

INDIANA SPECIAL EDUCATION LAW CONFERENCE

August 24–25, 2021 | Indianapolis, Indiana



Information & Registration Brochure
Indiana's Statewide Conference on Special Education Law

Conference Information

HIGHLIGHTS

On Tuesday, August 24, Julie Weatherly will kick off the second annual Indiana Special Education Law Conference capturing *A Year in Review: What's Been Happening in Special Education Law? Part I* where she will highlight significant court decisions and their impact on special education. Three rounds of concurrent sessions will follow.

Wednesday, August 25, will commence with a keynote address titled *A Year in Review: What's Been Happening in Special Education Law? Part II* presented by Jim Walsh. Two rounds of concurrent sessions and a panel to address participant questions will conclude the conference.

REGISTRATION

To register for the Indiana Special Education Law Conference, complete the online registration form at indianaieprc.org/law2021. The registration fee is \$250 for full conference attendance and access to recorded sessions for two weeks following the event.

For those unable to attend the face-to-face conference, selected recordings noted with an asterisk within the brochure will be available for a limited time. The registration fee is \$100 to access selected recorded sessions for two weeks following the event.

Payment by check, purchase order, or credit card (Visa and Mastercard) is accepted. All registrants will receive an email confirmation after payment is received.

CANCELLATION POLICY

Requests for registration cancellations must be received in writing to Jenifer Pollom at Jenifer.Pollom@indstate.edu no later than August 13, 2021 in order to receive a refund. Payments made by credit card are non-refundable.

AUDIENCE

- General education administrators and teachers
- Special education administrators and teachers
- Service providers
- Advocates and behavior consultants
- School resource officers
- Others involved in developing and supporting special education services

LODGING

The Sheraton Indianapolis Hotel at Keystone is the conference venue. Lodging is available at the rates of \$149 (single/double), \$159 (triple), and \$169 (quad) per night plus taxes and fees for those participants who make arrangements by July 23, 2021. A limited number of rooms are available at this special group rate. To reserve your room, call 1-888-627-7814 and give the group name "IEPRC Special Education Law Conference."

DINING

Registration for the Indiana Special Education Law Conference includes breakfast and lunch both days. A list of restaurants with dinner choices will be included in your conference packet.

CERTIFICATE OF ATTENDANCE

Certificates of Attendance will be available to conference participants as documentation for Professional Growth Points and will be emailed to participants after the conference.

QUESTIONS

Questions regarding registration may be directed to Jenifer Pollom at Jenifer.Pollom@indstate.edu.

SCHEDULE

August 24–25, 2021



DAY 1: AUGUST 24

7:00 AM - 8:00 AM	On-site Check-in & Breakfast Buffet
8:00 AM - 8:15 AM	Welcome & Announcements
8:15 AM - 10:00 AM	Keynote
10:00 AM - 10:15 AM	Break
10:15 AM - 11:45 AM	Concurrent Sessions #1
11:45 AM - 12:45 PM	Lunch Buffet
12:45 PM - 2:15 PM	Concurrent Sessions #2
2:15 PM - 2:30 PM	Break
2:30 PM - 4:00 PM	Concurrent Sessions #3
4:00 PM	End of Day One

DAY 2: AUGUST 25

7:00 AM - 8:00 AM	On-site Check-in & Breakfast Buffet
8:00 AM - 8:15 AM	Welcome & Announcements
8:15 AM - 10:00 AM	Keynote
10:00 AM - 10:15 AM	Break
10:15 AM - 11:45 AM	Concurrent Sessions #1
11:45 AM - 12:45 PM	Lunch Buffet
12:45 PM - 2:15 PM	Concurrent Sessions #2
2:15 PM - 2:30 PM	Break
2:30 PM - 4:00 PM	Presenter Panel Discussion
4:00 PM	Conference Adjourns

To register, please visit indianaieprc.org/law2021.

KEYNOTE

Tuesday, August 24



A YEAR IN REVIEW: WHAT'S BEEN HAPPENING IN SPECIAL EDUCATION LAW? PART I

As is usually the case, the past year has been a very active one in the area of special education law. Although the IDEA itself has not changed since 2004 and Section 504 has not changed in decades, there continues to be an enormous amount of litigation going on, as courts and federal agencies attempt to interpret and apply the law's provisions to individual cases. In this 2-part keynote, Jim Walsh and Julie Weatherly will update the audience on significant special education "legal happenings" during the past year, including an overview of relevant court decisions and U.S. agency interpretations.

