



Navigating Systems and Best Practices When Serving Native American Children with Special Needs Webinar Transcript

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Vida Castaneda:

Good afternoon. I'm Vida Castaneda, senior analyst in the tribal State Programs unit at the Judicial Council of California and descendant of the Chumash Ohlone, Zapotec, and Tarahumara nations. Welcome to everyone joining us today!

In today's webinar, we will be featuring navigating systems and best practices when serving Native American children with special needs.

We would like to acknowledge our presentation as brought to you today from the original and current lands of the Ohlone people in the San Francisco Bay Area, where our Judicial Council of California office is currently located. We thank the Ohlone ancestors and present tribal communities as well as the tribal lands and communities from where our presenters are speaking from.

Here is a list of learning objectives our presenters will cover during today's webinar, as we learn about these areas of law, resources, and experiences, please consider in your respective roles how you are providing active efforts, or engagement, or support, or advocacy for a Native American child and their family, whether ICWA, eligible or not.

Think about the ways in which your court or your agency can improve serving Native American families and children with special needs utilizing a harm reduction lens to improve outcomes and experiences.

If you have questions during the webinar, please write them in the chat box to our panelists, and we will be answering your questions at the end of the presentation. Only, if time permits.

We will be offering MCLE, BBS, and Judicial Officer continuing education units for today.



Please view the instructions our administrative coordinator, Amanda Morris, will have emailed you if you would like a certificate.

Now let's meet our panelists. We have joining us today, Season Goodpasture, founder and executive director of Acorns to Oak Trees, and Brianna Bollig, equal justice work, fellow and staff attorney at the California Tribal Families coalition. We will begin today's presentation with our presenter, Season Goodpasture.

Season Goodpasture:

Hello, thank you so much for having me today and full disclosure. I'm actually at another meeting. I'm part of the Statewide Master Plan Committee. I think there's like 30 of us across the State that are working on the overall statewide plan. So really exciting. So I'm here in the State Capitol today working on that. And let me just pull up my presentation.

Hi! I'm Season Goodpasture. I'm the executive director for acorns to oak trees, and I'm Maidu and Paiute, and a member of the Susanville Indian rancheria up in Northern California.

Just a little back, a bit of background on the organization. My husband and I started this. It's actually only been a few years ago now, and we started it because of our oldest daughter, Harley, who is on the spectrum.

She's 7 years old now. We have 4 children, Harley, Huntley, Holly, and Hudson. And the twins, Holly and Hudson, also have been diagnosed with autism as well.

All very different support needs, but we have been navigating the regional center system and part C part B with the school districts for the past 7 years now, so really knowledgeable and passionate about this area. I have a little clip.

Part of what we do when we go to outreach events. And which is the beginning stage of our navigation program is we really work to create a safe space for families to talk about things like autism and intellectual developmental disabilities. These are still things that are not openly discussed in most of the tribal communities a lot of the times. They're very unaware of even what regional center systems are.

So we go in there with a very basic goal of just making sure that families feel safe to talk about these things. And we do that by sharing our story through Harley's Hope projects. I'm going to show a little bit of a clip from our storytelling video that we did, which really



highlights you know the the need and the passion behind the work that we do. And it's really our why, and it resonates so much with the families that we serve.

[Video Audio]

Season Goodpasture:

Early start is a statewide program for infants and toddlers from 0 to 36 months of age. It's a family-centered, child-centered program that's really meant to determine whether or not a child is at risk, or maybe has a developmental delay or disability.

Anyone can request an assessment. It doesn't have to be your medical provider, a teacher, a professional, a parent, a caregiver, anyone can call and request a free assessment for their child.

The regional center will send a clinician out to the home. Usually it's a set of 2 in the State of California. If a child has a delay at 25% or more. They qualify for early start services and early start services are free, in-home services, depending upon what the child needs.

It could be occupational therapy, it could be speech and language, it could be infant ed. There are a number of services that the regional centers offer to families who have a child who's at risk or has a disability.

The Tribal Early Start Outreach Initiative was designed to meet the needs of native American families and tribal communities.

We want to make sure that our families and our tribal communities know about Early Start services, that they know about the regional center system that is designed to help meet the needs of their families, which is why we're making it our mission to reach our tribal communities and our families to ensure that you're connected with early start services as soon as possible.

Any tribe or regional center or any health service program, tribal social Service program can request Acorns to Oak Trees to come and host an outreach event. We love seeing our families across the state.

So, what does an outreach event look like? When we show up to a tribal community? You are going to see this big bus, and a whole bunch of really excited people to come and work with your kids and families.



