

Legally Yours - The Child Find Mandate
A Précis by Elise S. Sobol, Ed.D.
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The theme of this year's ABLE (Arts Better the Lives of Everyone) ASSEMBLY is "Intersectionality, Disability, and Arts Education". In keeping with this theme to better connect our entire human family to the benefits of arts education from infancy through their adulthood, I felt called to look into a particular area of policy and practice. That area was a legal mandate that at its best is to entitle every child that would be school bound to have the benefit if needed of early intervention services and that these services would include arts education activities. Having experienced the direct benefit of arts education throughout my own personal life, and throughout my teaching career in the general and special education PK-12 music classrooms, I wanted to do my share to ensure that I was transferring important information about the Child Find Mandate within my circles of influence. I discovered in my research that there was a wide discrepancy between policy and practice and that community members across the nation lack information about how to and where to access essential services. At the height of the Covid-19 pandemic, on May 27, 2020 the National Association for Music Education and 52 other arts education organizations,

<https://www.arteducators.org/news/articles/688-arts-education-is-essential-a-unified-statement-from-arts-and-education-organizations> joined together to make a statement on the benefits of arts education. Three principles were featured in their report:

- "Arts education supports the social and emotional well-being of students, whether through distance learning or in person."
- "Arts education nurtures the creation of a welcoming school environment where students can express themselves in a safe and positive way."
- "Arts education is part of a well-rounded education for all students as understood and supported by federal and state policymakers."

How do families, who through no fault of their own, get access to early intervention services so that that their infants can benefit from the beginning of their lives from an arts education?

The answer lies in a mandate put into law by the 2004 Individuals with Disabilities Education Act (IDEA) Regulations Part B called "Child Find". The Child Find Mandate requires all school districts to identify, locate, and evaluate all children with disabilities, regardless of the severity of their disabilities from birth 0-21, regardless of whether they attend private or public school, are housed in a stable way or are homeless, live with a birth or adopted family or are a ward of the state. This obligation to identify all children who may need special education services exists even if the school is not providing special education services to the child. The Child Find Mandate in IDEA requires all States in the United States to develop and implement a practical method of determining which children with disabilities are receiving special education and related services and which children are not. [20. U.S.C. § 1412 (a) (3)] Data was beginning to show inequality

of implementation of this mandate. So, on December 19, 2016 twelve years later than the law was put into place, an update to IDEA Regulations Part B was made to improve Child Find processes and to establish a standard approach that States must use to determine whether a significant disproportionality with race or ethnicity is occurring within the state and in its districts (Federal Register for 34 CFR Part 300 § 300.646.)

How do the States help the school districts find every child that might be suspected of having a disability? How does a parent who needs the information about free access to testing and referral find guidance? Where are the models of practice that we can use as a guide in our education of the new generation?

A search within a twenty mile radius of my own home school district on Long Island revealed not a one school district published the phrase “child find” in their school publications and gave a “ how-to” guide for evaluation. Yet Individuals with Disabilities Education Act (IDEA) requires that each State develop and implement a practical method for school districts to locate, identify and evaluate all children 0-21 who may need special education services. After my search for information from local school districts, I realized that guidance for families and parents needed to be more explicit. I then did an internet search across the United States for a model of practice. I came across PAVE (Partnerships for Action, Voices for Empowerment) <https://wapave.org/child-find-schools-have-a-legal-duty-to-evaluate-children-impacted-by-disability>. This website came out of the state of Washington and the organization works in association with Washington’s Office of Superintendent of Public Instruction (OSPI). What is remarkable about this website is that it is truly parent friendly. It provides a sample letter for making referrals, assures that there is no cost for an evaluation, and that even during the pandemic Child Find is intact. PAVE provides a training video on the rights you have for your child. The emphasis is on the child and the impact on the child for all areas of learning.

In this PAVE publication *how* schools do outreach is discussed. Recommendations include: training teachers to recognize signs that a student might need to be screened; they might publish, post, and distribute information for parents so they can understand how to request an evaluation and why a child might benefit from services or they may offer workshops or other trainings to parents about evaluation, early intervention, and special education. Additionally, the website discusses when a parent/guardian should be concerned about the child even if a pediatrician says that there is no cause for concern. The site talks about what an evaluator considers whether early intervention is needed in areas of physical skills cognitive skills, communication skills self-help or adaptive skills social or emotional skills or sensory processing skills. PAVE informs the parent/guardian that they are protected by procedural safeguards and due process if they disagree with the results of an evaluation. Recommended services for birth to three years old are provided through an Individualized Family Service Plan. From three to five years old the children with identified disabilities can receive free special education and related services at preschools run by local public-school district or through federal Head Start or the state run Early Childhood Education and Assistance Program (ECEAP). For school age children IDEA requires education in the least restrictive

environment to the greatest extent possible with typically developing peers. PAVE bravely states the mindset I espouse – special education is a service not a place. This précis is a prelude to an upcoming resource book on Child Find practices across the United States. PAVE (Partnerships for Action, Voices for Empowerment) is a model of an accessible and equitable location where vital information is disseminated to the public.

