

Foreword

As a former public school teacher and practicing attorney, I witnessed first-hand the lack of knowledge among school personnel about special education law. Currently, in my role as a professor of education law, I try to address this lack of knowledge with my students. In my university courses, the fear educators have about being sued is sometimes palpable. These fears are not surprising as special education is one of the most litigated areas in education.

My students, who are teachers and principals, often have questions about whether there was a relationship between the child's conduct and the disability or whether they were providing FAPE (free appropriate public education). Just last week a principal asked me how to address the LRE (least restrictive environment) when his elementary school has now moved entirely to a distance learning platform. Although not every legal issue can be avoided, with a better understanding of some of the more basic special education legal issues, some conflicts could be prevented.

Allan Osborne and Charlie Russo have once again combined forces to address many of these pressing issues related to special education law. Osborne has worked for more than thirty years as a special education teacher and school administrator in Massachusetts. He observed, on a daily basis, how the school and community were often misinformed about special education matters. He learned early on that he had a professional responsibility to his school to abide by the legal standards set in legislation and case law. As a scholar-practitioner, he, too, has written extensively on special education law. Russo is one of the nation's foremost education law scholars. With a law degree and doctorate in education, he has spent more than forty years examining special education matters. Prior to entering academia, he was a classroom teacher.

While merging their areas of expertise, Osborne and Russo have once again created a book that is accessible to several different constituency groups, including school personnel, lawyers, policymakers, and parents.

The book has always explained the major federal special education laws, including the Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act (Section 504), and the Americans with Disabilities Act (ADA) in a way that could be clearly understood. This new edition is equally as clear and includes many important updates, such as the Supreme Court's most recent decision on special education, *Endrew F. v. Douglas County School District (Endrew F.)*. Prior to this decision, courts in some jurisdictions approved individualized education program (IEPs) that provided only some educational benefit to students with disabilities.

As discussed at length in the book, in *Endrew F.*, the Supreme Court clarified that this was not sufficient. In another recent case, *Fry v. Napoleon Community Schools (Fry)*, the Court established a test for lower courts to use in determining whether parents filing suit under statutes other than the IDEA must first resort to that statute's dispute resolution procedures. As is discussed in this new edition, the *Fry* decision has had an important influence on how some disputes between school boards and parents are settled.

The fourth edition also provides emerging issues related to assistive technology. This topic is especially helpful in light of the COVID-19 crisis. Specifically, public schools find themselves in uncharted territory, and there is serious concern about how to adapt to distance learning and assistive technology. When written, the IDEA, ADA, and Section 504 did not contemplate a time when public schools would be completely closed and millions of students would be provided educational instruction only via virtual/distance learning platforms for an extended period of time. Their updated section on nontraditional schedules and placements is helpful in this regard, too.

The intersection of discipline and special education law remains a salient issue for school personnel. The recent updates on time-out rooms and physical restraints are especially timely as well. As the authors note, currently there are no specific federal laws addressing the use of restraint and seclusion in schools, and the U.S. Supreme Court has not considered a case involving this matter. Russo and Osborne highlight several lower court decisions that school officials can look to for guidance. I found the updates to policies involving bullying and harassment, conducting manifestation determinations, and how to address due process particularly beneficial, too. Their suggestions related to positive behavioral interventions and supports provides useful information for the entire school community. In sum, if school personnel have this book, it could help them avoid common mistakes, and at the same time, provide necessary protections for students.

I look forward to using this text in my courses. If I were still a K-12 teacher or a practicing attorney, I would find the book equally relevant. As with past editions, I will likely find myself reaching for the fourth edition of *Special Education and the Law* to provide me with an accessible and comprehensive reference to special education law.

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