



University of Tennessee, Knoxville
**TRACE: Tennessee Research and Creative
Exchange**

Chancellor's Honors Program Projects

Supervised Undergraduate Student Research
and Creative Work

Spring 1-2006

Advocacy Issues in Gifted Education

Aaron Joseph Chapman
University of Tennessee-Knoxville

Follow this and additional works at: https://trace.tennessee.edu/utk_chanhonoproj

Recommended Citation

Chapman, Aaron Joseph, "Advocacy Issues in Gifted Education" (2006). *Chancellor's Honors Program Projects*.

https://trace.tennessee.edu/utk_chanhonoproj/946

This is brought to you for free and open access by the Supervised Undergraduate Student Research and Creative Work at TRACE: Tennessee Research and Creative Exchange. It has been accepted for inclusion in Chancellor's Honors Program Projects by an authorized administrator of TRACE: Tennessee Research and Creative Exchange. For more information, please contact trace@utk.edu.

Advocacy Issues in Gifted Education

By Aaron J. Chapman
Public Administration

Senior Honors Project
2006

Doug Blaze
University of Tennessee College of Law
Faculty Advisor

Abstract

The laws regarding Gifted Education in Tennessee are very complex, and without a proper understanding of such, parents, educators, and administrators will be with less hope in ensuring a quality public education for those students who need special educational services. This project will address some particular points in regards to Tennessee's laws on the subject and describe methods of advocacy in detail, providing appropriate documentation and written narratives of services to be provided in a hypothetical case involving a fictitious student. A general overview follows including research on administrative and judicial methods of advocacy and remedy, and brief insight into their efficacy is included.

Advocacy Issues in Gifted Education

Part I. Introduction

By law, every child in the United States is entitled to a free, appropriate, public education. This may seem to be a legally simplistic field, but certain portions are well beyond enigmatic. “Free” and “Public” are easily rationed terms. “Appropriate” is much more ambiguous. The laws regarding special education are as complex as the cases they are applied to. Special education, under the Tennessee code, is defined as “classroom, home, hospital, institutional and administrative services needed to meet the needs of children with disabilities; transportation of such children with disabilities who are unable to use public transportation; corrective and supporting services including diagnostic and evaluation services, social services, physical and occupational therapy, job placement, orientation and mobility training, brailist, typists and readers for the blind, specified materials and equipment and other such services as approved by the division of special education and authorized by the state board of education; and other services that may be approved by the state board of education to assist children with disabilities in taking advantage of or responding to educational programs and opportunities.”¹

The above definition, by design, leaves room for many individual cases. It is true that an infinite many scenarios are possible in regards to the process of not only identifying and assessing a student as intellectually gifted, but also with involving the child’s family, educators, school administrators, and other professionals needed to ensure an equitable education. Initial parental consent is required before any action can take place that will affect the status of a child’s education. Parental consent is not merely defined by a yes or no answer to a specific question, but as an understanding that parents

¹ T.C.A. 49-10-102

or guardians have been fully informed of all information relevant to the activity for which consent is sought, in native language, or other mode of communication. This definition of consent requires that parents or guardians understand and agree in writing to the carrying out of the activity for which consent is sought, and that this consent is voluntary and can be refused or withdrawn at any time.²

The following case, while fabricated, involves many aspects of special education law, and the methods of advocacy it mandates. The subject matter was not chosen arbitrarily. Instead, issues of parental apathy and non-involvement due to indigence and/or indifference are put forth, in hopes that this project will allow me to better understand the applications of several federal and state statutes in regards to special education. Obviously, the circumstances of the fabricated case are by no means ordinary, nor are they the only issues raised in special education advocacy. The methods used and discussed are by no means permanent, nor are they the only means available in advocacy.

The case presented involves education for the intellectually gifted, as defined by Tennessee law. While giftedness may not seem to be a “disability,” it is thought of such in order to be covered by Tennessee’s special education statutes. Advocacy methods available for intellectually gifted students are identical to those for other disabilities or learning impairments. Individualized Education Programs are still used, and consent is still required from parents or guardians. Assessment is still required, but it uses clearly different methods than other “disabilities” that require special education services.

² Rights of Children with Disabilities and Parent Responsibilities Procedural Safeguards Notice, Knox County, TN Schools.

