimes the school staff will come to the meeting with a draft IEP, and there some anxiety that I have seen amongst schools, they all say we do it because the parent will think it's a better complaint and like I don't have problem with draft, clearly marked draft subject to discussion so that you have something tangible in front of you that you can go over with the parent, understanding is not final document, you need parent input, you need yourself as the schools staff to fine tune in to be fit up perhaps, you begin to develop the first part of that program and that is what is called the present levels of educational performance, the PLEP. There are what I view as 3

key components of an IEP, every response is important but the 3 keys that build on one another the PLEP in which the child educational needs are identified, the parents concern are identified, the child's performance both functionally in the classroom that the child has been observed, if the child has been in a class and is beyond the just the 3 year old stage, and the child's academic performance in the classroom, the child's performance on standardized testing and the like. The child's behavior (conduct), just because a child may be eligible on the basis of a specific learning disability doesn't mean there won't be some behavioral issues that you need to deal with, those are identified in the PLEP, the next piece in the puzzle are the program, the goals and objectives, the modifications, supplementary aids and services, these pieces of the IEP are prepared with a view to the PLEP, they build the PLEP drive for the next part of the program.

CP: Either I've asked the questions or you've answered them, but there was a couple of questions that I want to make sure we respond to that I haven't asked you, it say's that once that the parent files the complaint investigation the district is found compliant, the parent is not happy and files for due process on the same issues, when does this become harassment towards the district?

VL: Well, parents are accorded significant rights under the IBEA to protect their youngster and to provide their youngster with the opportunity to experience what the Courts are calling meaningful educational benefit in a school setting, I have often heard a concern from school staff about harassment by parents, no school staff person should be treated, and every school staff person it entitled to expect not to be treated in a disrespectful or abusive manner, however, parents are given great latitude in their filings with the Court as long as they are not abusive and in my view, and the key is you have to try to build trust, even when the situation looks very bleak, there will be however, some parents and guardians with whom the trust issue can never be resolve and the only way the district can move on is by resolving the issue through litigation, but unfortunately often when you are involved in litigation even if the district wins, its still a battle because remember battles the trust, because remember that special education cases is usually over 1 year, that is 1 IEP, an IEP covers 1 year period, so the next year mom and dad or guardian can come back and sue again. By sue I mean follow the quest for due process again.

CP: Right, now Vi thank you very much for helping us put the block in place, obviously we are going to do at least 2 or 3 more shows to cover the water front, it's been very informative to me, hopefully it's been informative to our audience, would you agree to come back and do it?

VL: I'd be happy to, absolutely.

CP: Now, if you should have any questions that you did not have the ability to have answered, you can ask them even after the show is over, and we'll either address them right now via e-mail to you or picked them up for the next broadcast, I'm sorry today for some of the technical difficulties, these are things that television

had to work out in 1960's, but if you should have any questions please let us know, if you should have any of Vi Lordi, you can contact Vi Lordi at [vilordi@wilentz.com](mailto:vilordi@wilentz.com), thank you very much for watching today and we will see you on our next show, thank you very much.