We show up with games with all kinds of fun activities for them to do, we usually provide some kind of local meal. We show our storytelling video Harley's Hope Project, and really work to create a space where families feel safe to ask questions about their child's development, share experiences.

We want to hear from our families what it is they're going through and what their concerns are. And that's what this whole program is about. We have a whole team of people who are truly committed to bringing services to Tribal communities.

Every clinician that works at Acorns to Oak Trees, our speech and language pathologists, our occupational therapists love this work. Culturally competent and meaningful outreach is needed to reach our tribal communities and our native families. Here is just one story of why this type of outreach is so necessary to get our kids connected with these services as soon as possible.

Elizabeth Reynoso

[I] was having trouble getting services for Huumaay, and him being on the spectrum, you know, kind of learning about his sensory processing disorder.

I'm a preschool teacher, and so I knew there was things that he needed, and my biggest fear was when he attends school, how much more he's going to struggle if he doesn't get that early intervention.

You're carrying that weight as a mom, and you just feel like people don't care enough. It's like, Oh they're from the Reservation, and that can very much feel like I am alone in this community.

Season Goodpasture

I had just started thinking about Acorns to Oak Trees about, you know, this far off thought of what this program could be like.

Nancy Bargmann

I had this call, you know that, there is a parent who wanted to talk with us, and she was from the Tribal community, and she was also a social worker. But she was a mom first.



Leinani Walter

She shared from the heart really, that she has a daughter with Autism, and the role that she had, Paula, and then express the fact that she didn't and wasn't aware of our services. I think it was one of those moments that you just say "ugh."

Nancy Bargmann

So when I heard the experience that Season was having with her family, it broke my heart. I had to take a look at what was it that we were missing, and what we could do. We took a look at how much services was being offered to those families in Early Start, that were within our Tribal communities, it was significantly less than what we were offering to others. This was not only about the pandemic, but this was about something much more systemic, something that we needed to take a look at.

Season Goodpasture

Having worked with other state agencies, I expected to get that. "Well, thank you for letting us know. And to, you know, basically check off the boxes we met with this Tribal person, and we heard their concerns, and we will definitely try to do better.

I would say within the first few minutes of meeting with Dr. Bargeman and Leinani, I was like, this is different.

Nancy Bargmann

I was afraid she was giving up on what regional centers and the department could do. It's like, wait. This is what we're here for.

So we needed to think of a solution to be able to support our tribal communities and make sure that we did it in a pretty fast way.

Leinani Walter

What we had was that initial little glimmer of light that maybe we can do something together.



Nancy Bargmann

To really look at outreach and education on Early Start, and it was within like 3 months that we were able to have the funding available.

Mark Klaus

When I met Season for the first time, her vision just aligned with mine, and where we were trying to go as a regional center.

What better way to build trust and respect than to have a Tribal member, on Tribal land, providing services to tribal families?

So Acorns is the first Tribally-owned vendor on Tribal lands, in the entire State of California, which is pretty amazing.

Season Goodpasture

Little did I know that some of those conversations with Leinani and with Director Barchman, and this Grant program would lead to where we're at today.

And now, you know, this huge initiative, you know, with Early Start, and that is obviously where my passion comes from, is because I know what those Early Start services meant for my family.

The kids that we serve here at Aprons to Oak Trees, are local Native children, with varying ranges of disabilities. So it could just be speech and language delay, all the way to Autism or children with behavioral challenges.

Kamryn Stann

Cerebral palsy acorns is such an open door, that if you have questions they're gonna be answered in a loving and gentle way, we are here to help in any way that we can.

Occupational therapy is a therapy where we focus on sensory processing. We focus on feeding, developmental milestones, fine motor skills, emotional regulation skills, anything that you need to do throughout your daily life. We can focus on speech therapy.



Nicole Normand

[It] really looks at the big umbrella of communication, which a lot of people don't know how much falls under that. It looks at the motor movements of speech, so speech, sound development. We look at kids' expressive language. How much can they say? What are they seeing? What does it look like when they talk?

And also their receptive language. How much do they understand? Can they comprehend what people are telling them?

Kamryn Stann

With early start we're able to see if a kid might have a delay if they might have a disability really early on. So when we're looking at a 12 month old, getting early start compared to a 12 year old who didn't get any therapy, you're going to see drastic changes.

A lot of the kids that I work with. I can get them at 18 months or so, age them out by age 3, and they don't even need services anymore.

