Case Study Project Final

Anitra Lindsay

Capella University – ED 8720

Professor Ordu

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**Case Study 59 - Ideas on Individuals with Disabilities Education Act**

Introduction to Case Study:

Currently there are many laws and pieces of legislation that govern the rights of the special-needs community. Education is one of the areas where there is a high concentration on rights for this particular population. The case study 59 entitled “Ideas on Individuals with Disabilities Education Act” from the Gorton, Alston, and Snowden text (2007) narrates a scenario that is and has been a reality for many educators and administrators. In this particular case study, two teachers, Ms. League and Ms. Bird, come to the principal office with a concern for a student who has a well-known reputation for behavior who earlier in the day seemed very agitated. While visiting the principal about their concerns, a fight breaks out in another part of the building involving the child in question. The high schooler named Billy Bass, the student with the long standing history, and another young man, Tom Thompson, became involved in a physical altercation resulting in severe bodily harm to another student, Jason Miller. What is particularly unique about this situation is that Billy Bass has recently been mainstreamed from classes for students with severe emotional disabilities into regular education classes. Even though Billy made the progress necessary in his special services classes and the mainstream teachers have been supportive of preventative actions plans to continue with Billy’s behavioral success, it seems as though he is still easily agitated and has yet to learn how to control his behavior on his own.

The parent of the Jason Miller is extremely upset about the fact that his son was hospitalized by these two other young man and desires for there to be punishment for the two individuals who beat up his son. Mr. Lowe, the principal at the high school where
this takes place, is well aware of the behavioral issues and diagnosis of Billy Bass and his rights under the IDEA law, which states that students with disabilities are not subject to the same process of discipline as students without disabilities. Mr. Lowe promises the parent that he will investigate the circumstances surrounding the altercation.

Since this case study is based on legal rights, special education, and other legalities, there will be many acronyms throughout the duration of this study. For clarity purposes here are the following acronyms and their meanings:

- A-B-C – Antecedent, Behavior, Consequence analysis (used in diagnosis of SED)
- BD – Behavioral Disorder
- BIP – Behavioral Intervention Plan
- CST – Child Study Team
- EHA – Education of the Handicapped Act (enacted in by congress in 1975)
- ED – Emotional Disturbance
- FBA – Functional Behavior Assessment
- IDEA – Individuals with Disabilities Education Act (current legislation)
- IEP – Individual Education Plan
- LRE – Least Restricted Environment
- PBS – Positive Behavioral Supports
- SED – Serious Emotional Disturbance
- SIED - Significant Identifiable Emotional Disability
- SLIC – Significant Limited Intellectual Capacity (A term unique to Colorado)
- 504 – Applies to students whose impairment significantly limits one or more of life’s major functions
Analyze the Case:

To be able to analyze this properly, one must look back before one can look forward. This is not the first time an issue like that has arisen. In 1988, there was U.S. Supreme Court case that dealt with a very similar issue. Honig, California Superintendent of Public Instruction v. Doe, was a case that dealt with “the Education of the Handicapped Act [which] required states to ensure a ‘free and appropriate public education’ for all children within their jurisdiction” (Wright, 2008). This case included the “stay-put” provision which “directed that a disabled child ‘shall remain in [his or her] then current educational placement’ pending completion of any review proceedings, unless the parents and state or local educational agencies otherwise agree” (Wright, 2008). This case went further to define the limits of dangerous and destructive behavior of special needs students and LRE. According the case documents themselves, part of the importance of this case was “to assure the rights of handicapped children and their parents or guardian are protected” (Wright, 2008). This case can be considered the patriarch of the special need education and parental rights struggle. Years later, IDEA was born and with came more provision for special educations students in regards to behavior.

Though Honig v. Doe occurred presumptively 20 years before the case study being analyzed, there are several things that can be understood from it and questions that can be raised stemming from this case. The two teachers who came to Mr. Lowe’s office with a concern about Billy’s agitation that occurred earlier in the day played a significant role in the outcome of the entire situation and could have helped prevent the incident from ever happening.
Because Ms. League has worked with Billy in previous situations, she has prior knowledge about Billy, his SED/ED, and should have had a list of identified various factors that contribute to negative manifestations. Having this student mainstreamed begs the question of whether or not a FBA occurred before the mainstreaming happened and whether or not a formative BIP was the result of that assessment. Unfortunately the answers to these questions cannot be fully ascertained given the information presented in the case study. However, if this were had occurred in any actual setting, the special education teachers, general education teachers, social worker, and school psychologist would have had to made sure this happened, lest they be in violation of a Federal mandate.

