

House Education Policy Committee  
House Bill 1318  
Representative Mark Owens, Chairperson  
January 18, 2021

Our names are Melanie and Mike Suda. Our son, Sam Suda, attends Century Intermediate Elementary School, Grafton ND. He will be in fourth grade. Sam is a young boy who loves his brothers, is fun-loving, and will warm your heart when you hear his giggle. Sam loves to sing and dance – he loves having an audience. If you ask him, he will tell you he wants to be either an actor, a mechanic or a plumber when he grows up. He loves checking fields with his dad and especially loves time spent at the lake in the summer with our family.

Sam has Down Syndrome and has been diagnosed with ADHD, Pediatric Autoimmune Neuropsychiatric Disorder Associated with Streptococcal Infections (PANDAS), Sensory Processing Disorder and a Sensory Modulation Disorder. All his diagnoses contribute to behavioral challenges. **What is important to understand, however, is that the behaviors reflect unmet needs, fear, anxiety, worry, pain, sensory challenges, and lack of skills to do differently.** The purpose of his behaviors is to tell us something he cannot tell us in ways that are more ‘typical,’ or ‘acceptable.’

Since Sam first started attending school, we have worked to ensure he has opportunities to learn, both via special education services and in regular classroom settings. We want and expect he will have various appropriate opportunities to learn – just like any child. Too often, our efforts to work with the school have involved a struggle – a struggle with a system that promotes and responds best to status quo.

The most recent challenges with Sam’s school resulted in our obtaining advocacy services as well as using the assistance of ND Department of Public Instruction’s dispute resolution process, i.e., IEP facilitation. Sam was spending an unacceptable amount of time on an alternate schedule due to his behaviors. The use of the ‘alternate schedule’ resulted in Sam going to a designated room – away from his peers. There, he spent countless hours receiving his education in a room with no windows, that was confined in space, and was also used for other students who needed “resets.” This exposed Sam to language and behaviors to which he should not have been exposed. Progress - behavioral or academic – did not improve via the use of the room. Yet, more of the same was done – day after day. Sam was spending the majority of his time on the alternate schedule.

Sam’s team did not seem to have a way to determine how to successfully provide services to support the change they wanted to see. We repeatedly brought concerns to the team, to the Special Ed. Coordinator and Director and we were met with resistance or lip service. Finally, this Spring we requested a different Case Manager, had a sensory evaluation update, obtained updated behavioral programming and had DPI facilitate Sam’s IEP. We were still in the process of IEP facilitation when COVID hit, though two meetings had already occurred. The IEP facilitation did seem to help Sam’s team make progress in developing an IEP and behavioral supports we hope will support Sam’s skills and development when school resumes.

Special education students need educational services and positive behavior supports to address their disabilities and to prevent/respond to incidents where school safety is an issue. We wholeheartedly agree all children, teachers and staff have a right to a safe environment. But we don't agree that the onus for the safe environment is on the child when she/he does not have a school that is responsive to providing an individualized, appropriate educational environment specific to his or her needs. For so long, Sam's behavioral programming did little more than exacerbate behaviors. Of course, we do not believe this was the intent of Sam's IEP team, but, instead, it reflected the limitations of our current systems to: 1) admit outside help is needed and 2) obtain appropriate outside help to build better programming and 3) monitor progress and make adjustments accordingly.

Teachers and other support staff need training and administrative support from their principals, district administration and Boards and special education units so they can teach and support all children, including children with disabilities. There is an increasing shortage of teachers, including special education teachers, in North Dakota and nationally. Misplaced blame on students with disabilities for safety problems in schools and segregating them from their schools and peers is not the answer.

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## **UPDATE**

The above was written and submitted for testimony (regarding school safety) that was presented to the Legislative Interim – Education Policy Committee on July 2, 2020.

We appreciate this opportunity to provide an update and to, once again, submit a summary of our experiences as testimony related to the hearing of House Bill 1318 regarding the use of restraint and seclusion in the schools.

In the last spring and early fall of last year, as a result of persistent and diligent efforts to effect change for our son in school, we were able to work with the special education unit and Sam's IEP team to do the following:

- obtain services from a behavioral specialist who brought a fresh perspective and skill set to behavioral programming;
- incorporate findings from a sensory evaluation in the IEP. A sensory evaluation had been done years prior by the same evaluator and with similar findings, but this time the information was given credence it has not been given before.

The above changes have made significant positive differences in Sam's experiences and participation at school. Examples of the changes include:

- Sam no longer has an alternate schedule;
- Sam is learning alongside his same-aged peers;
- Sam's IEP team monitors his progress on a regular basis and are open and receptive to looking at different ways to approach change;
- Best of all, Sam now looks forward to going to school.

Things are not perfect, but we don't expect perfection. However, we can tell you that this year has been a huge improvement. This improvement is a result of our not giving up and asserting our rights, and also as a result of the skills of professionals who supported the much needed change.

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