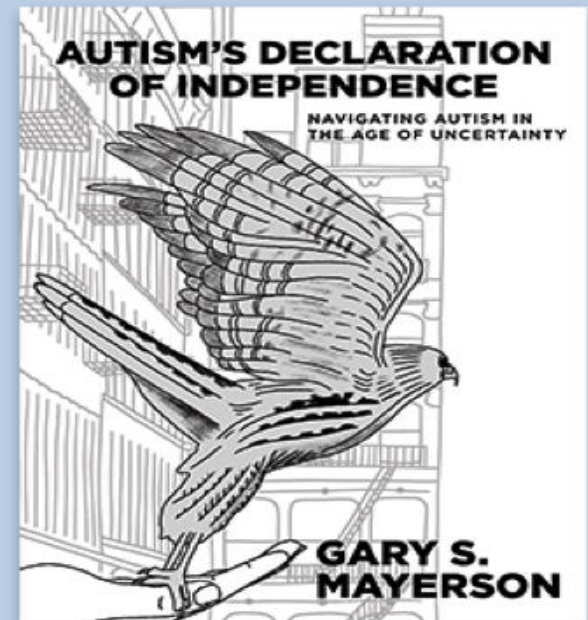


# Autism's Declaration of Independence

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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 2018 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](http://difflearn.com) or from Amazon

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