

## The Importance of FAPE Requirements in the IDEA in Regards to Mental Health Services

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### **Author Note**

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### Abstract

This document seeks to explore the legal rights of FAPE within the IDEA to better help all IEP stakeholders advocate for policy in order to help educate students in environments that increase excellence and equity while also meeting students' and families' social, physical, emotional, social, and economic needs. This document will focus on how schools and states can comply IDEA and work to help parents and students understand their rights under the IDEA's FAPE requirements and how they correlate to placements of students with mental illnesses in private schools that provide therapeutic services (Senate and House of Representatives of the United States of America in Congress, 1997; Wright, 2004). The hope is that this document will help educators better meet the National Policy Board for Education Administration Professional Standards in regards to section "9h: Know, comply with, and help the school community understand local, state, and federal laws, rights, policies, and regulations so as to promote student success [and] 2a: Act ethically and professionally in personal conduct, relationships with others, decision making, [and] stewardship of school's resources." (Herbold, 2017)

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### **Introduction**

Educational theory has changed from the concept of providing all students with equal education and replaced this with the concept of equity. Equity is the idea that students have distinctly different learning needs, so the same education across the board for all students will not be as effective as recognizing the differences in students and teaching in a manner that best allows these students to thrive. In the everyday classroom, modern educators try to hit multiple learning modalities while also scaffolding lessons to reach as many students as possible. Schools across the United States have multi-tiered response to intervention (RTI) plans in order to help students that struggle in order to find and help those that may have special needs. The Individuals with Disabilities Education Act (IDEA) maps out how to legally meet the needs of students with special needs, and schools throughout the United States work hard to find and serve these students with Individualized Educational Plans (IEPs).

In short, public schools are doing the best they can to reach and help as many students as possible learn and prosper. But what about the students that do not prosper in these environments? Students with special mental health needs often do not find these needs met within the public school sphere. These students have learning needs that can be inhibited because their mental health needs cannot be met within the structure of a traditional public school. The IDEA recognizes students with serious emotional disturbances as those with disabilities, and guarantees them the same free and public education in the least restrictive setting as any other child with a disability.

Often students with emotional disturbances participate in behavioral disturbances that cause danger to themselves and those around them when in less restrictive environments. These students are overwhelmingly referred to the juvenile criminal justice system which reports up to 70% of detained children as having mental health conditions (Mental Health America [MHA], 2015). Even though the National Center Mental Health and Juvenile Justice advises that “whenever safe and appropriate youth with mental health needs should be prevented from entering the juvenile justice system in the first place” (National Center for Mental Health and Juvenile Justice [NCMHJJ], 2017, p.1). It seems that juvenile detention is the default in therapy for many special needs students that should have been helped by schools implementing the IDEA to find free and appropriate education within therapeutic treatment centers.

Many stakeholders in the lives of students with emotional disturbances do not know the options and rights of their children in regards to private schools that specialize in therapy. Many parents pay out of pocket for expensive programs that could be covered via IDEA grants because they are not knowledgeable of their IEP rights and responsibilities in regards to private school placements before placing their children into therapeutic private schools. Educators also often fail to bring up the option of treatment centers while discussing IEP options with families’ of students with emotional disturbances, which places them in danger of being sued for not making ethically and professionally accurate decision making in regards to what is best for students within the law. Teachers, administrators, schools, and school districts that do not discuss the option of treatment for students with emotional disturbances run the risk of breaking standards under the National Board for Education Administration Professional Standards for Educational Leaders (PSELs) (Herbold, 2017), and breaking the law, as well. Thus it is important for schools,

as well as parents, to be aware of a student's right to free and appropriate education within IDEA. It is also important that schools take proper measures to make sure students with emotional disturbances are given a chance to be placed in therapeutic private schools instead of funneled into juvenile detention centers. Within this paper it is important to understand the relationship between federal and state statutes in regards to education, so Utah will be used as a sample state for examples of local state needs.

### **Research and Literature Foundation**

#### **Free Appropriate Public Education**

Free appropriate public education of FAPE is defined in the IDEA as special education and related services for children with disabilities must:

- (A) have been provided at public expense, under public supervision and direction, and without charge;
  - (B) meet the standards of the State educational agency;
  - (C) include an appropriate preschool, elementary, or secondary school education in the State involved;
  - (D) be provided in conformity with the individualized education program required under section 614(d)
- (Senate and House of Representatives of the United States of America in Congress, 1997, p. 12)

This means that if a student has been determined to have special needs they need to be provided free education that meets state standards and be provided with an individualized educational

plan. If a school district is unable to meet the special needs of the student, the student can enroll in a private school that does meet these needs at the school district's expense.