Elizabeth Reynoso

Now that Huumaay is getting early start, I feel like he is now ahead. When we started acorns he wasn't able to climb on furniture. He wasn't able to regulate those feelings that he was getting of needing to get that sensory input out.

He's talking so much, now. He's building 3-word sentences. I feel like he's just a whole other child now, and he's keeping me on my toes, and he's now ahead of the game, and we're having so much fun with him.

Leinani Walter

Community-based organizations know best how to reach families. You know. My hope is that there are many more acorns that are planted both in the Tribal community as well as the multitude of other of other community members.

Mark Klaus

Having families, having parents like Season come, have that discussion with us makes us a better system, makes us provide better services. That's what we're about.



Season Goodpasture

I want our Tribal families to know that the Department of Developmental Services and their leadership truly care about our communities. And we're seeing it in the efforts that they're making. We're seeing it in the money that they're putting behind, to reach our tribal communities in ways that work for us.

It means actually showing up to our tribal communities, seeing where we live, seeing how difficult it is to get providers out here.

Leinani Walter

We're actually honored to hear the stories of their Tribal communities and their families, and you can hear in their voices the urgency, and also some of the sadness. That drives me to want to connect with as many as I can.

Nancy Bargmann

I started my career working in Early Start. And that's why this touched me so much when I heard Season's story, is because some of the similar stories I had heard, you know, 30 years ago, and I want the day that we don't need to hear these stories anymore. That we can go ahead and make sure that we're able to provide Early Start services, that we have that safe space for families to be able to access the services in a way that meets their needs, culturally, and also within their own family.

Linda Ruis

I really feel that it's just such a need to have programs like this that are geared towards our people.

It's knowing how to talk to the parents, and making them feel comfortable, and happy enough to bring their kids here. Knowing they're going to get the help that they need and incorporate the Indian culture in doing it.

Kamryn Stann

I feel like have built a village with people that all the parents kind of know each other. And when they're hanging out they get their kids kind of get to interact. And that's really cool to watch, and just feeling that support that you're not alone in this journey.



Season Goodpasture

Seeing the kids light up when they're here, seeing the regulation that happens here. It's amazing. It's powerful.

I want every native family to, you know, seek those services out because it is going to be life changing, not just for your child, but your whole family dynamic, honestly.

Elizabeth Reynoso

I feel like a big burden has lifted off my shoulders, and I feel like I'm no longer alone. It's very sacred to my, to my heart, and to who we are as a people, as Native people looking out for one another. And not only that, I'm seeing my child thrive, and that's the ultimate blessing.

Season Goodpasture

So that is up on our website. If anybody wants to direct people to that, you can show them that video which is really helpful to give an overview of the Early Start system, which really is kind of at the core of what we do.

Improving early detection, early intervention, because what we found through our outreach events is that the majority of the families really have and have not been reached by the trial defined system, which I'm sure Brianna will probably dive deeper into more of like the legal stuff.

But you know, the reality is, is that we are going out and doing these outreach events and really trying to support their families from beginning to end, one making them aware of the services, the resources that are available to actually connecting them with those and building relationships between regional centers, tribal communities and the families, to ensure a warm handoff.

Because that's where a lot of the times, our families, you know. Maybe you have some outreach that's happening, and they're hearing about the regional center. But they have no personal connection. And we know that our tribal communities are so relationship-based that you have to have that real connection, real relationship established for it to be meaningful and impactful. And that's kind of where we come in.



Just a quick highlight of our board, our very distinguished board. So Chairman Smith is our chairman and my husband's on our Board Chairwoman Sara Dutschke, Treasurer Raquel Williams, and then Wayne Nelson.

Just going to kind of briefly go over this because I want to be cognizant of time.

Definitely go to our website, if you want to learn more specifically about any area of Acorns. We have a very expansive staff and growing, we are the first tribal organization to be vendored in the United States to actually provide pediatric therapy.

So it's pretty phenomenal, what we're doing. Everybody seems to be pretty happy with, just the mobile clinic part, like we show up to these tribal communities as you've seen, and really just kind of triage and work together in partnership with the tribes, their education departments, their social service programs, and the regional centers to get these kids free assessments, which is really nice, especially for those tribal communities that are very, very remote.

Unfortunately, sometimes remote service is the only service that they could possibly get, which is not ideal.

Speaking as a parent of a child with disabilities when the pandemic hit and all of our services went online like that was devastating for me because I had a child that really was gravitating towards iPads, electronics, all those things.

And so it was more of a distraction. She didn't want to actually do any of the therapy.