JULIE WEATHERLY, ESQ.



Julie Weatherly, Esq., is the owner of Resolutions in Special Education, Inc., a special education law firm with offices and attorneys in Alabama and Florida. Julie is a member of the State Bars of Alabama and Georgia, and for over 30 years, has provided legal representation and consultation to school agencies across the country in the area of educating students with disabilities under IDEA and Section 504/ADA. She has been a member of the faculty for many national and state legal institutes and is a frequent speaker at special education law conferences. Julie has developed a number of training programs that support special education legal compliance and has been published nationally as a part of her trainings, workshops and seminars. She is the author of the legal update article for the National CASE quarterly newsletter and is a member of LRP's Special Education Attorneys

Advisory Council. In June of 1996, Julie appeared with Leslie Stahl on CBS news program *60 Minutes* to discuss the cost of meeting the legal requirements of the IDEA. In 1998, she was honored by Georgia's Council for Exceptional Children as the Individual who had Contributed Most to Students with Disabilities, and in April 2012, Julie received the Award for Outstanding Service from the National Council of Administrators of Special Education.

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KEYNOTE

Wednesday, August 25



A YEAR IN REVIEW: WHAT'S BEEN HAPPENING IN SPECIAL EDUCATION LAW? PART II

A review of the most important legal developments through case law, regulations, and the response to COVID-19. The emphasis will be on practical application by school administrators and leaders.

JIM WALSH



Jim Walsh graduated from the University of Texas School of Law in 1975. In 1983, he was one of the three lawyers who founded the firm now known as Walsh Gallegos Treviño Kyle & Robinson P.C. From the beginning the focus of the firm was on serving public schools—helping the people who help the kids.

In his career of over 40 years, Jim has provided training to all of the Education Service Centers in Texas, numerous statewide organizations, and hundreds of school districts. He is the principal author of *The Educator's Guide to Texas School Law*, which is used as a textbook in many higher education programs. He has also authored *The Common Sense Guide to Special Education Law*. He was the longtime author of the popular "Law Dawg" column in the *Texas School Administrators'*

Legal Digest and currently produces a daily digital blog, The Law Dawg's Ed Daily (edlawdawg.com). He has taught school law at Texas State, Baylor and St. Edwards Universities.

Jim is a former member of the Board of Directors for the national Council of School Attorneys. In 2017 he was recognized by his peers in the School Law Section of the State Bar with the Kelly Frels Lifetime Achievement Award.

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FEATURED PRESENTERS



DAVID F. BATEMAN, PH.D.

David F. Bateman, Ph.D., is a professor at Shippensburg University in the Department of Educational Leadership and Special Education where he teaches courses on special education law, assessment, and facilitating inclusion. He is a former due process hearing officer for Pennsylvania for over 580 hearings. He uses his knowledge of litigation relating to special education to assist school districts in providing appropriate supports for students with disabilities. His latest area of research has been on the role of principals in special education. He has been a classroom teacher of students with learning disabilities, behavior disorders, intellectual disability, and hearing impairments, and a building administrator for summer programs. Dr. Bateman earned a Ph.D. in special education from the University of Kansas. He has recently co-authored the following books: *A Principal's Guide to Special Education*, *A Teacher's Guide to Special Education*, *Charting the Course: Special Education in Charter Schools*, and *Current Trends and Legal Issues in Special Education*.



DAVID B. HODGINS, J.D.

David B. Hodgins, J.D., is a partner and an experienced school law attorney with the firm of Thompson & Horton, LLP. Mr. Hodgins has extensive experience working with school districts regarding special education law, section 504 law, student discipline, employment issues, school law litigation and other school law matters. David Hodgins has represented school districts in several special education due process hearings, and federal court cases. Mr. Hodgins is also a frequent trainer/speaker regarding special education and section 504 legal topics.



MITCHELL L. YELL, PH.D.

Mitchell L. Yell, Ph.D., is the Fred and Francis Lester Palmetto Chair in Teacher Education and a Professor in Special Education at the University of South Carolina. He earned his Ph.D. in special education from the University of Minnesota. His professional interests include special education law, IEP development, progress monitoring, and parent involvement in special education. Dr. Yell has published 132 journal articles, 6 textbooks, 38 book chapters, and has conducted numerous workshops on various aspects of special education law, classroom management, and progress monitoring. His textbook, *Special Education and the Law*, is in its 5th edition. He also had been awarded over \$17 million in grants. Dr. Yell also serves as a State-level due process review officer in South Carolina. Prior to working in higher education, Dr. Yell was a special education teacher in Minnesota for 14 years. He received the Council of Exceptional Children's Research Award in 2020.