In learning about the models of practice, I also discovered two significant problems of practice. The first problems of practice surfaced in the April 2019 special education study from the United States Government Accountability Office. Entitled, “SPECIAL EDUCATION Varied State Criteria May Contribute to Differences in Percentages of Children Service.” The report compared practices in four states: New York, Massachusetts, Colorado, and Iowa as an example of highlighting differences of interpretation and implementation across the nation. The report stated for example in two referenced sections: Part C of IDEA requires states to have a “rigorous definition of developmental delay” in their statewide system to provide Early Intervention services [20 U.S.C. §1435(a) (1)]. The report stated the differences between states on this definition, and in one state, how the criteria in 2009 was tightened to reduce the number of children eligible for Early Intervention Services by narrowing the definition of developmental delay. In the section on eligibility for school age children, “For example, in New York an intellectual disability is defined as “significantly subaverage general intellectual functioning that adversely affects a student’s educational performance.” While in Massachusetts an intellectual impairment is defined as occurring when “the permanent capacity for performing cognitive tasks, functions, or problem solving is significantly limited or impaired and is exhibited by....a slower rate of learning.” Also, states must establish their own eligibility criteria for determining the presence of a Specific Learning Disability (SLD) – a broad category of disorders related to understanding and using language.” IDEA also requires that states allow the use of research-based procedures in establishing the presence of an SLD, but does not define the specific procedures to be used.” Overall the differences in how schools interpreted the policy resulted in impacting their entire life cycle. See full report: <https://www.gao.gov/assets/700/699152.pdf>.

The second problem of practice impeding access to services is the practice of the parent/guardian needing to sue their Departments of Education annually in order to secure an appropriate educational school placement for their child. A New York parent shared with me facts about her lawsuit against the Department of Education to secure an appropriate educational school placement for her son. Her adopted son from foster care, has significant developmental disabilities including autism spectrum and behavioral disorders. Her son who is ten years old now has been placed in this same out-of-state facility for several years. The mother reported the settlement is over \$300,000 each year and that it covers the cost of attendance at the residential facility in Massachusetts and her roundtrip transportation by taxi for her to visit her son weekly. As a practitioner, I wondered why the young boy had to be sent out of state and could not be educated in his home school. I wondered why the Department of Education preferred

law suits when they could put their resourceful training. Out of the four states profiled in the 2019 Special Education how do their legal practices compare in serving the students that have been identified as needing special education services?

As a music educator, I have learned a great deal from a select group of parents. Three of these parents were featured as part of my presentation at the 5th Annual Conference On Teaching Music to Students on the Autism Spectrum held at the Boston Conservatory at Berklee, April 29-29, 2017. Their sons were my students in early childhood center-based special education programs and almost 20 years later continue to study with me at the continuing education in music program I set up first at LIU-Post in 2015 and then brought to NYU-Steinhardt in 2017. The parents reminded conference attendees that through the blueprint for teaching that I had, although their children were compromised by their disabilities, I thought and taught them through their strengths as a musician. Through music, they developed their self-efficacy and independence, and that they were much more than their label. Please review the video examples in the accompanying slide deck presentation to see examples what a lifetime of learning in music specifically and arts education generally can do for our children in special education. As in the words of one of the featured parents, “My son who was once unable to make eye contact and was completely nonverbal and incapable of making minor transitions has become a loving, verbal, and smart individual with a great sense of human. He plays Beethoven and Bach on his baby grand piano dances the waltz, tango, and salsa at his ballroom-dance lessons and enjoys hip-hop and playing the drums and the guitar. All his banging on metal chairs and slides as a little boy certainly has paid off. Once you can zone in on your child’s gifts and abilities, the sky’s the limit.” (Searage, 2020).

As a way for the reader to become familiar with quality arts programs for infants, I would like to recommend two examples, the first is a program that renown music therapist Elizabeth Schwartz teaches <http://www.alternatives4children.org/music-therapy.html>. She is author of “Music Therapy, and Early Childhood: A Developmental Approach” (2008, Barcelona Publishers, Gilsum, NH). The second example is Creative Sound Play <https://www.creativesoundplay.com/> developed by Hayes Greenfield, New York City based producer, composer, saxophonist, filmmaker, bandleader, and educator with guidance of two developmental neuroscientists from New York University Clancy Blair and Cybele Ravor.

Finally, I would like to conclude this précis with recommendations for each reader. As I expand this work into an in depth resource for others to learn practices in their respective states, I would like to say at this stage, that it is not enough in our music in special education courses to just talk about the laws and policies. We need to do more even within time constraints. Through publication of my first text, *An Attitude and Approach for Teaching Music to Special Learners* (1st edition, 2001; 2nd edition, 2008; 3rd edition, 2017, I have continued to bring my evidenced based classroom experience to reader’s both here and abroad through English and foreign language editions. As a teacher education leader with over forty years of public school teaching in PK-12 music

settings, currently serving as Director of Music Education at New York University, I feel the importance to continually evolve to improve arts accessibility for all. I would specifically include as a result of my Legally Yours- The Child Find Mandate research, in the graduate and undergraduate courses that I teach, a field service project that would allow each teacher education candidate to go out into their school community to learn if and how information about Child Find is circulated and what more could be done to reach those individuals where there is a barrier to access. Legally Yours – The Child Find Mandate is hugely important for the well-being of a child.

As teacher educator leaders, please ask what you can do in your course offerings, to remove the stumbling blocks that prevent implementation of policy? Together we can do our share of publicizing Child Find so that more children can flourish with early intervention and the benefits of arts education in their lifetime. It is a child's legal right. Let the video examples of the three collegiate musicians performing chamber music together at their college recital (Example 1 Accompanying Slide Deck Presentation) be an enduring memory that shows the benefits of arts education from early childhood to adulthood

As a member of our Advisory Board of Berklee Institute for Arts Education and Special Needs (BIAESN) and Leadership in Arts Education and Special Needs (LIAESN) our conversations will continue proactively.

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RESOURCES

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