Part II. A Hypothetical Case

Jose Campos, 8, is in the third grade at Knoxville Elementary School (KES), the school for which he is zoned, operated by Knox County Schools (KCS). He is the son of Pedro Campos, a resident alien, and the two share an apartment with another family (Jose's mother is deceased). Pedro works two jobs to support Jose and a large extended family in Mexico. As such, he is rarely available during the day until late at night (Jose is watched by the mother of the family they live with when not in school).

Jose began Kindergarten in Knoxville and quickly learned English, with nominal help from instructional materials provided by teachers. Although the option existed for English as a Second Language Instruction (ESL), Jose's Kindergarten teacher insisted that he remain in a normal, English speaking class as much as possible. Jose's quick development of English language and reading skills has impressed his K-3 grade teachers and school administrators. He has never missed the honor roll, has participated in spelling bees, and outranks most of his classmates on standardized State-issued tests, particularly performing well in math and science. This has led many teachers and administrators in the school to believe that Jose is intellectually gifted.

Jose's teachers try to contact Jose's father with news of his progress very often. They have written notes, sent letters, and made telephone calls to the home but they have never established communication with Pedro, who is constantly working. The principal of KES has even visited their apartment to talk with Jose's father, without success. These educators want to gain parental consent to begin the process of establishing Jose's enrollment in Special Education programs for intellectually gifted students. It is believed

that Pedro Campos will never be able to grant consent due to his lack of understanding of the process, and lack of availability.

Part III. Issues to be addressed in case

The main caveat of the case is centered in securing some form of parental consent in order to begin the evaluations process and establish an Individualized Education Program (IEP), if necessary. Keep in mind that this simulated experience can be thought of as a worst-case scenario. However, it is important to note that certain methods of remedy are readily available in Tennessee. One such method is the Surrogate Parent program, which allows for an educational surrogate guardian to be appointed through a process of appeal. The program is managed by the Local Education Association (LEA), and is outlined in the following simulated memo to KES staff associated with this hypothetical case:

(SAMPLE ONLY)

Memorandum

To: Knoxville Elementary School Administrators

From: Aaron Chapman

CC: Professor Doug Blaze

Date: 11/10/05

Re: Methods to bypass parental consent for Jose Campos (KES Grade 3)

In response to a recent inquiry regarding the assessment and placement of Jose Campos into a Special Education Program for students identified as Intellectually Gifted, the following procedure is described to counter the unsuccessful involvement of a parent or guardian.

Under the Individuals with Disabilities Education Act of 2004 (IDEA), school districts are required to have in place a transparent system for establishing surrogate guardianship in the following situations:

- No parental/guardian unit can be identified,
- School administration “after reasonable efforts, cannot discover the whereabouts of a parent,”
- The student is ward to the State (Tennessee).

In the situation of Jose Campos, the parent has been identified (Pedro Campos).

However, due to unsurpassable circumstances, the parent can not be located to obtain the required consent to begin evaluative procedures for the student. This allows the Local Education Agency of Knox County Schools the discretion in appointing an approved Surrogate Parent (SP) only for the purposes of assessment for, establishment of, and execution of an Individualized Education Program (IEP) for the student Jose Campos.

Once determined, the SP will represent Jose Campos *in loco parentis* in regards to the development of a sufficient IEP. This individual or organization may not be an employee of Knox County Schools, the State of Tennessee, or be employed in any capacity that causes an inherent conflict of interest to arise. The SP is required under the Buckley Amendment to have access to all portions Campos's educational record save for private correspondences by his teachers.

Knox County Schools holds the duty of selecting the SP so that this person is not employed by KCS, the State of Tennessee, or any organization that would present a conflict of interest to the educational rights of Campos. The SP will, as required, be at least 18 years old, be a citizen or permanent resident of the United States, and be of good moral character. Neither Knox County Schools nor the State of Tennessee is obligated to compensate the SP.

The SP will hold the duty to act in good faith toward the best interest in the formation of a sound IEP for Jose Campos as assessment requires. The SP is also without civil

liability for decisions with unintended negative consequences so long as they are unintentional and are made with care and good judgment.

To obtain an SP for Jose Campos, the following actions need to be taken:

- The student must be formally referred for assessment to show the need for access to Special Education Programs,
- Thorough documentation must be provided showing that appropriate action to locate the whereabouts of Pedro Campos has taken place,
- The administrators of Knoxville Elementary School should notify the KCS Director of Special Education Services and Programs of the request.

The necessary forms and other documentation will be presented once the requirements have been met [i.e. a later point in the Honors Project].

