

**Special Education Responses to Issues Raised by Children's Advocates**  
Interim Study Committee Meeting  
November 28, 2011

1. *Commissioner's Memo in 2003 told districts to stop filing FINS to meet IDEA requirements.*

Commissioner's Memo ACC-02-025 was written in August 2001 in reference to Special Education Programs and the referral of students to Juvenile Court. The purpose was to inform districts of a concern that Disability Rights had expressed regarding the filing of Family in Need of Services (FINS) petitions for students who exhibited challenging behaviors at school. Districts were reminded that 1) the IEP team is required to consider on an individual basis the need for positive behavioral interventions, strategies, and supports when the behavior is impeding the student's learning or the learning of others, and 2) that for students with chronic, or reoccurring behaviors that result in suspensions or expulsions, there is an IDEA requirement to conduct a functional behavior analysis, develop a behavior intervention plan, and implement it. The Arkansas Department of Education Special Education Unit stated that filing of a FINS should be an exception, and that the ADE would not support a practice of referring students with disabilities to juvenile court in lieu of making appropriate efforts to address the behaviors, including the use of alternative programs/settings.

2. *ADE told OSEP that every district has day treatment programs.*
3. *There is a list of services districts must have available for students with disabilities.*

OSEP completed the last verification visit in 2008. At that time they reviewed the policies, practices, procedures, and services provided within the state. Arkansas was not cited for LRE. The Child Count for 2010-11 indicated there were 54,358 students with disabilities K-12. Students placed in special education are required to have an Individualized Education Program (IEP). The IEP outlines the services the individual student requires based on their unique and individual needs. The IEP team that develops the plan determines the goals and objectives, or programming, for the student before making the decision as to the educational placement of the student.

The requirement for students with IEPs is that they be placed in their least restrictive setting. By definition, students are not removed from the regular classroom placement unless the nature and severity of the disability is such that education in regular classes/appropriate preschool environment with the use of supplementary aids and services cannot be achieved satisfactorily. For some students, related services are also necessary for the student to benefit from their

special education services. Schools are required to ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services. Additionally IEP teams must consider other factors the individual student may need, such as positive behavioral interventions and supports and other strategies to address behavior that impedes his/her learning or that of others.

- 4. Services have improved somewhat since the memo was written, but it depends on the area of the State.*

Positive Behavioral Intervention and Supports (PBIS) is defined as an approach to student discipline, behavior management, school safety, and student self-management. In 2003, ADE Special Education Unit received a five year State Improvement Grant from OSEP. The goal was to provide the leadership, professional development, and consultation services to enhance the academic and behavioral outcomes for all students, particularly those considered high-risk, or those with disabilities. The areas of emphasis were to improve literacy, social-behavioral, and self-management skills. One of the primary goals was to implement PBIS in schools & districts as well as piloting school-based mental health partnerships between selected schools and community health centers. At the end of the five-year period, statewide trainings had been provided to all districts.

In 2009, the ADE Special Education Unit received another grant, State Personnel Development Grant, to continue the work in the area of school leadership, positive behavioral supports and data-based problem solving. The focus of this grant is to strengthen professional development at the state level through collaboration with ADE and help build capacity for districts and Education Service Cooperatives. Currently 65 PBIS Facilitators, representing 29 school districts (10 Co-ops) are being trained.

- 5. There is a description of services on how to handle discipline issues.*

IDEA has specific procedures for schools to follow regarding the discipline of students with disabilities.

- 6. Most districts don't know about the catastrophic funds available.*

Districts have state and federal funding available to provide services to student with disabilities. Districts with students who have multiple and complex needs may seek reimbursement for expenses through catastrophic funding. Their special education needs are unduly expensive, extraordinary, or beyond the normal and routine costs associated with special education and related services. The appropriation for 2011-12 is 11 million dollars. Reimbursement is

determined after offsets are applied, and according to ADE regulations. In 2010-11, 487 students qualified for catastrophic funding.

*7. There has never been a district completely in compliance with IDEA.*

Special education programs in each district are monitored routinely for compliance and accountability. Every 4 years there is an on-site visit by a team from the Special Education Unit. Following the review, districts are determined to be in substantial compliance or may be issued a Compliance Action Plan (CAP). Districts have one year to correct deficiencies identified in the CAP. Additionally, data is collected from specific cycle reporting periods and used to generate monitoring profiles for each district that are made public on the SEU website. This data is also used to generate Arkansas' Annual Performance Report (APR) that is sent to OSEP each year. There are additional requirements placed on districts that do not meet the benchmarks that may include conducting a self-assessment of their policies, practices, and procedures, the allocation of 15% of their VI-B funds for coordinated early intervening services, and addressing the area in their ACSIP plan.

*8. Disability Rights has filed cases with the ADE.*

Parents who have concerns about the services available or provided to their child make seek assistance from the ADE Special Education Unit's Dispute Resolution Section. Other options that can be pursued include mediation, filing a formal complaint with the ADE, or requesting a due process hearing. The UALR School of Law provides mediation. Any organization or individual may file complaints, while the parent must request a due process hearing. The Dispute Resolution Section reports quarterly to the State Special Education Advisory Council on hearings and complaints that have been completed. There is a representative from the Disability Rights Center on the Council. Completed due process hearings are available for public review on the Special Education website.

A review of state complaints filed since 2008 indicate that Disability Rights filed no complaints. Records since 2010 indicate that Disability Rights has not had any involvement with complaints filed.