In the context of private treatment center placements, school districts are responsible to make sure that students already have an individualized educational plan [IEP] meeting which the treatment center is can send a representative to. Both schools have to work together to continually update and revise any IEP goals. Responsibilities for compliance with the IEP fall onto the student's public school district. Any and all school fees for students that are placed in private residential centers must be paid for by the student's local education agency [LEA] (Utah Administrative Code, 2017, *Rule R277-602.*) . The student should only be placed in private treatment centers if the child's disability will as recognized by their IEP will be treated there (Utah State Board of Education [USBE], 2016). In the IDEA, students are entitled to a FAPE placements that is in the least restrictive environment. The placement has to be determined through IEP teams. This FAPE placement is in place if the student's disability prevents them access to education. If it is deemed the mental health issues impede upon a student's ability to get an education, therapeutic services should be included in the private school placement (Conway, 2015).

The reason that free appropriate public education FAPE is significant for students with mental health issues is that it can grant funding for treatment centers that may help them with their emotional disturbances as long as those emotional disturbances are recorded in an IEP and school officials agree that residential private treatment would be the safest and least restrictive environment they can learn in. Many students and parents with IEPs that include emotional disturbances may not be not aware of this resource, and there is a danger that when emotional

disturbances become behavioral issues states are often more likely to refer students to the criminal justice system versus treatment, as “many of these youth are unnecessarily placed in or referred to the juvenile justice system for relatively minor, nonviolent offenses, often in a misguided attempt to obtain treatment services that are lacking in the community” (NCMHJJ, 2017, p.2).

### **FAPE Requirements According to Case Law.**

As anything within education that involves funding, there is much case law as to what is appropriate and lawful under obtaining LEA funding for a private treatment center under FAPE for students with mental illnesses. Many people do not know of these rights and regulations because mental illness and emotional disturbance are not commonly thought of as disabilities that could impair a student’s ability to learn. The irony in this is that an illness of the brain is exactly the kind of disability that would make learning in a traditional school extremely challenging. A common thread in court cases is that the majority of legal case law regarding FAPE requirements in the IDEA as they pertain to mental health services in a residential treatment setting deny funding for parents that place students in treatment without first going through an IEP committee for the recommendation, this is called unilateral placement.

Funding for a private school placement under IDEA for emotional disturbances has been controversial in the court system. Cases mostly deal with situations in which parents sue school districts for reimbursement of private school fees after unilaterally placing students in private programs. In the case of emotional disturbances, this placement may be done hastily by families because many placements into residential treatment centers happen after children make serious suicide attempts. Parents at this stage understandably want to have their children in a safe

environment as soon as possible, but sometimes fail to go through the proper steps in order to place their children in public school and still get funding under the IDEA free appropriate public education (Mawdsley, 2012).

Multiple cases have split hairs about what is covered under IDEA in regards to emotional disturbances. In *Gonzalez v. Puerto Rico Dep't of Education*, 254 F.3d 350 (1st Cir. 2001) the court found that a violent student with autism did need full time treatment because the violence seemed to be only at home and not in the school. The school district was obligated though to provide training for the parents (Eggert & Minutelli, 2012).

In *King Philip Regional Sch. Dist.*, 58 IDELR 179 (Mass. SEA Jan. 24, 2012), the court held that round the clock residential treatment was necessary because the school did not adequately provide real life transition skills to the student whom had begun to commit self-harm and be violent at home. In order to learn the skills needed to take care of herself the student was placed in a treatment center (ibid). In 2015, *Munir v. Pottsville Area Sch. Dist.* found for the district in not reimbursing parents for a unilateral placement despite the student's multiple suicide attempts, and the presence of a school district created IEP for emotional disturbances. The ruling stated that since he attended therapeutic school for mental health reasons and not academic reasons the school district did not have to pay for his treatment (ibid).