(SAMPLE ONLY)

Part IV. First Steps

Many steps will now be simultaneously taken, assuming the LEA's guidelines for selecting an appropriate surrogate parent have been adhered to. It is suggested that the appointed surrogate parent begin contacting those institutions that have an immediate impact on the education of the child. The Departments of Children's and Human Services are offered as a good starting point, along with any nonprofit agencies that may have ties to the child's case. Of course, the school itself will be the primary source of inquiry for the surrogate parent. Keep in mind that the SP has all rights afforded an actual parent, meaning that they can review the student's record and meet with school faculty and administration.³ Most importantly, the SP will need to meet with the student and his or her caretaking institution as soon as possible. This can provide a glimpse into how the student communicates, reacts to changes, and thinks, which are all especially important factors in deciding for appropriate placement.

Surrogate Parent training is an ongoing process and should provide the volunteer with a point of reference in dealing with IEP's, school systems, nonprofit and governmental agencies, and special education statutes. The SP is also monitored by the LEA and the school to ensure that no conflicts of interests have arisen, and that the SP is serving the best educational interests of the child. The role of the surrogate parent should be assessed annually, allowing for a proper continuation of training to occur where necessary.⁴

According to the Tennessee Department of Education, there are seven essential steps in designing and implementing an IEP: referral, preevaluation, evaluation,

³ "Educational Surrogate Training Manual," TN Department of Education, 2001.

⁴ Ibid.

eligibility determination, development of the IEP, IEP implementation, and annual review.⁵ Using the hypothetical case as a frame of reference, the seven steps will now be annotated to the situation of Campos.

The initial referral was made by instructors and administrators at the school. It is from here that the LEA is alerted to the student, and it is also from this point that the decision to assign educational surrogacy is made. The preevaluation is the point in which the members of the team (commonly referred to as an M-Team) are first assembled in order to address the situation of the child's needs. It is at this point that initial consent is required. Parental consent is required for the preevaluation process to take place. In the Campos case, this will be provided by the Surrogate Parent. If consent is denied, then the school or educators have the option of requesting a due process hearing. (If the school or system were to deny the preevaluation, then the surrogate parent could request due process hearings).⁶

The evaluation stage follows preevaluation. In this step, the goal is to get an objective and accurate portrait of the child's disability, or disabilities if more than one is present. The goal is to use the information gathered in preevaluation to find specific areas of disability to study. The results gathered in evaluation will be of express importance in deciding the special education program needed for the child's success, or if one is needed at all. Each disability has its own evaluation procedures and techniques. Those for an intellectually gifted determination are now described.

⁵ "Special Education Manual," TN Dept. of Education, 2003.

⁶ Ibid.

In Tennessee, evaluation for determination of intellectual giftedness are ascribed by a two-tiered approach; one tier being an objective set of standards that is used for determination and the other being a set of more subjective methods of assessment. The standards are set with care on a foundation with four bases being academic achievement, academic performance, creative thinking, and cognition/intelligence. The procedures must vary so that assessment is “through a multi-modal identification process, wherein no singular mechanism, criterion or cut-off score is used for determination.”⁷

Procedures used to assess a student’s achievement of standards can and will vary. Information will be gathered from parents (or surrogates, in the case above), teachers, and licensed psychological professionals, either from within the school system or outside. The state importantly notes that “procedures *shall* include appropriate use of instruments that are sensitive to cultural, linguistic, and economic differences or sensory impairments.”⁸ In the case above, these methods would go a great way in assessing the student for gifted programs.

Specifics for standards will not be described, due to the notion that there are literally hundreds of possible scenarios and combinations of that could be addressed in an assessment process. The standards are constantly evolving, and are even more complicated by the fact that students have the right to a state-vouchered private screening and assessment process as a method of due-process.

It is important to note that much of the variance available for assessment procedures is not arbitrary but enforced to states by the Javits Act, the cornerstone of federal gifted education legislation. The Jacob K. Javits Gifted and Talented Students

⁷ “Guidelines-Intellectual Gifted Manual.” TN Dept. of Education, 2003.

⁸ Ibid. Emphasis added.

Act of 1988 regulates federal funding for states to improve their educational programs for gifted students. Accounts for salaries, administration, and capital costs are delegated to the states for gifted education. However, the Javits Act helps to support a *quid pro quo* method of awarding funding for additional reform measures and staff development costs. The federal government views these costs as relatively small at the state level (summing up to slightly more than \$8 Million at the time of the act's inception). However, they supplement reform and allow state initiatives for gifted students to be progressive and responsive to cultural, economic, and other societal changes that would affect such programs.