So you know, it's so needed to actually bring the services to the people. And it's been a great honor for our organization to be able to do that.

Just some brief highlights: So Native Americans have the highest rates of disability out of any other ethnicity in the nation.

But when you look at the purchase of service data, specifically in California, Native Americans made up less than half a percent of all people in California actually utilizing those services.

So we know that there's service, access and equity barriers that existed for our tribal communities.

There's a number of factors that lead to those barriers that I've kind of highlighted. I would say the majority of them are cultural barriers, and just where the tribes are located, right? Basic demographic stuff.



They're very remote. They're very hard to get to. And I've learned just, you know, now, kind of having a business side of as well providing these therapy services and being vendored with the regional centers.

I can understand why these services are not reaching the tribal communities, because it's very costly to send your people out, you know, and have a lot of drive time.

And so these are all things that you know, lead to the equity barriers that we that we see today, as well as you know, obviously historical trauma and just general mistrust of the various systems.

So as I mentioned, we're actually sorry I didn't update this. We're now vendor with 5 regional centers in California, Redwood Coast being the newest one which is really exciting.

And we have a mobile intake clinic that we do in Lassen County, and with Far Northern regional center as well.

So, as I'd mentioned. We work with different tribes and regional centers across the State, hosting these outreach events. We completed 12 outreach events last in the past two years. We just started actually doing the clinic part like the mobile clinic part within this past year.

We've done a number of outreach events prior to that, that didn't have that clinical component. But it's been extremely popular, so it that's been really neat to see.

So over 640 people have been reached at these events, and we've conducted 130 evaluations. The majority of the participants that get assessed, the children that get assessed end up qualifying for services.

This is just a highlight of the various evaluations that we complete and just kind of that process. It's we put a lot of thought into the process, and how we and we're still learning.

And this is something that you know, I've really tried to instill into my team is that, you know, every tribal community is so different. And just because you've been to one doesn't mean you know how the next one is going to be.

And so, you know, it's just important to remain flexible in working with the various Tribal communities because they are very different. They have different resources, different customs and traditions, and we try to be very cognizant of that.



The other main part of our program is, like I said, the navigation program. So we have 2 parent navigators right now who, when we go and do these outreach events, you know, we do these assessments. And then, you know, in a lot of the parts of the State, still, we don't actually--aren't able to provide all the pediatric therapy services.

And so our job, the parent navigator's job at that point is to get those families connected with that next step, right?

So if they qualified for Early Start, that parent navigator is then going to help them, if we don't. A lot of the times we end up having intake there from the regional center, which is really nice, because we're able to qualify them right then and there and then they're in the system. And then that's really helped.

But sometimes, you know, they don't have their intake there, and it is a longer process. So our navigators will go through step-by-step, making sure that they're able to get connected with the regional center, and they're able to access those resources and services.

As mentioned, a lot of the times, these kids are over the age of 3, and not Early Start eligible. And so then we're having to deal with a school district or getting that eligibility.

We've been able to help in a big way, specifically with eligibility, with a lot of our kids that will qualify under the autism diagnosis. There's a huge, long waiting lists across California to get that assessment done. We travel with a clinical psychologist, and we're able to, you know, coordinate to get those assessments done, and that really has helped to cut that time.

Then the other part is our parent navigators are helping them, the parents requesting the IEP and navigate that whole process. That has really taken on a life of its own, within our organization. Some amazing things have come from not just our outreach events, but then, on the parent navigation side with our parent navigators going attending IEP meetings.

Then it's also really nice. We have our whole clinical team that's able to like, look at these IEPs and say like, are these goals measurable? And helping the parents kind of understand when their rights, to how to advocate for their child, so they feel more comfortable.



Because our ultimate goal is to really create self-advocates. So the better they know the system, and all the players at the table, and what's available to them, then they're better able to self-advocate, which is our ultimate goal.

So currently, this is probably even needs to be updated. When we did this, we had 68 active clients. I want to say that our last number that I heard was over 100.

Every time we go and do an outreach event, we've already had two this year under our new grant program, and so every time we have a new one, we inadvertently end up with additional parent navigator clients.

This is a little bit about what I had mentioned. So some success stories that I want to kind of highlight between, that have happened between our outreach events, and then our parent navigation services:

There was one family in particular, that we had met, and had the honor of working with at the Kachon. We made a lot of efforts to work with, to set up this outreach event with the tribe, and San Diego Regional Center worked really hard with us to make this event happen.

And we had this event, and there was this mom that came, and she had five children, and she was pregnant with her sixth. And she had requested an assessment for her oldest ones, her oldest daughter and son.