It is important that parents know that many cases of unilateral placements do not get reimbursed because most court rulings often state the opinion that the trouble behavior in school is due to emotional disturbances, which in some courts does not influence or negatively affect a student's ability to to finish or complete assignments within a traditional school setting (Sonoma County Charter SELPA, 2011). In *Ashland School District v. R.J.* (Ninth Circuit 2009) A



suicidal student that exhibited self harm and had a possible sexual relationships an adult custodian at the school was denied reimbursement during a unilateral placement because the school provided multiple chances to complete assignments (ibid). In a case egregious enough that a student at a school with school staff that was at best grooming a student for possible sexual abuse, parents still lost a FAPE funding for unilateral placement of their child because they did not fully exhaust the IEP options in the school. In this case the parents in a position of placing their child in a treatment center for her own safety still did not qualify for FAPE because the parents did not follow procedure before pulling their child. To make the case law even more confusing, in both *Florence County School District Four v. Carter*, 510 U.S. 7 (1993) and *C.B. v. Garden Grove Unified School District* parents were been granted reimbursement for pulling their child out of a school that they felt was not meeting the IEP needs of their child even though the placement was deemed less than perfect and the student had to return to a public school setting. The burden of proof for unilateral FAPE placements was clarified in *School Committee of Burlington v. Dept. of Education of Massachusetts*, 471 U.S. 359 (1985) and *Florence County School District Four v. Carter* when they both found that a parent could unilaterally place their student in a private institution if “(1) that the public placement violated the IDEA, and (2) that the private school placement was proper under the IDEA statute” (Links, 2011). Also, the plaintiff does not have to meet both criteria, in *C.B. v. Garden Grove Unified School District*, the Ninth Circuit Court ruled for the parents that they should gain a 50% reimbursement for private placement that did not meet the standards of being appropriate and adequate schooling under IDEA because the public school did not provide adequate support within it’s IEP for the student. Also *Florence County School District Four v. Carter*, 114 S.Ct. 361, 20 IDELR 532 (1993)

found that unilateral placements may still be reimbursed even if the family did not follow all the State standards to apply for FAPE, and long as the case meets the two criteria mentioned above (Martin, 2010). This means that a parent does have some right to funding for moving a child into a private school if the current public school option is not offering the needed resources (Links, 2011).

Recent case law has not been positive for students that may need full time therapeutic residential treatment needs. In *Richardson Independent Sch. Dist. v. Leah Z.*, 109 LRP 52635 (5th Cir. 2009), the Fifth Circuit case found that the district did not have to fully reimburse a family despite the fact that the public school did not provide services under the IEP that were guaranteed, the overall IEP was deemed as ineffective, and the treatment center did meet IDEA standards. The reasoning behind the school not providing full funding for FAPE was that the school was therapeutic in nature so much of the cost went to therapy and not academics (Martin, 2011).

In current develops, the Supreme Court agreed to hear *Endrew F. v. Douglas County School District RE-1*. In this case, the school district was sued because there was continually no progress within the child's IEP, and the school did little to help manage the students worsening behavioral issues (Wrightslaw, 2016; Endrew F. v. Douglas County School District, 2016). This case could affect treatment center enrollment because if the case finds that the school did not meet the FAPE requirement with IDEA by failing to provide adequate IEP help, it could be argued in future cases that districts will be responsible educating the student in an environment that creates any meaningful educational benefits. A ruling for Endrew could open up more options for parents under IDEA funding. Though, case law is not on the side of Endrew in this

case because in most cases in which try to sue a school for not providing meaningful education results usually find for districts and not students.

One of the most concerning aspects for educators, other than how to get students educated in the best and most equitable setting, is what are the educators responsibilities regarding IEP meeting and discussing FAPE options. In *M.S. v. Los Angeles Unified School District* (U.S. Dist. Court Sept. 12, 2016) found that a student that had left juvenile detention and was placed directly into a locked residential facility by DCFS was denied FAPE services by her local school district because within her IEP meetings the school district “(1) failed to discuss a residential placement at an IEP meeting, (2) “predetermining” the question of a residential placement at an IEP meeting, and (3) failing to offer a residential placement”(Stevens, 2016), This denied her IDEA rights. School districts may not automatically obligated to provide funding for residential treatment especially when they have followed the appropriate IEP procedures, but failing to acknowledge, consider, or offer therapeutic residential services via IDEA is a denial of FAPE rights. Also, in *NW v Boone County Bd of Ed, Case No. 13-6514 (August 18, 2014)*, the courts found that a parent is entitled to reimbursement for unilateral placement during the time in which the case is heard, even if it is determined the student could have had their needs met within the school district. This is because the argument was whether the school was providing free appropriate public education. In this context the parent is not obligated to move the child to the place that they feel does not provide FAPE during the case. Instead the student should stay put and the family should have costs reimbursed at the end of the case regardless of the verdict.