The substance of the act is that in order to have access to such funding, states need to take large steps to ensure that gifted programs are reaching out to underrepresented populations. Specifically, the act states that "highest priority" should be assigned to finding and assessing gifted students from underrepresented populations, whether they be minorities, economic classes, or those students who are not yet fluent in English.⁹ Tennessee's above-mentioned "Appropriate Instruments" clause is pure evidence and a great example of a method used by the state to comply.

To summarize the interplay between standards and procedures used in evaluation, imagine intellectual giftedness as a person being inside of a room. The four walls would be the four seminal standards for classification as intellectually gifted, and one would obviously need to be within those walls to be considered as being within the bounds of the room. However, there may be several possible ways of getting within those walls, by either doors, windows, ladders, etc., and one doesn't necessarily need to fit perfectly in

⁹ Gifted Children and the Law: Mediation, Due Process, and Court Cases. Frances Karnes and Ronald Marquardt. Ohio Psychology Press, 1991.

the center of the walls to be considered inside the room. Similarly, a student can show outstanding academic achievement and performance but lack the creative thinking component to be considered gifted in Tennessee.

Gifted education must not be thought of as a 'reward' or 'upper crust' of the state's student body. It is a method that must be proven as necessary for a student to receive the "appropriate" aspect of a FAPE. One could show little progress in academic performance or achievement, but could be evaluated as extremely intelligent and a strong creative thinker, making him or her a very strong candidate for gifted education, since it would be easily argued that an educational program that neglects these strengths and weaknesses is not appropriate. But a student can not and should not be assessed as intellectually gifted simply because they perform well in school or have unique talents. It is this reasoning that affords for a multi-pronged and subjective evaluation procedure to gauge the student's place within the "room" created by the four standards.

In the hypothetical case of Jose Campos, the surrogate guardian will need to come to an agreement with the school system on the acceptable methods for evaluating the child's performance and intellect. The process is made somewhat simpler by the point that the student speaks English (leaving for minimum linguistic barriers) and shows great academic achievement (by standardized tests) and performance (by his non-test based performance in school assignments). The proof of Campos' giftedness will come by a fluid combination of assessments yielded for creative thinking and intelligence/cognition. Here, the Javits Act will serve as an administrative guard causing the state to act through its school systems in such fashion that students from underrepresented populations like Campos are evaluated in a manner not ignorant of cultural implications, whatever those

are determined to be during the school's initial negotiations with the surrogate guardian and the student. Once the more subjective processes involved with determination of intellectual giftedness are completed, the results will be discussed among the school, the system, psychological professionals involved, and the student. If both parties are pleased with the findings and their accuracy, steps will be taken to establish the IEP. If any party disputes the findings, a mix of mediation among interested parties and appeals to various levels of school administration will occur. This is formally known as Due Process, and will be described below.

Part V. Mediation and Due Process

In the IEP process, disagreements will occur. This is quite simply a phenomenon resulting from differences between routes taken by school officials and parents or other professionals involved with the student's success in special education. There is often little reason to file formal complaints on matters that can be resolved with a more local and efficient process. Often times these disputes can be resolved in a clear and informal manner, known as mediation. Due to the complexities involved in initiating a major legal battle or administrative appeal, this is often the best and most cost-effective method of resolving conflict.

Mediation is simply the process of trying to bring opposing parties to an agreement of their own terms through informal communication. An objective individual, or mediator, is employed by the parties to help organize the process. The parties meet, and dissect the point of disagreement and converse through that point until an agreement is reached. Sometimes it is plausible that an agreement will not be reached, but very

often the efficiency of informal mediation helps to ease the workload of state and district organizations that would handle the complaint(s) in question.

In Tennessee, mediation is never required to resolve a dispute, and parties can immediately apply for due process hearings if they wish. But mediation is encouraged and preferred, due to previously stated reasons. The state asserts that mediation is “voluntary on the part of the parties [and] not used to deny or delay” due process rights. Mediation in Tennessee also requires that mediators are qualified, impartial, and trained in effective mediation techniques. The state manages and finances the process through the office of Assistant Commissioner of the Dept. of Education.¹⁰

Mediation agreements are independent and exclusive of due process appeals, and, although they are written, are not generally regarded as enforceable by courts. Mediation proceedings are treated with utmost regard for confidentiality; discussions and negotiations will not be addressed in due process. Due to its independence from formal due process procedure, mediation cannot be thought of as an appeal or able to be appealed. Hence, an agreement in mediation is nothing more or nothing less, although such agreement can be desirable and persuasive for the interest of the student.