Ms. League knows Billy’s triggers and what sets him off, and his potential for causing issues when he is this state. She could have insisted that Billy stay with her after she noticed that he was upset instead of sending him to gym. Ms. League, because of the trust and previous positive interactions with Billy, could have tried to get to the root of the problem instead of letting him go and discussing this with Mr. Lowe. One of the major issues involving teachers and accountability under IDEA is that “teachers must decide what evidence-based practices they will use with students” (Bouck, 2007, p. 84) to ensure their success. It is clear that Ms. League chose to discuss this with the principal when she had it within her power to speak directly with the student, which eliminates the whole speculative issue that she and the other teacher bring to Principal Lowe. Though this would have been the more responsible route and would have eliminated wasted time on speculating what the issue was, it is futile in this situation but should be pointed out for future references.
What is left now is a principal with a very sticky situation on his hands, legislation governing his decisions, and parents wanting justice for their students.

Because this incident is surrounded by special circumstances, the manner in which Mr. Lowe investigates this event demands the utmost care and precision. Several steps need to be taken in order to ensure this happens. They are as follows:

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<tr>
<th>Steps taken by Mr. Lowe</th>
<th>Rationale</th>
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<tr>
<td>1. Call Billy Bass’s parent or legal guardian</td>
<td>This is simply to inform them of the situation that occurred and to inform them that an investigation will be going on due to the severity of the incident. Mr. Lowe could also inquire at this time about any circumstances outside of school that could have contributed to this situation or to find out if the parent/guardian was aware that the student was having difficulty with anyone at school. Or if the student is on medication, this is the chance to see if dosages or medication have been recently changed in any way.</td>
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<td>2. Interview Billy Bass</td>
<td>This needs to be done to understand Billy’s frame of mind when dealing with Jason Miller. This will help establish motive for actions, any preventative measures taken by others, and other factors that could have caused this situation. This can also serve as an opportunity to discuss with Billy his experiences in mainstream education.</td>
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<td>3. Interview teachers that were present during the altercation and have written documentation of their perspective of events.</td>
<td>By interviewing the teachers, Mr. Lowe can get an outside perspective on the events that took place and the degree of antagonistic involvement each student in question had during the situation. This also eliminates the potential claim of the principal “believing” one student over the other.</td>
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<td>4. Review Billy Bass’s file for proper protocol and mainstream process.</td>
<td>Since “schools are obligated to address student misconduct that is serious enough to evoke disciplinary action” (Gable, Hendrickson, Tonelson, &amp; Acker, 2000), Mr. Lowe must make sure that all paper work on Billy Bass is up-to-date. He also needs to ensure that the proper protocol for having Billy mainstreamed was adhered to by his special education personnel and that all laws concerning IDEA were implemented correctly and in a timely manner.</td>
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<td>5. Find a suitable punishment for Billy Bass</td>
<td>“Current legislation calls for an assessment process that serves as a guide to the function(s) of student behavior. Drawing on information gleaned from FBA, IEP teams are able to generate a hypothesis statement regarding the function of the misbehavior” (Gable and Hendrickson, 1999). Doing following such procedures, also includes the process of assessing what types of consequences are most suitable for the students so that it eliminates the</td>
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While the investigation is taking place, there are a few things that are certain. There is a great likelihood that Billy will possibly pulled from some of mainstream classes due to this type of situation. Because a student with ED/SED is protected under IDEA, there consequences for such behavior might require them to spend some additional time in SIED setting until a new FBA can be conducted and a new BIP can be implemented. In fact, this kind of action could be considered putting the student back into the LRE as a part of his BIP. Whatever the case is, the student will be put into some type of remediation of his original plan that allowed him to be staffed out of special education classes for student that are ED/SED.