**What FAPE means to students, parents and schools.**

Schools should ignore FAPE rights at their own peril. The case law regarding FAPE placements for students with mental illnesses is in no way clear. What is clear is the IDEA responsibilities of schools. In *Modern Issues in Cases of Reimbursement for Unilateral Private Placements Under the IDEA* by Jose L. Martín, Attorney at Law schools are advised to take their FAPE responsibilities seriously. Schools should not ignore the concerns of parent's concerns about a student's behavior because most reimbursements involve situation where schools did not offer proper support. Schools should also reevaluate IEPs when given formal notice that a parent plans of unilateral placement. This is a time when the time should see if it can offer the services that the parent's are seeking in the treatment center. It is crucial that schools be honest with themselves as to their ability to meet the needs of the student. Schools should also document any case in which parents do not cooperate in IEP development. On the other end parents should record any instances in which the IEP team did failed to meet their obligations. Schools are also responsible to make sure that the private placement is providing FAPE, which means they should be active in IEP meetings and request information regarding student progress (Martin, 2010).

### **What are Emotional Disturbances? Why Should Schools be Involved?**

Mental illness still carries a large stigma and often schools have little understanding of what true emotional disturbance is and why is should even be included as a disability under the IDEA. Under the IDEA an emotional disturbance affects a child's ability to learn that cannot be explained by intellectual, sensory, or health factors. It is a disorder in which a student cannot maintain satisfactory interpersonal relationships, exhibits inappropriate feelings under normal situations, has pervasive mood disorders including depression, and has a tendency to develop physical symptoms or fears associated with personal or school issues (Senate and House of

Representatives of the United States of America in Congress, 1997). Under the find clause of IDEA, schools are obligated to actively look for student's in their districts that may have special needs in order to offer them IDEA services. This mandate also includes students with emotional disturbances.

Emotional disturbances as defined above can easily permeate into all aspects of a person's life. When that person is a minor and in school, much of their education could be affected by these disorders. Schools are under an obligation to provide appropriate and equitable education for these students. In general much of the symptoms of emotional disturbances may present to others at behavioral issues, this is because many of these children have experienced traumas that have led them to react inappropriately to normal situations.

#### **What is trauma and why does it affect emotional disturbance rates?**

In 1998, a study by the Kaiser Permanente Medical Group found that over half of the adult population has had a least one adverse childhood experience (ACE), which have been shown to correlate with adult mental and physical health issues (Feletti, et al. 1998). Many children that experience ACEs have the resiliency to not be traumatized by specific events, but many students lack that resilience for either biological or social reasons. The local rate of ACEs in Utah for example is over 60%, and 38% of that population reports struggling with depression consistently over their lifetime (Utah Department of Health, 2015) DCFS in Utah reports that in 2014, there was 9,854 confirms cases of child abuse (Utah DCFS, 2014) , and Utah has one of the highest rates of suicide in the United States (Utah Department of Health, 2015). For the age group of 12-15, people with disabilities are three times more likely to be targeted for violent acts, and people aged 16-19 are 2.5 times more likely to be targeted. (U.S. Department of Justice,

2014). What this means is that social events that could lead to a minor developing an emotional disturbance are higher than many think. These are all precursors to trauma.

Trauma is when the brain is triggered into survival mode in a manner that reduces a person's default options for actions to the three options of fight, flight, or freeze. A traumatic event is an event in which a person is triggered into survival mode, whereas trauma is the long lasting effects. A person can experience a traumatic event without having trauma, but a person is more likely to have trauma symptoms after a traumatic event. When a person experiences prolonged abuse or continual adverse childhood experiences, trauma can cause the person can either fall into a state of constant vigilance or become easily triggered into the three survival functions with very little stimuli.

Within schools, mental health issues are often seen as a medical problem and not an academic problem, even though mental health issues affect a significant portion of our population simply because the rates of abuse and adverse childhood experiences contribute to mental illnesses that can permeate in every part of a person's life. Schools are the first defense for students in need of help, but many schools are not equipped to help heal the immense damage that happens when children develop emotional disturbances due to trauma. This is when IDEA-FAPE referrals to private therapeutic treatment centers are appropriate. Many school districts utilize this resource, but sometime parents are forced to sue in order to get a FAPE placement. When neither of these options is utilized these children fall through the cracks and most often find themselves placed in juvenile detention centers.