The highlight of mediation is its pure independence. The mediator owes highest faith for impartiality. As such, every detail of a mediation proceeding is governed by the need for a lack of bias. The mediator does not work for any interest other than fairness and agreement. Sometimes agreements are not immediately reached due to hostility and impasse. Mediators must resort to *caucusing*, or private meetings with each party to prepare them to prepare for agreement. For the mediator, this can be “an excellent

¹⁰ Rights of Children with Disabilities and Parent Responsibilities Procedural Safeguards Notice, Knox County, TN Schools.

opportunity to gain and maintain rapport with, and the respect and confidence of, both parties and convince both of the impartiality and confidentiality of the proceedings.”¹¹

The mediator will write an agreement as it is reached. This could happen in the presence of both parties or in solitude. Both parties are responsible for reading the agreement, which will have little legal or educational jargon. Both parties will be able to make changes to the wording of the document. Finally, the signing of the agreement is the symbolic step to implementing the provisions of the agreement. The parties who will be responsible for performing in accordance with the agreement will sign. For instance, if a classroom teacher is involved and the agreement has stipulations for specific classroom instruction, then the teacher will most likely be a signing party, as will his or her immediate instructional supervisor as a matter of transparency. If the matter in dispute is an administrative one, then the directors responsible for performance in accordance with the agreement will be a signing party.¹²

Due Process is the formal system of dispute resolution by state-supervised methods. The term “due process” refers specifically to those constitutionally enabled provisions that hold life, liberty, and property rights to be protected and not infringed upon without due process of law. These provisions are found in the fifth and fourteenth amendments to the US Constitution.

Since gifted education falls under the rule of states, the fourteenth amendment’s prescription for due process is more adequate. Two types of due process are observed: substantive and procedural. Substantive due process deals with the validity of a law. Gifted education statutes are recognized by courts to be under rule of state government,

¹¹ Gifted Children and the Law: Mediation, Due Process, and Court Cases. Frances Karnes and Ronald Marquardt. Ohio Psychology Press, 1991.

¹² Ibid.

and as a principle of administrative law, are generally held to be valid unless specific constitutional rights are infringed. Issues such as racial discrimination and freedom of speech thus get federal judicial attention. Procedural due process is the right of fair administrative hearing for the amending or elimination of a student's rights in regards to special education. The legal reasoning behind procedural due process in special education is that education in most forms is a property right, and to deprive a student of such without the required procedure would certainly violate the student's rights. States subscribe to federal due process requirements by the reasoning found under PL 94-142, which has a clause for "exceptional" children's rights (most states, including Tennessee, consider gifted students to fall under this category for handicapped students).¹³

The above mandates require the state to institute an impartial system of hearings to be exhausted before issues are decided by the state's Courts of Chancery or Appeals. Due process is managed by Tennessee's Office of the Assistant Commissioner of Education. The state will most likely attempt to sway the parties toward mediation. If this has been exhausted or is not an option, the state will advise the LEA of the complaint and initiate a process for resolution. This process is strongly reserved for "IDEA-based issues," hence frivolous complaints will be disregarded and left to the discretion of the LEA.¹⁴ As of recent, complaints can be filed online if other options are exhausted.

The state will decide within a 60-day timeframe what actions are to be taken by what parties to the complaint. Simple administrative orders can be issued when necessary (when the LEA is clearly not complying with IDEA and state regulations), or investigations can be launched to gather witnesses and evidence for a hearing. Hearings

¹³ Ibid.

¹⁴ "A Guide to Special Education Administrative Complaints in Tennessee. TN Dept. of Ed.

are one of the most important tools of due process. Similar to mediation, state hearings managed by the Assistant Commissioner's office strive for fairness and impartiality. Under the "exceptional children" scheme, hearings are to be administered by trained officers who are not employed directly with the state or state-funded organization (such as an LEA). This is required by the Education for all Handicapped Children Act (PL 94-142). The finding of the officer will be written and certified by the Dept. of Education, and the rulings will be required to be adhered to by the LEA, if applicable.¹⁵ A letter of closure from the Dept. of Education will signify that this level of administrative complaint has been exhausted, opening the possibility of appeals to state and/or federal courts, whichever applicable.

