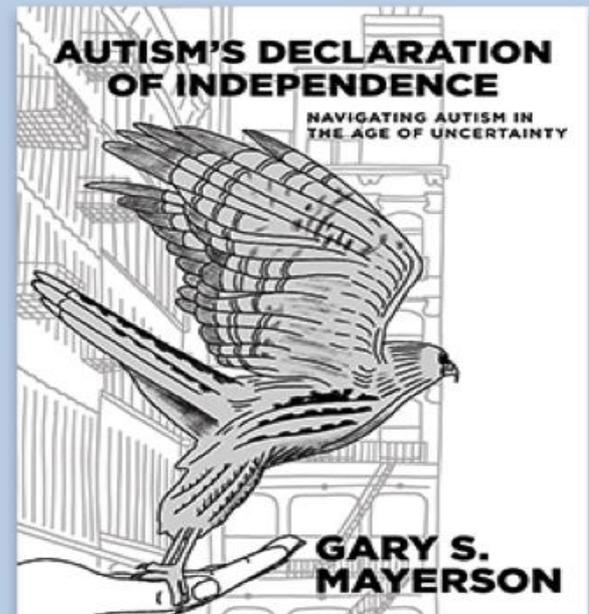


Autism's Declaration of Independence

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-- Navigating Autism In The Age of Uncertainty" (DRL Books 2020)



Why Promoting Greater Independence And Self-Sufficiency Is So Crucial

- Annually, more than 50,000 Americans with autism will transition to adulthood—and educational services will come to an end
- The autism population is hindered by rampant unemployment at the rate of 85% or worse
- Low expectations can systemically pave the way for a lifetime of (more costly) dependence
- Promoting greater levels of independence expands the available options at adulthood
- Greater anticipated fiscal deficits
- Parents cannot expect to live forever

Autism Is Oblivious To Its “Competitors”

- Autism is a 24/7 workaholic that never takes a break and has no plan for the future other than practicing itself to perfection
- Autism doesn't know or care about the pandemic or other public health threats
- Autism doesn't know or care that today's intervention dollars may be at risk
- Macro: In today's volatile, threatening and uncertain world, how can autism compete effectively for the public's attention and motivation to invest tax dollars?



The Statutory Right To A FAPE

- FAPE standard clarified by Supreme Court's unanimous 2017 Decision in *Endrew F.* (getting beyond mere "access" cases to focus on outcomes)
- To be appropriate, IEP goals must now be sufficiently "ambitious" and "challenging" and take student's "potential" into account
- FAPE standard may now require additional foundational assessments (to confirm that the challenge level is appropriate)
- Asking for "independent evaluation" at district expense

Fulfilling Congress' LRE Mandate

- No student has to “earn” the right to be educated in the least restrictive environment
- The IDEA statute has a preference for less restrictive settings even if a student needs a 1:1 aide or other supports to be successful in that setting
- Before moving student to a more restrictive setting, school system is obligated to try things designed to sustain LRE

Overcoming Judicial Resistance To Promote Generalization

- The challenge of being able to generalize learning from one setting to another, from one person to another, etc. Without generalization, what, if anything, has the student learned?
- Before *Endrew F.*, the federal courts treated generalization as some kind of exotic or optimal approach that school districts were not required to implement (See Justice Gorsuch's 2008 decision in *Luke P.* case)
- Generalization is an essential prerequisite to promoting greater levels of independence
- Will the federal courts now apply the more robust standard from the *Endrew F.* case to promote generalization? How else can a school district's program be "challenging" and "ambitious" and take the student's "potential" into account?

COVID-19 Specific ADL Goals For IEP



- Observing CDC recommended safety protocols should now be part of every student's ADL goals and objectives (Activities of Daily Living)
- When to wear a mask and sustainability, maintaining physical distance, hand washing, staying away from the water fountain, elevator procedures, safe lunch procedures, coughing into your elbow, acceptable replacements for “shaking hands” ...

Getting The Most Out Of Remote Instruction

- It's not about attendance—it's about “attending.”
- Assess the proposed learning environment for any interfering factors
- Need for teacher proxy (usually a parent) as the teacher's “hands”
- Does your school have a Remote Learning Plan? It should. Plan should then be individually tailored.
- Synchronous (live) vs. asynchronous (recorded)
- Maintain chronology and detailed schedule of all sessions
- How is efficacy being tracked/measured? Remote instruction as the ultimate test for “generalization”
- Consider supplementing with in-person instruction on notice to the school district
- Responding to crises (e.g. caregiver becomes ill) What's the backup plan?



Additional Uses For “Remote” Technology

- Certain assessments
- Sharing data
- Parent training and counseling
- Group speech
- Social skills groups
- Team meetings
- Important alerts and announcements
- Probing to assess “generalization”



Can The COVID-19 Pandemic Give Rise To Any Due Process Claims?

- Safe access to an appropriate education is an integral component of a FAPE (Judge Weinstein in T.K. v. DOE “bullying” case)
- “Ten day notice” not required where there is a danger to physical or emotional well being—(but give whatever notice you can)
- School districts will likely be responsible for taking “reasonable” protective measures but not to eliminate all risk (i.e. not as an insurer)
- Unfulfilled IEP mandates
- Struggling/Regressing in remote teaching mode

Is The Pandemic Setting The Stage For A Flurry Of “Compensatory Education” Claims?

- Compensatory education relief is available when the school district fails to discharge the service mandates of the IEP and “owes” your child what they were supposed to receive
- Keep track of unfulfilled service mandates and document complaints—any relief awarded may be less than full value
- Be mindful of IDEA’s two year statute of limitations



The Nonfinancial Cost Of Inclusion

- Elopement situations
- Disciplinary proceedings at school
- Bullying
- Sexual and other related abuse
- Active shooter “lockdown” drills
- Confrontations with police
- Discrimination at the local town pool
- Employment discrimination

The Transition To Adulthood

- A student's IEP is about mandates and entitlements. The transition to adulthood means moving to an environment of eligibility
- The transition to adulthood is a process that starts long before "graduation." National trigger is 16 years old. New York begins transition at 15. Connecticut starts transition in earnest at 14.
- Self direction? Is it right for you and your family?
- Register with your state agencies early on
- Objective: Graduate "to" something fulfilling

For Additional Information:

AUTISM'S DECLARATION OF INDEPENDENCE

Available at difflearn.com or from Amazon

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