She was ten, and I believe he was eight, and neither one could read or write and had significant global delays.

Neither child had an IEP, so right then and there, we immediately were able to get them all of the assessments that they needed, which then were able to be handed off to our parent navigator, who was able to use those as leverage to request an IEP meeting to get them started in services.

And she worked all the way to the very end, and it was able to actually get them compensatory damages as well. Failure of the system. And so just, you know, I highlight that one story, but there are countless others that are very similar in nature.

We had another young man who is in a residential care facility, and his needs weren't being met. And you know, we worked a lot with the regional centers there and then, also the treatment center. They were unable to get him recent assessments.



We went into the residential care facility and got him updated assessments in the areas that he needed them in, and were able to help actually get him into a higher level of care, based off of what was identified in those.

So just a little bit about some of our success stories and the impact that our work has done, and just truly an honor to do and work in this space.

And thank you so much for for inviting me today.

Vida Castaneda:

Thank you so much, Season.

Brianna, would you like to pull up your PowerPoint now?

Breanna Bollig:

Absolutely. Alright.

Hi, everybody! I'm Brianna Bollig. I'm an Equal Justice Works fellow, and staff attorney with California Tribal Families Coalition.

Hopefully, the brightness on my screen will adjust soon. There we go.

I'm going to be focusing on special education advocacy across systems today, since Season covered regional centers pretty well.

My background is at CTFC. I represent tribes in Indian Child Welfare Act cases, so primarily child welfare, but also some guardianships and adoptions.

Before I was with CTFC I worked for a special education practice group. So that's where I got a lot of my knowledge regarding disability rights and special education. And before that I was a court appointed special advocate, where I was also working with families directly, and was noticing the disconnect between schools, child welfare systems, and Tribal systems.

My organization, CTFC, is a tribally led org. All of our board of directors are Tribal leaders from throughout California. A little bit about my organization is:

Our primary goal is to promote and protect the health, safety, and welfare of Tribal children and families.



Initially we were focused solely on child welfare, but slowly we began to expand into addressing issues relating to regional centers and developmental disabilities. And recently, we've started expanding into education systems to help address education needs as well.

So in 2023, we started our Education Advocacy Project. This is when I came on board with CTFC, With the plan to address education issues for Native youth with a focus of tribal youth who are in California's foster care system.

We began hosting, listening sessions, initiating Tribal surveys. I've been developing a screening tool to help attorneys and Tribal social workers identify education and disability rights issues for tribal foster youth throughout ICWA cases.

And I've also been developing trainings and resources for tribes and Tribal families on our website. You can find a lot of those resources I've been creating, and you can also see here, the report that we released in 2023.

This was my collection of public data from the California Department of Education to help highlight the disparities for Native youth with disabilities, but it also has a focus with Native foster youth.

I did want to go over just a couple of the data points in the fact sheet. If you want to review the entire thing, it was sent out prior to the presentation, but for some highlights for you all:

This slide shows how, as Season said, that Native youth do disproportionately have a higher rate of disability. This is also shown in the CDE data.

You can also see that Native youth are more likely to be in foster care, over 3 times more likely, according to CDE and the rate of foster youth with disabilities is much higher than compared to all students.

This slide is one of the biggest disparities I noticed when I was going through the CDE data. This is looking at college readiness, which is just, I know, one way to measure academic success. This is looking at only students in California public schools who actually did graduate from high school.

On the left you can see all students, and on the right would be Native students. Over half of students who graduated from high school in California in 2022 met the college course requirements for a four-year university in California. But when you look to native students, it was only around 30%.



Going next to Native students with disabilities, the disparity worsens, unfortunately. From Native students, are around 10%, versus all students are around 20% are meeting their college course requirements. Native foster youth were down to around 7%, compared to around 18% for all students.

And Native foster youth with disabilities is under 6%, are meeting college sports requirements.

So this is showing me that

- (1) Native youth are likely being unidentified as having a disability, and
- (2) Native youth with disabilities, who are identified, might not have adequate service plans that are properly supporting them to be successful.

Another data point to keep in mind is that native youth have one of the highest rates of chronic absenteeism compared to any other racial group.

Chronic absenteeism refers to a student who misses more than 10% of the school year. They would be considered chronically absent.

Also, our suspension rates for native youth with disabilities also has a lot of disparities. The suspension rate across the board in California is about 3.2%. But when you're looking at Native foster youth with disabilities, we're up to around 17%.

