**Understanding Deliberate Indifference & Intentional Discrimination**

*(Section 504 & ADA – What Parents Need to Know)*

 **Deliberate Indifference**

\*\*What it Means:\*\*
When a school knows a student with a disability needs help, but then ignores it or responds unreasonably.

\*\*Legal Standard:\*\*
- The school had actual knowledge of the problem.
- The school’s response was clearly unreasonable or they failed to act.

\*\*Examples in Special Education:\*\*
- The district is told (through evaluations or past IEPs) that your child needs evidence-based reading intervention but refuses to provide it.
- Administrators are warned that removing a methodology (like Wilson Reading) will harm progress — and they remove it anyway or repeatedly attempt to remove it.

**Intentional Discrimination**

\*\*What it Means:\*\*
When a school treats a student differently because of disability or sets up policies that block access.

\*\*Legal Standard:\*\*
- A policy or action taken because of disability, or
- Deliberate indifference itself (courts often see this as intentional discrimination).

\*\*Examples in Special Education:\*\*
- District policy caps or bans structured literacy programs, leaving dyslexic students without needed instruction.

- District policy bans mention of methodologies/programs on all IEPs
- School refuses extended time or 1:1 intervention even though it’s written in the IEP/504.
- Services are denied because they are “too costly” or “too resource-intensive.”

**\*\*Harm and Deliberate Indifference**

Courts require that schools not only know about a disability-related need, but also that ignoring it is likely to cause harm. In special education, 'harm' often means denial of meaningful access to education, regression, or exclusion from participation.

\*\*Examples of Harm in Special Education:\*\*
- A student with dyslexia regresses in reading when evidence-based instruction is withheld.
- A child develops school avoidance and anxiety because supports are denied.
- A student is excluded from academic opportunities their peers enjoy.

**Why This Matters for Parents**

- IDEA: You can win services or compensatory education without proving discrimination.
- Section 504 / ADA: To get damages (like monetary relief), you must show at least deliberate indifference — sometimes direct intent.

**Bottom Line:**

- Deliberate Indifference = School knew, but didn’t act.
- Intentional Discrimination = School acted (or refused) because of disability.
Both are violations of your child’s civil rights under §504 and ADA.

**Remember:**

Always keep written records (emails, evaluations, IEP notes). These documents show the district had knowledge — which is key to proving deliberate indifference or intentional discrimination.