Once a resolution is reached in this particular situation, there is a possibility that it might have a negative effect on all students and their view of discipline within the school. Due to the fact that “a child under the IDEA legislation cannot be punished if their offense is a manifestation of their disability” (NASP, 2002) and records of their disability are considered confidential, there may be parents, students, and other faculty that might not understand the entire scope of what is going on. This could make students think that some fights are okay if under special circumstances or that punishments are no longer severe. Unfortunately the students talk, and most of the time only get a fragment of what is truly happening in a situation.

The Larger Issues:

One of the largest issues that this scenario presents is the inadequacy of training school personnel in preparing teachers and administrators for serious incidents of
violence in their schools. This is a problem that is not reserved for case studies and hypothetical situations. Lack of knowledge, practice, and application of FBAs and BIPs is a serious issue that many educators are dealing with in their schools and their very own classrooms. The school system should in this case and school systems across the country need to make sure all staff are understanding of zero-tolerance procedures and those laws that create a different set of discipline for students that are on IEPs or BIPs, especially when violence occurs. In-services on PBS and other intervention strategies need to be adequately provided so that the school as a whole has an action plan that is carried out through all ranks of the educational environment.

The IDEA laws and their discipline regulations play a big role in the administrators’ decision to assign consequences for the students’ actions. The majority of the time a CST may be assigned as an outside investigation entity, along with school administration and school specialist, to determine whether or not the action in question is a “manifestation of the disability” (NASP, 2002). Unfortunately this is not always the case.

IDEA stipulates that general educators assume major responsibility for making decisions about students with disabilities. General educators now participate in the IEP and FBA processes and play a principal role in relating students' annual goals and objectives to the curriculum of general education. This extends also to potential and appropriate consequences for misbehavior (Gable and Hendrickson, 1999).

If the CST finds that the student’s action was a manifestation caused by the disability, the student will then undergo the FBA process again to help determine how public schools
can help the student in the LRE. If the offense by the student was found not to be a manifestation of the disability, then the student has to have services provided to them during their discipline at an alternative educational setting. This could cause an administrator to find the least punitive consequence for the child because it could be costly to the school and/or the district.

One of the other major issues that arises when situations of violence concerning a student with disabilities occurs is the question of parental right to information when they intersect with another’s student right to confidentiality. Unfortunately, “the situation has been described by some as ‘the special education trap’” (Olympia, Farley, Christiansen, Pettersen, Jenson & Clark, 2004, p. 836), which force educators to take precedence over one person’s rights instead of the other because of special education circumstances. Even if one believes that this is unfair to the parents who are requesting information, to perhaps make an informed decision about their child’s future in a specific school or learning environment, it is the law that binds administrators to the simple fact that confidentiality cannot be breached. It really does not matter what the circumstance is behind the parent requesting information because the other child is protected under these laws. Unfair, maybe; a point of contention; of course; a changeable factor, no way!

The parent requesting information, however, always has rights as well. They too under federal law have rights that need to be honored. One such right is the right to verbal and openly disagree with policy. This is as much as a parental right as is a right protected under the First Amendment. A parent, however protected under the law, needs to be careful of how s/he exercises this right. A case in Texas, Saucedo v. San Antonio Independent School District, was heard on the basis of a parent criticizing the school’s
administration “for their failure to protect the safety of children” (Wren, 2008), and unfortunately, the parent who voiced his concerns was arrested for this while taking his students to school. The charges were later dropped after appeal. Situations such as these create a hazy line where one person’s right stop and another’s begins.

Problem Solving:

In order to further this scenario and solve some of the problems presented, this section will continue under the pretenses of the following investigation findings. First, Jason Miller called Billy stupid during English for wrong answers. This upset Billy and he elicited Tom for help jumping Jason. The results of staff and student interviews found that Jason was beat up without resistance or fighting back. Next, Billy’s parents insist this is a manifestation of his disability and request the minimal consequences. Tom Thompson’s mother thinks he might also have an emotional disability, requests testing for that, and minimal consequences. Mr. Miller is calling all levels of district personnel to help him get the Billy and Tom expelled in order to create a safe public school environment.

Using these aforementioned assumptions as the basis for which the next step of actions, the first thing that Mr. Lowe should do in this situation is seek legal representation and request that the school district pay for it. In situations like this, the parent of the child violated, Mr. Miller, is probably not in a place where he can fully accept the letter of the law in terms of IDEA. Many parent across the country often feel as though their children, circumstances, or scenarios should be exceptions to the rules. Administrators, teachers, and other district personnel know this to be an unfortunate
truth. Having legal counsel present can avoid situations where administration puts itself or the district on the chopping block.