So that's also showing me that a lot of support services, procedural protections, are not properly supporting our Native foster youth with disabilities as well.

So what I would like all of you to do, to help with these education disparities, I did my best to break it into 4 action steps that I think would be the most impactful right now, just based on my experience. And what I've been seeing in ICWA cases and working with my Tribal clients.

The first thing is just understanding key special education protections, and help identify students with disabilities. This also applies to help identify students who, you know, would be eligible for regional center services, too. That's also a critical service.

Next would be enforcing the Indian Child Welfare Act and promoting tribal partnerships and school systems, helping with enhancing accountability and health and education records and information sharing, and then also closely monitoring and, if necessary, transferring educational and developmental decision making rights.



So two key special education protections would be the Individuals with Disabilities Education Act and Section 504 of the Rehabilitation Act. These are both federal laws that are very similar in a lot of ways, and have a lot of the same protections.

Usually I tell people, IDEA does have more comprehensive protections. So you ideally would want to first see if a student is eligible for services under IDEA, and if not, then you would look to section 504.

But broadly, both of these federal laws provide that a student with a disability has a right to a free, appropriate public education.

This would be a federal minimum standard that applies to state public schools that basically says, students have to be making progress in school, there has to be a benefit.

You know, making sure that you're tracking the students progress. And they're actually moving along from grade level to grade level appropriately.

The Child Find obligation, this is similar to regional centers' Child Find obligation, but schools have a legal obligation to identify students with disabilities. Unfortunately, this doesn't happen, and that's why it's so important to be on the lookout for this.

Because if a school has failed to identify a student with a disability, it's critical that the parent or legal guardian or educational right holders submit a written request for evaluations to begin triggering the evaluation process, to see if they would be eligible for services.

The Least Restrictive Environment Requirement: this is saying that students, you know, the number one placement for students is in the regular general education classroom.

If they can be successful with there with services and accommodations, that's where the students should be. That's where studies show they will be the most successful.

If the placement, even with services and accommodations, can't meet the student's, needs that when you. That's when you start looking at more restrictive educational settings.

Special Education Plans: these are comparable to case plans in the child welfare case. So they're super critical to students and how they're doing in school.

These are called IEPs, or 504 plans. They'll include exactly what services, what accommodations, what educational placement is, all the things.



And there's really a wide range of services that students would benefit from potentially from occupational therapy services to mental health services. This is where you would find a behavior intervention plan for a student with behavioral difficulties.

So, it's really important to monitor these and also be involved in their development, as you know, as professionals, social workers can provide critical feedback, and in what should be in those plans as well.

And then, lastly, there's the procedural and school discipline protections. This is where IEPs, and 504s. Do vary a bit. The procedural protections for students with IEPs are much stronger, but there are still procedural protections present for students with 504 plans.

The primary thing to remember is that there are additional requirements schools have to follow before they can do a long term suspension or an expulsion for a student with a disability.

They have to have an additional meeting that's called a Manifestation Determination Review, where they need to determine if the behaviors were a result of the student's disability.

And if the behaviors were a result of the student's disability, they cannot suspend or expel them.

So that's very important to be aware of, especially as you have caseloads with students who are having these school discipline issues.

There are 12 disabilities covered by IDEA, and it's just important to remember that educational disabilities are different than medical diagnoses.

So typically how it works, a student may have a medical diagnosis that fits nicely into one of these eligibility categories, but sometimes they don't have a medical diagnosis, and they still qualify for one of these two. So just know that medical diagnoses are not the determining factor for getting services in schools.

Going through these very briefly: Emotional Disturbance, this is probably the most misunderstood eligibility category under idea.

So just to cover it briefly, this is where a student would have an inability to learn that cannot be explained by other intellectual, sensory, or health factors, and it could be



solely as a result of the student not being able to build or maintain satisfactory interpersonal relationships.

It could also just be a student having inappropriate types of behaviors or feelings under normal circumstances, a general pervasive mood of unhappiness or depression, or a tendency to develop physical symptoms or fear associated with personal or school problems.

So I think a lot of our foster youth with behavioral problems would likely fall under this emotional disturbance category, if they do not, you know, fall under a different category of disability under IDEA which is important to keep in mind.

Other health impairment: That's when you're looking at disabilities similar to like asthma or ADHD, or epilepsy, heart conditions that typically would go under OHI.

A specific learning disability: the most common example for that would be like Dyslexia. That's where you're seeing kids that have processing difficulties.

So typically, you'll see that a student is consistently struggling in reading or math. That's when I would definitely be thinking about specific learning disability.