Part VI. Judicial Methods

Appeals from due process procedures regarding gifted education are most likely to be successfully heard in the state court system, considering the nature of the law. The matters of gifted education are created and governed by state law, meaning that the complainant will most likely need to seek a decision of equity, (not monetary), leaving the state Chancery as a likely option. Citing the aforementioned substantive due process, courts recognize that gifted education is best administered through the administrative system created by the executive branch with the Dept. of Education. This means that courts will generally not call into question the grounds of a LEA's policy, only the method in which it is applied. Generally this principle would shift the burden of proof to the complainant to show that state rules have been violated in some form in regards to IEP creation and implementation. Procedural due process also has an impact, and the

¹⁵ Ibid.

Chancery can be thought of as a pure appeal of a decision administered by the independent hearing officer. The mix of substantive and procedural due process affords the public the fortune of having trust in the Dept. of Education (by executive branch) of having authority over matters of education and the court system of having expertise in handling of statutory law.¹⁶ State courts provide injunctive and specific relief for matters of discrepancy. This has historically yielded specific actions ordered to LEA's, findings in favor of LEA's, or orders to return the matter to the administrative systems available through due process.¹⁷

If the matters on appeal deal specifically or indirectly with due process and federal law, the federal court system will be a method of relief. A judge would most likely deny hearing to charges that had no federal significance or constitutional standing. If a student were to be identified through the IEP process as having some other disability covered under federal law, or if the matter on appeal were related to race, religion, freedom of speech, etc., the federal district court would likely be the best route to take. In the federal court system, the principle of *Stare Decisis* is implemented, meaning that a federal court's decision, if not overturned by a higher appellate court, will be used as precedent for future rulings on the subject matter.¹⁸

Both the state and federal systems will begin cases at the trial level. In other words, the case starts fresh and deals with the law associated with gifted education and/or education for handicapped students. Any appeals from the findings of these courts will be addressed as a matter of procedural law used in their findings. This is a lengthy

¹⁶ Gifted Children and the Law: Mediation, Due Process, and Court Cases. Frances Karnes and Ronald Marquardt. Ohio Psychology Press, 1991.

¹⁷ Ibid.

¹⁸ "Organization of Federal and Tennessee Court Systems (supplement chart)." Lee Hendrick, University of Tennessee.

process that has historically taken several years (some cases have remained opened for almost a decade), whereas the administrative law process will seldom last more than several months. This leads to high legal bills, which, due to budgetary constraints on LEA's (and families), deter complainants and defending LEA's from carrying on lasting legal battles. Families and LEA's are thus forced into making a practical and pragmatic cost-benefit analysis when deciding how far to take a case in the judicial system. The threat of appeal can hence be a major tool for a complainant to use if he or she is unsatisfied with the judgment granted in administrative proceedings.

Conclusion

Educational "appropriateness" is certainly an ambiguous idea. This leaves room for many scenarios involving advocacy when attempting to make correct placement for those students identified by agreed-upon methods as being intellectually gifted. This project began with a hypothetical case that included several nuances addressable by administrative and legal methods. Clearly there are countless possibilities that arise in Tennessee's gifted education statutes and their application. This research process is by no means completely conclusive, as it is unlikely that such a possibility could be plausible given the myriad scenarios that can and do arise when identifying a student as intellectually gifted. For every possible scenario in this field, there are dozens of likely obstacles.

With regards to this statement, the main conclusion of this research project is that there is often no direct right or wrong answer in advocating appropriate special education. Therefore, the strength of the above research is that it shows that Tennesseans enjoy

much flexibility in adjudicating discrepancy in Individualized Education Programs (IEP's).

The main idea behind advocacy for the gifted is to go with what works. This is the creed universally agreed upon by administrators, state officials, and educators. If a discrepancy can be addressed with a phone call alone, then a phone call alone should be made. If the discrepancy can be addressed through mediation after other options are exhausted, then mediation is the most appropriate method. Sometimes these methods will not work. In these cases, the methods for complaint and hearing through due process proceedings are often applicable. It is the near-universal idea that courts are a last resort, and should be used wisely and sparingly.

Education is the science of protecting our future through investments for intellectual capital, not the art of promulgating, regulating, and adjudicating. The parties involved at the local, state, and federal level recognize this, and the responsible parent (or surrogate) will as well. After a brief inquiry into the rules and laws governing gifted education in Tennessee, it is my most distinguishable finding that the lines of communication remain open and unhindered between families and school districts, in order to ensure the most responsive, and hence, best possible situation for the sake of the child. This minimizes costly and frivolous legal actions that detract educators and policymakers from their most imperative duty of protecting our society's intellectual existence, one of the pillars of a civilized society.