Since the principal has prior knowledge that the parent is not satisfied with the due process of the situation and has done nothing illegal himself, a lawyer could advise the principal and other district personnel with the correct things to say when dealing with Mr. Miller. A lawyer could also serve as a person with whom Mr. Miller can deal directly without fear of legal repercussion. Some may think retaining legal counsel at this point is a bit overboard, but the increasing number of school violence scenarios in this country, the school reform efforts to provide public education student a safe environment, and the legal cases that have been presented because of them is reason enough to take this precaution. After seeking legal counsel, the steps taken in further action will be enumerated in the next section.

Testing the Solution:

Since there are several avenues of action that must take place in light of the finding of the investigation, the following are action plans that the principal could use when addressing each one.

*Conferencing with Mr. Miller to explain the result of the investigation plan*

Preparing the thorough documentation of investigation findings would be the first order of business. The legal counsel should be present to serve as mediator between the principal and parent. After explaining to Mr. Miller the findings and presenting the documentation of the investigation, it would be fit to see if Mr. Miller needed clarification on any details or points. Mr. Miller would more than likely still have some reservations and problems with the findings and lack of clarification regarding
consequences since the documentation states nothing about it. Since his student did little more than name call, this a likely assumption of action on behalf of Mr. Miller. It would be appropriate at this time to discuss IDEA discipline regulations/limitations and confidentiality of students. Doing so ensures that Mr. Miller understands that this is not the district’s policy or even the state’s policy that requires the district to not disclose any information regarding the consequences for the other students or the factors influencing the degree of consequences for an identified ED/SED student.

Mr. Miller should then be presented options for his student which include but are not limited to: schedules changes ensuring students involved are not in the same classes; changing schools if he feels this is an unsafe environment and PBS interventions for his student to ensure success. If Mr. Miller is not satisfied with the outcome and decision of Principal Lowe, Mr. Miller should be referred to central administration and provided with names and numbers of district personnel who can further assist him in pursuing other avenues. The last few steps in this plan help show concern for Mr. Miller’s son and also provide ample evidence of cooperative communication on behalf of the school.

**Screening process for Tom Thompson’s eligibility for special services plan**

Conducting an FBA for possible implementation of BIP, which could result in minimal consequences, would require the following process that has been supported by researchers to be considered best practices to diagnosis of BD, ED, or SED (Killu, 2008, pg. 147):

**Beginning process for conducting a Functional Behavior Assessment (FBA)**

1. Consensus on problem

2. Review of records and past interventions
3. Interviews with all relevant parties
4. CST discussion
5. Assessment scales
6. Direct observation & measurement of the target behavior across settings and context
7. A-B-C analysis
8. Reinforcer preference assessment
9. Ecological analysis
10. Hypothesized statement of the behavior’s function
11. Analog experimentation of proposed hypothesis
12. Determine the presence or absence of setting events
13. Identify Contextual factors
14. Identify Environmental factors
15. Identify Physiological factors
16. Identify Social factors

As one can see, the process of conducting a thorough FBA process takes longer than simply seeing if a student has a short temper. Steps 1-16 are a process that involves many staff members and should not be rushed. Input from parents, special education teachers, counselors, social worker, and psychologist are just a few of the school’s personnel that is required by law to take parent in FBAs. In doing the process correctly, this makes certain that the Thompson family is not trying to make excuses for their child’s behavior or trying to get him out of serving the proper consequence for his involvement. Since this is such a lengthy process, the principal should check with legal
counsel if school policy on fighting could be adhered to until the results of the FBA.

Addressing the issue at a PTA meeting plan

Informing parents and community members of these sorts of issues is something that needs to become more commonplace practices. Today, too many principals and administrators leave parents out of the loop until something like this happens. A plan to be proactive in order to inform parents and communities needs to be placed higher on the priority list for any leader at any site. Ideally, it could serve as an intervention to potentially dangerous situations and provide parents with the information that they might not receive otherwise.