And then we also have autism, intellectual disabilities: that one's really important, because if you ever see an IEP with a student who has an intellectual disability, the first thing you should do is make sure that they are also receiving regional center services.

And then we have speech and language impairments, visual impairments, hearing impairments, orthopedic impairments, traumatic brain injury, deaf-blindness, and multiple disabilities which are pretty self-explanatory.

For Native students in California the most common IEP eligibility is specific learning disability, and then followed by speech and language impairment and other health impairment.

You can see here intellectual disability, only 273 students were eligible under this category in 2018, which is concerning low. So, it goes both ways. Also make sure that your youth who are receiving regional center services have those IEP plans in place, as well, as Season talked about.

Section 504 of the Rehabilitation Act: this is the other important federal disability law. And while this one has lower procedural protections for students, it is much broader, so it would cover a lot more students who might not fit into that IEP eligibility.



Section 504 protects students who have any physical or mental impairment that substantially limits one or more major life activities, and learning is a major life activity. So there's a disability that's impacting learning, at a minimum the student should have a 504 plan.

One really important note, especially for Native youth and system-involved youth is that there's recent case law confirming that complex trauma is a disability under Section 504 of the Rehabilitation Act. A medical diagnosis is not required for this.

So again, if the student doesn't meet the emotional disturbance category for an IEP, or a different category for an IEP at a minimum, they could be receiving services or accommodations through a section 504 plan, such as a behavior intervention plan.

And there's a lot of research out there of just like small things that would be helpful for students who have experienced trauma in the education setting.

It can be as simple as an accommodation for a student to sit near somebody they trust. So it's a really important tool to help students who might be struggling in school because of their trauma.

This is my list of special education indicators. So this is what I use when I'm working on my cases for system-involved youth.

If I see that a youth has any of these indicators, such as just do they have a disability, does somebody suspect they have a disability, am I seeing poor grades, or, you know, performing below grade level?

Are they not on track to graduate with a regular high school diploma, any of these things. This would trigger my flag to try to get evaluations through the school system initiated for this for the child.

Second best practice for improving education outcomes is primarily (1) Enforce the Indian Child Welfare Act and promote tribal partnerships and school systems.

The Indian Child Welfare Act is what allows, or what affirms tribes' rights to participate in child welfare cases for their youth on a case-by-case basis, which is critical for children's well-being overall. But it also helps facilitate a Tribal social worker or tribal representative being able to provide special education advocacy on a case-by-case basis as well.



Similar to tribes' rights to be involved in child welfare cases involving their youth. There's also a legal basis for tribes to be involved with the education of their youth.

And, in fact, there's a very nice case laying this out that's known as Myers versus Board of Education. This is a case that actually came out about 40 years after Brown, V. Board.

Brown V. Board, determined that you know all students were entitled to an equal education. Well, they didn't address the issue of Tribal youth.

40 years later, schools were still not allowing tribal youth to attend their state public schools, commonly saying it was the federal government's responsibility.

But finally, in 1994, we got a federal case saying that tribal youth also have an equal right to attend state public schools, and the court explained how the federal government, the state government, and the student's tribe are responsible for the education of their youth.

And this is the quote I really express, especially to school systems, that the focus needs to be on the interest of the children. The method should be one of cooperation among the entities, each which has some authority and means to educate their students.

One critical way with partnering with tribes, and you know, through the child welfare system and under the Indian Child Welfare Act, the agency and the tribe are already partnering together on every step of the case.

But one thing that gets commonly missed is when the child welfare case starts to overlap with school systems, such as at the IEP team meetings, schools often forget to invite the Tribal social worker, or they, you know, might not be made aware of IEP team meetings.

This is a really important way that we can help address that issue is, you know, working together to ensure that the social worker and the Tribal social worker can attend these to help figure out exactly what services, accommodations, educational placement, all the things the students should be receiving to be successful in school.

Another thing that I commonly see happen is: So these meetings happen at least once per year, but they also are required to happen within 30 days of any school transfer, and lots of times a school transfer will happen, and the new school will not even have a copy of the Prior IEP, or they'll not have the resources to implement it. And instead of trying to obtain those resources to implement it, hey just decrease services.



I put the legal citation here, just explaining exactly what the legal basis would be for a Tribal social worker or a child Welfare Agency social worker to attend these IEP meetings in case the school is ever giving you trouble.

Just know that the parent or the school has a right to invite other professionals, even over the objection of the other.

It's also really important to keep in mind that professionals in the child welfare case also have a right to receive certain school notices, and just partnering with tribes and making sure that the Tribal social workers, receiving these notices, too, is really critical in helping make sure that everybody is there, supporting the student.