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VIRTUAL PRESENTER



PERRY A. ZIRKEL, PH.D., J.D., LL.M.

Perry A. Zirkel, Ph.D., J.D., LL.M., is university professor emeritus of education and law at Lehigh University, where he formerly was dean of the College of Education, subsequently held the Iacocca Chair in Education for its five-year term. He has a Ph.D. in Educational Administration and a J.D. from the University of Connecticut, and a Master of Laws degree from Yale University. He has done presentations in every state in the U.S. He has also written more than 1,600 publications on various aspects of school law, with an emphasis on legal issues in special education. He writes a regular column for *Exceptionality* journal and NASP's *Communiqué* newsletter, and he did so previously for *Phi Delta Kappan*, *Teaching Exceptional Children*, and NAESP's *Principal* magazine. Past president of the Education Law Association and co-chair of the Pennsylvania special education appeals panel from 1990 to 2007, he is the author of the CEC monograph *The Legal Meaning of Specific Learning Disability*; the more recently published books, *A Digest of Supreme Court Decisions Affecting Education and Student Teaching and the Law*; and the two-volume reference *Section 504, the ADA and the Schools*. In 2012, he received the Research into Practice Award from the American Educational Research Association (AERA) and the Excellence in Research Award from AERA's Division A (Administration, Organization & Leadership). In 2013, he received the University Council for Educational Administration's Edwin Bridges award for significant contributions to the preparation and development of school leaders. In 2016, he received the Education Law Association's Steven S. Goldberg Award for Distinguished Scholarship in Education Law, and in 2017 he received the Council for Exceptional Children's Special Education Research Award. He continues to direct the one day Lehigh Special Education Law Conference each May and the one-week Lehigh Special Education Law Symposium each June. Finally, he provides a monthly special education legal update and share his publications via his website, perryzirkel.com.



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Concurrent Sessions

Addressing the Needs of Students with Mental Health Issues under IDEA and Section 504*

Presenter: Julie Weatherly, Esq.

**In addition to the live session, this session will be recorded and available for two weeks for all conference attendees and those who register to view selected recordings.*

Now more than ever, educators need to be aware of the legal requirements for educating students with mental health issues under the IDEA and Section 504. This presentation will provide participants with an in-depth look at potential legal obligations of schools when presented with students who are experiencing emotional, behavioral, social and/or academic difficulties and who, as a result, may be suspected of having mental health issues that could constitute a disability. Other issues addressed will include mental health issues and the child-find duty, violations of discipline codes of conduct, students who are a danger to themselves and others, and the kinds of services that may need to be provided to students with mental health issues.

Comparison of the Hearing Officer and Complaint Investigation Avenues of the IDEA*

Presenter: Perry Zirkel, Ph.D., J.D., LL.M.

**Recorded Session Only – Conference attendees will have access following the event.*

This session will provide a comprehensive structure analysis of the two decisional administrative dispute resolution mechanisms under the IDEA—the adjudicative avenue of due process hearings and the investigative avenue of the state’s complaint procedures process. The comparison includes (a) the subject matter jurisdiction and eligible complainants for each avenue; (b) the respective chronological

limits, such as the limitations period and completion period; (c) the decisional basis and prevailing analysis for each avenue; (d) the respective overall costs and outcomes, including remedies and attorneys’ fees; and (e) the rights for reconsideration or appeal for each avenue. The discussion will include recommendations for stakeholders, including district personnel.

Creating Legally Defensible IEPs: Top Procedural Mistakes

Presenter: Julie Weatherly, Esq.

The U.S. Supreme Court has referred to the IEP as the “centerpiece” for ensuring the provision of FAPE to students with disabilities. In accordance with the Court’s “Rowley/Endrew” two-pronged test for determining whether an IEP is appropriate, due process hearing officers and courts look to both the procedural and substantive components of the IEP. In this session, we will examine the top procedural mistakes commonly made in the development of IEPs that educators will want to avoid.

Creating Legally Defensible IEPs: Top Substantive and Content Mistakes

Presenter: Julie Weatherly, Esq.

The U.S. Supreme Court has referred to the IEP as the “centerpiece” for ensuring the provision of FAPE to students with disabilities. In accordance with the Court’s “Rowley/Endrew” two-pronged test for determining whether an IEP is appropriate, due process hearing officers and courts look to both the procedural and substantive components of the IEP. In this session, we will examine the top substantive or content mistakes commonly made in the development of IEPs that educators will want to avoid.