**Over placement in juvenile detention centers.**

The strenuous requirements, and vague court decisions due to the abstract nature of diagnosing emotional disturbances make it very hard for parents to actually get funding for treatment centers when student's disabilities manifest in a way that affects behavior more than academics. This creates a system that feeds students with mental illnesses into the criminal justice system, which states still pay for with the national average cost of incarceration of youths at \$148,767 (Justice Policy Institute, 2014). Also, states are still obligated to provide extra funding for students with disabilities that are incarcerated (Utah Administrative Code, 2017, R277-709). So within the juvenile justice system, school districts are still providing funding for incarcerated youths with emotional disturbances. This means school districts currently are spending billions of dollars placing nonviolent student offenders in a situation that is more likely to create future criminal behavior (Justice Policy Institute, 2009) instead of placing students in therapeutic treatment centers. Most juvenile detention advocates see the flaw in this system. In fact, "researchers have demonstrated that diverting young people from the system early on and providing them with the services and supports that any youth needs to thrive is a more cost-effective investment than confinement," (Justice Policy Institute, 2014, p.14), but it is still very difficult for parents to access these services and supports through private residential therapy centers through school districts.

Juvenile detention centers are overwhelmed by the psychiatric needs of students placed in their care (Hammond, 2007; Teplin, Abram, McClelland, Dulcan, & Mericle, 2002; Underwood & Washington, 2016). Estimates hold that between 60-70% of adolescents that are incarcerated in the United States have some mental illness (Hammond, 2007). Of these mental illnesses, "the most common disorders among both males and females were substance use

disorders and disruptive behavior disorders” (Teplin, et al. 2002). If these substance usage and disruptive behavior disorders were prevalent enough in the student's daily life enough to contribute to them entering juvenile detention, it is not irrational to conclude that these disorders most likely affected their abilities to be successful in school. Research into juvenile detention have found that real offender rehabilitation should focus on education, child protection, mental health, and juvenile justice (Underwood & Washington, 2016). Unfortunately, the resources available for students within the IDEA are often hard to access without clear ties between a student’s emotional disability and their coursework. Rulings in courts have even denied funding for students that did see deterioration in coursework because the school provided chances for students to turn in work late. Even though some school districts have not stepped up interventionist efforts, the juvenile detention centers have seen some relief because of the 2014 Affordable Care Act’s caveat that healthcare cannot deny mental health services in their coverage (MentalHealth.gov, 2017), which has opened up a private revenue stream for therapeutic residential treatments. This private revenue is still not enough to help students with mental health needs stay out of juvenile detention.

Schools need to be better at finding students with disabilities. Voices for Utah Children, a child advocacy group in Utah, states that ways to fix our juvenile justice system includes focusing more on school and making sure that students with disabilities are properly identified and helped before they enter the juvenile justice system for actions that may actually be tied to their disabilities (Voices for Utah Children, 2016). Also, children placed in juvenile detention whom may have emotional issues tied to traumatic events are more likely to be re-traumatized within juvenile detention because there is a 25% rate of sexual abuse of minors within juvenile



detention (Justice Policy Institute, 2014). The National Center for Mental Health and Juvenile Justice even states that in order to deter over detainment of students with disabilities and mental illnesses school districts and communities need more “advanced protocols and processes for screening and assessment to identify mental health needs and risk among juveniles” (2017, p.3), and help create new programs that will treat their mental illnesses.

With the extreme mental health needs of those children in our community that are likely to be locked up, it makes sense that schools should be taking advantage of IDEA funding for students with emotional disturbance disabilities, and making sure that these options are offered and discussed within IEP meetings especially with children that are having behavioral problems in school. Catching mental illness and emotional disturbances early on will benefit the student the most because, as school districts, advocating for the best for our students is a primary duty.

### **Field Activity**

In capacity as an educator at an all girls therapeutic residential treatment center, Kathryn Ozechowski-Price works almost exclusively with students with emotional disturbances. Since the student body is either female or transgender male, most of the student’s emotional and mental illnesses are expressed via self-harm and suicide attempts. Males with emotional disturbances tend to express as behaviorally more violent. Most students are placed in the school after serious suicide attempts, multiple efforts at out-patient therapy, and/or constant disruptive behavior at school. At anytime between 10%-25% of the student body receives some sort of funding from their LEA because of FAPE requirements. The overwhelming majority of these children with FAPE-IDEA funding are affluent and able to afford the legal costs often associated with pressuring a school district to release IDEA funding.

