**THE COLLEGE OF SAINT ROSE**

**ALBANY, NEW YORK**

**SED 501: Introduction to Children with Disabilities in Educational Settings**

**LEGAL CASE STUDY**

The purpose of this assignment is to assist you in reading and interpreting Federal law and State of New York regulations that govern special education service delivery. The following case study contains numerous violations of current regulations protecting the rights of individuals with disabilities. You will critique this case by identifying all violations, linking them to the specific NYSED Part 200 regulations to which they pertain. You are then to describe the action which should have been taken to properly address each issue. Please use a narrative format.Please refer to Part 200; pages 1-64 and Part 200; pages 104-114.

**Xiasheng**

Xiasheng is nine years old and was born in Taiwan. His parents immigrated to the United States three years ago. They moved to New York last year. His father, a statistician, accepted a tenure-track position at a local University in the department of Educational Psychology and Methodology after completing his doctoral study. Xiasheng is a child with cerebral palsy. He was born prematurely at 27 weeks. He is diagnosed as having mixed cerebral palsy, exhibiting both spasticity (tightness in one or more muscle groups) and athetosis (abrupt involuntary movement of the head, neck, face, and limbs). He is classified as having triplegia, with both legs and one arm significantly involved. He has limited use of his right arm and hand although his performance is often influenced by fluctuating muscle tone. He uses a wheelchair as a means of mobility. Xiasheng has limited sight, having been affected by retinopathy of prematurity as an infant.According to his father, he has no cognitive deficits, although many underestimate his abilities because he has significant speech impairment. Xiasheng is able to take nourishment orally but he has a feeding tube (gastrostomy tube): His nutritional intake would be compromised significantly if he relied solely on oral feeding, resulting in malnutrition and growth retardation. He is also diagnosed with epilepsy. Under IDEIA guidelines, Xiasheng is classified as a student with *Multiple Disabilities* because he has concomitant conditions: *Orthopedic impairment*, *speech language impairment*, *visual impairment*, and *other health-impairment.*

Xiasheng is currently an only child although Dr. and Mrs. C. plan on having other children in the future. Both parents are college educated, with Dr. C receiving a Ph.D. from Stanford University. Mrs. C was employed as a teacher in Taiwan before Xiasheng’s birth but has not worked outside the home since then in order to care for her son. Both Dr. and Mrs. C come from affluent families and they are financially secure. They have purchased a home in a suburban neighborhood close to the University. They own a car but only Dr. C is able to drive. Dr. C is relatively fluent in English but Mrs. C has a more difficult time communicating and relies on her husband to translate.

Xiasheng was deemed eligible for special education services when the family lived in California. While at Stanford, Dr. and Mrs. C lived in a graduate apartment on Stanford’s campus. The university environment provided a valuable support network, especially among other students from Taiwan and China. They also enjoyed support from fellow students and university personnel in securing services for Xiasheng who was six when hisparents relocated to the United States. Xiasheng was enrolled in a public school program while living in California. He was receiving special education services in a general education setting. According to Dr. C, Xiasheng also received speech therapy, occupational therapy, physical therapy, school health services and adapted physical education services. He received instruction in Braille and was assigned a teacher aide. He was also eligible for assistive technology for mobility and communication.

The family moved to New York in early in July in order for Dr. C to begin his teaching responsibilities at the University at the end of August. **At that time, Dr. C sent a letter, dated July 4th, requesting a Committee on Special Education meeting in order to enroll Xiasheng in school, which was scheduled to commence the Wednesday after Labor Day according to the district calendar. Dr. and Mrs. C became concerned when they received no response from the committee chairperson by August 1st.** At that time, Dr. C contacted the Palo Alto Unified School district and requested that all Xiasheng’s records, including the IEP generated at his annual review in May. He was assured that the records would be faxed and mailed to the receiving district within five days, keeping with that district’s policy. **When Xiasheng’s parents had not heard by August 15th, Dr. C was told by a district secretary that the office was on “summer” hours and the transfer process would be delayed until the regular school year commenced. Dr. C protested but the secretary said she couldn’t understand what he was saying and suggested he put his request in writing. Dr. C sent a second request to the committee chairperson, dated August 15th. On September 4th, they received a response. The letter indicated that a Committee on Special Education meeting would take place on September 12th at 10:30am.**

This initial meeting did not result in the family’s expected outcomes. The chairperson had both requests from Dr. C; the date of receipt of referral indicated that the chairperson had received the written requests on July 7th and August 18Th respectively. **In his letters of referral, Dr. C indicated that the family wanted a physician and a translator present. However, the chairperson explained that the district physician was unavailable as she was occupied updating physicals for students in the district and that they had been unable to secure a translator so early in the school year.** The committee membership consisted of the chairperson, a general education teacher and a special education teacher. The chairperson explained that they had reviewed the IEP from the Palo Alto Unified School District but felt that the services listed in the IEP were excessive. **The district was not prepared to start services for Xiasheng until the district could conduct their own evaluation.** He suggested that they table the meeting until the evaluation was completed.