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Concurrent Sessions

Developing Measurable Annual Goals and Monitoring Progress

Presenter: Mitchell Yell, Ph.D.

In Endrew F. v. Douglas County School District (2017), the U.S. Supreme Court held that a school must offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances. The Supreme Court further found that an educational benefit standard not focused on student progress "would do little to remedy the pervasive and tragic academic stagnation that prompted Congress to act." The critical component of students' IEPs that allows measurement of student progress are the measurable annual goals. Annual goals are the IEP team members' best estimate of what a student will learn or be expected to do in the next school year to address his or her academic and/or functional needs. Unfortunately, writing measurable annual goals has often been a difficult task for many IEP teams. When a student's goals are not measurable, the IEP team cannot monitor his or her progress, which makes IEP goals meaningless. The result can be frustration for parents, administrators, and teachers and may lead to hearings and litigation. The purpose of this presentation is to present a clear and simple 4-step process to develop measurable annual IEP goals and a simple method by which administrators and teachers teams can determine if IEP annual goals are actually measurable.

Discipline of Students with Disabilities: The Key Rules and Regulations from Removals to MDRs

Presenter: David Hodgins, J.D.

This session will outline and discuss the key discipline rules and regulations affecting the discipline of students with disabilities. From the "10-day rule" to manifestation determinations, David Hodgins will cover the most important legal requirements, plus

practical advice and illustrations. By attending this session, you will obtain a solid understanding of the dos and don'ts of disciplining students with disabilities.

Endrew F. v. Douglas County Public School (2017): Five Years After the Ruling, What Has Happened?*

Presenter: Mitchell Yell, Ph.D

**In addition to the live session, this session will be recorded and available for two weeks for all conference attendees and those who register to view selected recordings.*

On March 22, 2017 the U.S. Supreme Court announced its ruling in *Endrew F. v. Douglas County Public School District*, which required that to confer a free appropriate public education (FAPE), school districts should develop and implement special education programs that enable students to make progress in light of their circumstances. This session will review the decision, examine court rulings since the High Court's decision that have used the *Endrew F.* standard in ruling on FAPE cases, describe how the U.S. Department of Education interprets the *Endrew F.* FAPE standard, and explain why just examining court decisions is not the only test for determining the effects of this important decision on school districts. This session will end by discussing how the *Endrew F.* ruling should influence school district personnel in developing and implementing students individualized education programs (IEPs).

FBAs and BIPs

Presenter: Jim Walsh

This session will review the legal requirements for developing and implementing behavior plans supported by a functional behavioral assessment. The focus will be on practical application in light of federal regulations and case law interpretation. There will be plenty of time for Q and A.

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Concurrent Sessions

Issues Administrators Must Understand About Special Education

Presenter: David Bateman, Ph.D.

To support the achievement of all children, and to keep your school out of litigation over special education issues, administrators need to understand a set of critical topics. This workshop gives a focused, practical overview of key issues including: the rise in emotional and behavioral disorders, disproportionality, discipline, least restrictive environment, identifying students eligible for “other health impaired” services, serving students with 504 plans, and teacher/administrator accountability. The materials of the workshop are based on the contents and research behind the book *A Principal’s Guide to Special Education, Third Edition* (2016), published by CEC, and *Special Education Leadership* (2019) published by Routledge. After completing this workshop, you will be able to (a) discuss key issues for administrators of special education programs and their implications for both special and general education; (b) describe current thinking and research related to these issues, with emphasis on approaches to mitigate problem areas, and (c) identify priority areas for attention in your school setting.

Legal Issues for Students with Disabilities During and After (Or Arising from) the Pandemic*

Presenter: Perry Zirkel, Ph.D., J.D., LL.M.

***Recorded Session Only**

This session will comprehensively canvass the federal guidance, court decisions, hearing officer decisions, and state complaint decisions to date specific to issues arising from the pandemic under the IDEA and, secondarily, Section 504. The illustrative coverage will identify the overall trends in terms of the most frequent issues and prevailing outcomes. It will also discuss the emerging legal

issues upon resumption of full in-person services, such as the meaning and implementation of “compensatory services.”

Non-Academic and Extracurricular Activities: Where Does FAPE End and Access Begin?

Presenter: David Hodgins, J.D.

This session will outline and discuss the key interplay between the duty of FAPE and nonacademic/extracurricular activities of students. The session will describe the legal framework from Section 504 and the IDEA that surround this issue as well as discuss key case law and practical recommendations for making good decisions and maintaining legal compliance.