To successfully convey this, the principal must have a clear and concise presentation at the time of the PTA meeting. In many settings and in many cases, parents are not always aware of educational organization and legislative terms, much like Mr. Miller. A PowerPoint presentation of school policies regarding discipline and IDEA laws that is free of educational/political jargon and straightforward would be appreciated by the parents and is probably most appropriate. Legal counsel, district representatives, administration, and special education personnel should all have a part in introducing the presentation to the parents. Doing so demonstrates that this is an issue that is very real and needs to be understood as sensitive. Finally the proper and suitable way to end this meeting would be to have an open question and answer forum to specifically address the concerns of the parent.

Investigating Further:

One of the most interesting facts regarding students with ED/SED is that they are not always identified until something like the scenario presented in the case study occurs.
At a Palmer High School in Colorado Springs 4% of the total population is identified as having some ED. Not all of them are on IEPs or BIPs. Strangely enough, those that are not on IEPs or BIPs do have 504 plans. Mainly this is because their ED is coupled with some type of physical limitation or hindrance.

All teachers at Palmer are aware of students that have been mainstreamed to their classes. There is so much care and precision that the special education department takes when handling their students. Each time any student is mainstreamed, a special education teacher and support staff personnel meet with the teachers and provided them with some classroom modification and practices that are helpful to the student’s success. Teachers do not get offended or annoyed at this and have come to expect it as general practices for mainstreaming. This is because Palmer is the school of choice for hearing impaired and severe needs students in the district. Because of this label and those offered services, Palmer has a very large, capable, and top-notch special education department that is ready to deal with all types of individuals with disabilities. Due to the fact that Palmer has such a large special education population, about 1/3 of all violent acts are committed by special education students, the majority which are committed by either SIED or SLIC students.

Because of the school’s high population of special education students, not all students are able to participate in the inclusion mandated by NCLB. There are, however, other alternatives for the special education students at Palmer to receive a free and appropriate education. The interim alternative educational settings in Palmer’s school district are self-contained classroom taught by special education teachers with specific endorsements in the subject areas in which they are highly qualified. Students who need
these services are still entitled to learning with a professional that understands, is trained in, and can manage their specific needs.

Conclusion:

Years ago, the educational rights of students with disabilities was a non-issue. In that time, there was little known about behavior disorders, cognitive brain functions, methods of accommodations and modification, and other aspects of education that give all students a chance to thrive. Though education as a whole has corrected many of its social and educational injustices committed upon this specific population of students by enacting various forms of legislation, special circumstances surrounding consequences for violent acts committed by these students begs the question of whether corrective strides have gone too far. Individuals suffering from some level of behavioral or emotional disorders have committed some of the country’s most notorious acts of violence. Certainly society might think twice about giving Eric Harris, who was being medicated for an emotional disorder, a modified consequence after his part in the Columbine shooting had he lived, even though his act of violence very well could have been a manifestation of his disorder (Salvatore, 1999).

Surely if anyone asked the pseudo-fictional Mr. Miller if he thought this IDEA law was a piece of legislation that provided fair treatment for all students, he would more than likely say that IDEA does not promote fairness. He may even go as far as to question whether it was fair that his student is in the hospital and those responsible for his condition are serving a lighter consequences than is even stated in the school policy. Though this may very well indeed be the case for many people who hear of this, educators need to stand strong and do their best to create awareness and promote
understanding of these situations. This project was not about the application of legislation. It was about how humans deal with it and how educational leaders plan address it. That is what this project was intended to do, and it has done so for at least this educator and future administrator.

Educational leaders have a duty to make efforts to inform parents and community members of legislation that can affect their children and their rights, though the responsibility ultimately lies on the parents and community to seek this information. Legislation is law. Seldom are there serious loopholes out of which complete injustice is served. But it all depends on perspective. By no means are IDEA and its provisions on discipline for students with ED, BD, or any other disability perfect, but it is the best education has right now. And as leaders, it is important to train teachers on how to process FBAs, implement BIPs, and take seriously the needs of those individuals with disabilities. Because no matter what, this is not the dark ages where it is acceptable to exclude students because of who they are or how they were created. No longer is it okay to have special education in the portable building out back behind the school. Education has come too far for that; humanity has come too far for that, and educational leaders should be expected to do more than that.
References


http://www.nasponline.org/advocacy/MHPrin_IDEA.aspx