Now moving on to the health and education records, and information sharing issues.

Unfortunately, this is one of the biggest barriers my clients face when trying to support students with disabilities, is they're not getting complete information to even know that there might be a problem, or to even make an assessment of whether the student has a disability or is receiving the proper supports in school. So that's why I've been focusing on how to remedy that issue.

And the first thing that people need to be aware of is that education records are legally required to be included in every case plan in a child welfare case. Unfortunately, that's not happening a lot.

This is a Federal requirement. And then once the case plan is filed with the court, it should be provided to all parties which would include the tribe.

The Uninterrupted Scholars Act: This is a new Federal law, relatively new, 2013 that actually removed barriers for child welfare agencies and tribes who are having a hard time getting school records for students in foster care.

So under this federal law, either the child welfare agency or the tribe involved can request school records directly from the school, and they do not have to have parent consent or a court order to do this.

The Uninterrupted Scholars Act was also incorporated into California State Statute as well, and we have been starting to utilize this more to get records directly from schools, so we can help assess whether a student might have a disability or need more supports and services in schools. And so far it's been going well.



The other important thing to keep in mind is that the California state law has really important requirements for child welfare agencies to provide health and education summaries.

So here I just laid out what the legal requirements are, for when health and education summary must be included in a report.

And this is again, important for information sharing, so that more people are involved and can identify potential disabilities or needs for improved supports in school.

There's also pretty strict requirements about when these health and education summaries need to be updated.

A lot of times these are referred to as the health and education passports that county agencies will provide in child welfare cases.

And this slide really just emphasizes how thorough these summaries are supposed to be, which unfortunately doesn't always happen.

I don't know if the disconnect is with what the school is providing, or maybe not the correct information is being asked, but a lot of times I'm not seeing complete health and education summaries.

They should be very thorough, you know, showing grade level performance report cards, how far away are they from school, school transfers, credits earned towards graduation.

I rarely ever see that in a report, and these are just really important pieces of information, so that a tribal social worker advocate, can recognize that there may be education issues, or even minors counsel, and, you know, provide that necessary education advocacy to improve outcomes.

Lastly, I want to talk about educational and developmental decision-making rights. And this is really important in both the regional center and school systems as a court, if they needed to, could potentially transfer these decision-making rights to another individual who could then consent to evaluations for regional center services, or evaluations for IEPs or 504s, things like that, and consent to those services.

So it's really, really important to monitor, you know, who's holding the education rights, who's monitoring the education system, the developmental needs.



The default is always going to be the parents, the legal guardians, or a non-minor dependent. But know that if somebody is not meeting these needs, if somebody's not requesting evaluations when they're needed, you can ask.

A party can ask the court to transfer these rights, and you can either transfer them fully to another individual, or you can transfer them in part, so that a parent can still hold rights and be supported in advocacy, but there's also another person who's authorized to sign on to service plans, initiate evaluations, things like that, to get the services moving for the student.

I did provide a cheat sheet because I did find that it's quite complicated. I don't think people realize that a lot of times educational right holders might be terminated automatically in a number of situations.

There seems to be a lot of confusion about who can be an educational right-holder, too. First the court has to look to somebody who's known to the student.

And then, if you're not able to identify somebody who's known to the student, you know, potentially, even a professional could do it, but it cannot be a child welfare social worker, and it cannot be a public school employee. That's expressly prohibited by statute because of conflict of interest reasons.

So, watching closely, who has education rights? Does it need to transfer? Does there need to be joint appointment of individuals can really make a big difference in the regional center and school advocacy systems?

And also keeping in mind that, you know, educational rights can really allow this advocacy to take place, that whoever's educational right holder would be able to access school records, go to school meetings, consult with the service providers sign on to plans.

But they also have a number of legal obligations that I think go overlooked very often. Making sure that educational right holder is actually doing an investigation as they're legally required to do, and providing updates to either the social workers or the court.

My cheat sheet that I sent out to you all explains this in depth, if you're looking more into education, right holders.

And I think that is everything. Thank you all for listening, I could talk about this all day.



Vida Castaneda:

Great. Thank you so much. I appreciate both of your presentations. It was phenomenal and a great amount of information.

So, we are at the end of our webinar time, and we thank you all for joining us today.

The information you received from Amanda Morris explains the CEU process if you are interested in obtaining those for your records.

And thank you so much to everyone for joining us. If you have any questions, feel free to reach out and thank you all.