A surprising amount of students that attend the school come with an IEP, years of testing scores for IEP placement, recorded instances of behavioral manipulation and disturbances in school, and a clear transcript that shows that they struggled in academics. Yet these students may have no IDEA funding, and are unlikely to get the funding due to parents placing their children in treatment unilaterally without contacting a lawyer first to learn their FAPE rights. Parents instead go through great lengths to help their children get help. Families have sold their businesses, houses, and gone into debt in order to place their child in a safe environment where they can get help.

### **Theory to Practice**

Treatment centers are helping people, but overwhelmingly they are helping those that have money. Of those without money, the options tend to be either to go into debt in order to help their children, or just hope that the local systems and resources in their communities are enough to help their child stay out of juvenile detention. Our school districts should be playing a more active role in getting these students help before they are placed in the criminal justice system. Unfortunately, school districts which are already underfunded are very weary of allocating IDEA funding for students that do not fit the stereotype of being disabled. This leads to many parents experiencing adversarial relationships with schools in order to get funding that may save their child's life. In regards to help for students with mental illnesses schools are currently funding, the rich to get help, and the poor are getting prison. All students deserve equitable free appropriate education despite their parent's income levels.

Cases like *Munir v. Pottsville Area Sch. Dist.* in 2015 have created a grey area in funding where a student with an emotional disturbance disability is not granted IDEA-FAPE funding

because he had to attend a therapeutic center primarily for mental health issues instead of academic reasons. The courts make it harder for parents to help children with emotional disturbances because mental illness is not taken seriously as disability even though it is listed in the IDEA as a disability. The stigma behind mental illnesses are currently limiting parental choices.

### **Relevance to Professional Teaching Practices**

The first goal of education should be to find equitable ways to educate the entire child. Equality and equity are different because everyone is different. A one size fits all mold only works when you only have one size.

The overall concern of schools should be to be introspective, and really evaluate if they are setting up an adversarial model between schools and families, which is not helpful for students with special needs. Educational funding will be controversial in the United States until society sees schools as an overall good institution. If IEP stakeholders were more knowledgeable and open to discussing therapeutic schools for students who have trouble managing their emotional disturbances in both behavioral and academic manners, they may have an impact of not just a student's education, but their lifelong wellbeing. This could help schools and districts again be seen as institutions that care about the wellbeing children before all else..

In educational circles there should not be celebration when lawsuits are won by districts when these cases include situations like In *Ashland School District v. R.J. (Ninth Circuit 2009)* where a suicidal student that exhibited self harm was possibly being groomed by a male school staff member for sexual abuse is denied funding for a unilateral placement into a treatment center because she was given multiple times to finish an assignment (SELPA, 2011; Oregon School

Board, 2009). Parents and communities are losing faith in schools because despite overall promises to educate the whole child, the focus on helping students seems to be measured in academics only. Many schools are not equipped to deal with the therapeutic needs of some children with emotional disturbances, and they should be utilizing the sources and funds available to them via IDEA instead of trying to split hairs.

The adversarial lawsuits regarding providing therapeutic funding for students in need of free appropriate education in a more regulated therapeutic setting can make districts look as if they care more about money than the health and education of children. The United States has been blamed for creating a school to prison pipeline. In 2016 the U.S. Department of Education found that “State and local spending on prisons and jails has increased at triple the rate of funding for public education for preschool through grade P-12 education in the last three decades” (U.S. Department of Education, 2016). It has been argued that the United States places a higher priority on punishment than education, and this argument will continue to gain support as schools ignore the needs of students that are the most likely to land in the criminal justice system.

When school districts, schools and teachers fully know how to not just comply with federal educational mandates within the IDEA that help students, but to also use those mandates to ethically promote student success through strong relationships with families by being advocates for students FAPE options, the entire community wins. That is when educators are doing what is right, and also working within the basic guidelines of the National Policy Board for Education Administration Professional Standards in regards to section 9h and 2a. In other words, advocating for students by making them cognizant of their options and rights before

lawyers are called is part of any educator's job. All involved in IEP meetings regarding students with special needs should not just be aware of FAPE rights, but also when to advocate for these rights on behalf of a student's with emotional disturbances.

### **Conclusions**

The United States is undeserving it's mental ill community. Schools are not providing enough resources to help students with emotional disturbances, and it is overwhelming the juvenile criminal justice system. Schools should work more collaboratively with parents of students with emotional disturbances to find them appropriate FAPE placements when the school's lack the ability to help them therapeutically. This just makes sense for school districts because whether a student is in juvenile detention, or a treatment center districts are paying the bill for that student's education. The only difference is that therapeutic programs offer more hope for the future of children with mental illnesses than juvenile detention.

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