On October 1St, the family was contacted by a certified school psychologist employed by the district and an appointment was made for an evaluation. The evaluation took place in Xiasheng’s home with his mother present. **The evaluation was conducted in English. Mrs. C was unable to communicate adequately with the school psychologist, so information that would normally be acquired through parent interview was very limited. Dr. C lodged a complaint with the committee chairperson but was told that the district had followed procedure. Dr. C also asked when evaluations would be scheduled with other service providers, namely speech, occupational, and physical therapists but was told that these additional evaluations were unnecessary and expensive. The chairperson suggested that Dr. C have these evaluations done privately; perhaps, his health insurance would reimburse him for the costs of such evaluations.**

A second meeting was scheduled for December 16th. Prior notice was provided but **the evaluation report was not forwarded to the family.** Dr. C arranged to have a colleague from the University attend; this colleague was in the Department of Special Education and Literacy and was well-versed in the Part 200 regulations of the State of New York. The chairperson said her presence was not appropriate but she argued it was allowed by law, citing the regulations. **There was a translator present; however, the translator spoke Cantonese rather than Mandarin Chinese. Mrs. C had a difficult time understanding the translator, as her native language was Mandarin.The parents were given the psychologist’s report but it was written in English with no summary in the family’s native language. The district physician was not present** but the family provided a report from their pediatrician who had conducted a full physical exam of Xiasheng on July 31st.

Again, the meeting did not result in what the parents saw as the best course of action for their son. The parents questioned why the IEP written by Xiasheng’s team in Stanford was being disregarded: Xiasheng had received his education in a general education setting. The teacher aide hired to assist him was fluent in both English and Mandarin Chinese. Xiasheng was allowed to use aiPad as an additional means of communication. Often, assessments were conducted using the iPad. The report from the Palo Alto Unified School District indicated that Xiasheng was able to remain on grade level with his typical peers. Xiasheng received speech services three times a week for thirty minutes, and occupational and physical therapy twice a week for thirty minutes. The committee chairperson insisted that the level of services provided in California were inconsistent with the services provided by New York State. **Based on the psychologist’s assessment, the chairperson recommended that Xiasheng be placed in a BOCES self-contained classroom for children with intellectual disabilities.Dr. C objected that this placement would not meet his son’s needs and was contrary to what he and his wife wanted for their child. The chairperson argued that placement not only was appropriate but was the only available placement unless they wanted to home school their son. Both the general education teacher and the special education teacher agreed with the chairperson, saying that BOCES program was better suited to accommodate a child who used a wheelchair.** Dr. C said that the family had purchased a wheelchair that Xiasheng operated by a joy stick and it had never posed a problem. Dr. C’s University colleague argued that a self-contained classroom in a location off district property represented a more restrictive environment. The chairperson then alluded to the fact that Xiasheng required additional medical support that placement in a general placement would be unable to provide. When Dr. C’s colleague from the University asked specifically what the chairperson was referring to, **the chairperson stated that district personnel could not take on the additional responsibility presented by the feeding tube.He suggested that the only alternative would be to have Mrs. C come to school daily to meet her son’s dietary needs. When Dr. C explained that this would present a problem since Mrs. C. didn’t drive, the chairperson cited again that the BOCES program was the only option.** Although remaining polite, Dr. C expressed his dissatisfaction and Mrs. C was becoming visibly distressed. The parent representative asked if it might be helpful to take a break. **She led Dr. and Mrs. C out into the hall and defended the chairperson’s position, stating that they were doing their son a disservice by not accepting what the district was offering. This did not improve the situation and they returned to the conference room.**

The chairperson said that they were running overtime and if the family couldn’t agree with his suggestions the meeting would have to be tabled yet again. Xiasheng could attend the BOCES placement by the end of the week, after the Board of Education had voted upon the Committee’s recommendations or the family could wait another month. Dr. C asked if the BOCES placement would provide adapted physical education: Xiasheng enjoyed adapted PE and was an avid basketball fan. In Palo Alto, they had included an IEP goal to ensure that Xiasheng be included as a member of the school’s basketball program, assigning Xiasheng the task of keeping game statistics on his iPad. This had been very helpful in encouraging friendships and Xiasheng had made significant gains in his social emotional development. The chairperson said that adaptive PE might be provided but **transportation would prohibit any participation in extracurricular activities: The bus company had limited capacity to transport students who used wheelchairs and, since the BOCES program was an hour away, Xiasheng would take the “early” bus.Mrs. C quickly spoke to husband and Dr. C explained that she also wanted to know if instruction in Braille would be continued and the chairperson suggested they contact the Center for the Blind to arrange for that.** At that point, there was a knock on the door and the chairperson’s secretary said that the next family was waiting. The chairperson asked Dr. and Mrs. C how they would like to proceed. They reiterated that they felt the goals and objectives outlined in the Palo Alto IEP should be respected. The chairperson said that they would need to reconvene before he would agree to that: A meeting after the 1st of the year would be scheduled. The meeting was ended at that, with no plan in place for Xiasheng.