**Recovering Attorney’s Fees and Other Damages**

THERE IS a **legal precedent** and **theoretical legal grounds** under which **parents may recover attorney’s fees and other damages** in certain situations *even if they did not initially go to court*, particularly under **Section 504 of the Rehabilitation Act**, the **Americans with Disabilities Act (ADA)**, and sometimes under **IDEA (Individuals with Disabilities Education Act)**. However, the outcome depends on the specific facts of the case and the jurisdiction. Here's a breakdown:

**1. IDEA: Attorney’s Fees**

Under **IDEA**, parents **can recover attorney’s fees** if:

* They are the **prevailing party** in a **due process hearing** or **court action**.
* Reimbursement may cover attorney’s fees, expert witness fees, and related costs.
* If the dispute is resolved through a **settlement**, reimbursement of fees **may or may not** be part of the agreement.

**BUT**: If parents never filed due process, courts generally do **not** award attorney’s fees under IDEA alone.

**2. Section 504 and ADA: Discrimination-Based Claims**

If a school district **repeatedly refuses to provide appropriate evidence-based reading interventions**, and this results in the child **not being able to access a free appropriate public education (FAPE)**, parents may argue:

* The district’s actions constitute **intentional discrimination** under **Section 504 or Title II of the ADA**.
* Courts have awarded **compensatory damages**, which can include **reimbursement for private evaluations, attorney’s fees, and services** parents had to secure due to the school's failure.

**Key Cases:**

* **Fry v. Napoleon Community Schools (2017)**: While focused on exhaustion of remedies under IDEA, the Supreme Court acknowledged that **disability discrimination claims can proceed separately under 504/ADA**, especially when alleging **denial of equal access or intentional discrimination**.
* **Duvall v. County of Kitsap (9th Cir. 2001)**: Established that **intentional discrimination under ADA** can be shown by **deliberate indifference**, not just animus — meaning, repeated failure to act on known needs may suffice.
* **Mark H. v. Lemahieu (9th Cir. 2008)**: A plaintiff must show the district acted with “deliberate indifference” under Section 504 to recover **compensatory damages**, including expenses incurred by parents.

**What Must Be Shown:**

If parents wish to pursue **reimbursement of legal expenses without first going through due process**, they must:

1. **Document** repeated **denials of appropriate services**, even after notice or expert recommendations.
2. Show that the district was **aware of the child’s needs** and **failed to act**, not just negligently, but with **deliberate indifference**.
3. Prove that their **legal advocacy costs** (lawyer consultations, letters, evaluations) were **necessary to obtain services** the school should have provided.

**Important Note:**

* **Simply hiring an attorney** to write letters or attend IEPs doesn’t automatically entitle you to reimbursement.
* However, if the **district only began to act appropriately due to legal pressure**, and their prior failures were well documented and egregious, some courts have ruled that **reimbursement of expenses, including legal ones, may be justified under civil rights statutes.**

***Takeaway for Advocacy Handout or Letter:***

*When a school district continually refuses to provide an appropriate, evidence-based reading program for a child with dyslexia, despite clear notice and documentation, parents may incur legal expenses out of necessity—not choice. If those services were only made available after retaining legal counsel or educational experts, and the denial reflects a pattern of* ***deliberate indifference****, parents may be entitled to seek* ***compensatory damages****, including attorney’s fees, under* ***Section 504 or the ADA****. Denial of access to a proper reading intervention is not merely an administrative failure—it can constitute* ***disability discrimination****.*

Legal rights of families to seek reimbursement for attorney’s fees and related costs when schools repeatedly refuse to provide appropriate dyslexia services—even without going to court.

**KNOW YOUR RIGHTS: Reimbursement for Legal Costs in Dyslexia Advocacy**

**What Happens When Schools Refuse to Act?**

When a school **fails to provide evidence-based intervention** for a student with dyslexia—**despite repeated requests, evaluations, and expert recommendations**—families are often forced to hire attorneys, private tutors, or specialists to secure their child’s right to read.

These expenses can be **substantial**, and they occur **because of the school’s inaction**, not because parents “opt out” of the system.

**Can Families Be Reimbursed for Legal Costs?**

**Yes—In Certain Cases.**

While reimbursement under the **Individuals with Disabilities Education Act (IDEA)** typically requires a formal hearing or court ruling, families may also seek reimbursement through **civil rights laws** like:

* **Section 504 of the Rehabilitation Act**
* **Title II of the Americans with Disabilities Act (ADA)**

These laws **prohibit disability-based discrimination**, including **failure to provide appropriate accommodations or interventions**.

**Legal Grounds for Reimbursement Without Going to Court**

Under **504 and ADA**, a family may recover expenses if they can show:

The school district **knew** the student had a disability (dyslexia)  
 The district **failed to provide appropriate, evidence-based intervention**  
 Parents had to hire professionals or attorneys **to access needed services**  
 The district acted with **“deliberate indifference”**—ignoring the student’s needs despite repeated notice

**Key Legal Cases**

* **Fry v. Napoleon Community Schools (2017):** Civil rights claims can proceed **independently** of IDEA.
* **Duvall v. County of Kitsap (9th Cir. 2001):** Courts may award damages for **deliberate indifference** under ADA.
* **Mark H. v. Lemahieu (9th Cir. 2008):** Reimbursement for services and legal costs is possible if discrimination is proven.

**What This Means for Families**

If you paid for:

* A private evaluation because the school refused to test
* **Attorney’s fees to compel action at IEP meetings**
* Tutoring or reading programs because no appropriate services were offered

...you may have a right to **seek reimbursement**—especially if these costs were necessary due to the school’s ongoing refusal to provide a **free and appropriate public education (FAPE)** under federal law.

**What This Means for Legislators**

Parents in Wyoming and other states are **spending thousands of dollars** on legal help just to access the education their children are legally entitled to.

The solution is not forcing families into court—it is ensuring school districts:

* Follow federal disability laws
* Provide trained teachers and evidence-based reading instruction
* Stop discriminating against students with dyslexia by denying intervention