Placement Decisions, LRE, and the Continuum of Alternative Placements

Presenter: Mitchell Yell, Ph.D.

The primary obligation of special educators is to provide a program that confers a free appropriate public education (FAPE) in the least restrictive environment (LRE). It is the responsibility of students’ IEP teams to develop a student’s individualized education program (IEP). Additionally, this team is usually charged with determining the placement in which a student’s program will be delivered. The purpose of this presentation is to (a) describe what placement decisions are and who makes these decisions; (b) review the placement requirements of the Individuals with Disabilities Education Act (IDEA), including the principles of individualization, parental participation, LRE, and a continuum of alternative placements requirements; (c) examine guidelines from important cases that have addressed placement issues; (d) describe the most common and serious errors that IEP teams often make and how they can be avoided; (e) provide a placement

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Concurrent Sessions

flowchart to help IEP teams make legally sound placement decisions, and (f) offer principles to help IEP teams make legally sound placement decisions.

Special Education Legal Decisions Involving Behavior: Lessons Learned*

Presenter: David Hodgins, J.D.

**In addition to the live session, this session will be recorded and available for two weeks for all conference attendees and those who register to view selected recordings.*

This session, presented by attorney David Hodgins, will describe and discuss some key special education federal court and due process hearing decisions involving behavior as well as the lessons and guidance that should be learned for effective and compliant educational programming for students with disabilities.

The Four “Faces” of FAPE under the IDEA*

Presenter: Perry Zirkel, Ph.D., J.D., LL.M.

**Recorded Session Only – Conference attendees will have access following the event.*

This session will identify and explain the four different dimensions of FAPE that have gradually and successively evolved under the Individuals with Disabilities Act: (1) procedural, (2) substantive, (3) failure to implement, and (4) capable to implement. The focus will be on the development and application of these four dimensions in the IDEA's adjudicative process of due process hearings and court decisions. However, it will provide a limited look at any differences in (a) jurisdictions, especially Indiana, and (b) the IDEA investigative process of state complaint decisions. This framework is useful for the various stakeholder role groups in special education, including educators, hearing

officers, and parents. It also is helpful in understanding the case law trends during and after the pandemic.

The Toolbox: Special Education Discipline Made Easy*

Presenter: Jim Walsh

**In addition to the live session, this session will be recorded and available for two weeks for all conference attendees and those who register to view selected recordings.*

This session will be an overview of “The Toolbox”—a set of “tools” available to school administrators to 1) maintain safety; and 2) serve students who present significant behavioral issues. The session will provide a vocabulary and framework to make this complex area of the law more easily understood. The emphasis will be on the practical, with plenty of time for Q and A.

Top Ten Trending Topics in Special Education

Presenter: David Bateman, Ph.D.

This presentation is devoted to exploring the trends and issues in special education, and provides a resource to those facing the reality of school-based problems and the implementation of current federal and state mandates. This presentation works to correct inadequate information which often leads to often leads to inappropriate decision-making regarding students with disabilities and their special education programs. When empowered with correct information, however, individuals will be more likely to follow the legal mandates guaranteed by the federal laws, and the services they provide to students with disabilities will be more likely to enable their students to make progress in their educational programs. The top ten topics will change over the summer, but will be current based on recent litigation and policy statements from the

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Concurrent Sessions

US Department of Education. COVID implementation and case law very well might be discussed.

Trauma-Informed IEPs

Presenter: David Bateman, Ph.D.

As knowledge about the prevalence and impact of trauma has grown, school districts throughout the U.S. have responded by striving to implement trauma-informed approaches. Unfortunately, acknowledgement of the need for trauma-informed approaches has outpaced guidelines for how to implement such approaches effectively, and what trauma-informed approaches look like in different schools and in different contexts. The purpose of this presentation is to provide educators working with students with disabilities (i.e., all educators) with a guide on how to apply trauma-informed approaches to the entire IEP and Section 504 plan development process. This presentation views the process of developing an IEP or 504 plans as beginning at the initial signs of concern and referral, rather than beginning once a disability or disorder has been identified. With this in mind, this presentation assists in taking a trauma-informed approach to everything from assessment and screening, to family engagement, to report writing, and to the actual writing of the IEP or 504 plan's present levels, goals, and accommodations. The contents of this presentation will be derived from the recent book *Trauma-Informed IEPs and 504 Plans* (2020) by LRP Publications.

To register, please visit indianaieprc.org/law2021.

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