

SPECIAL EDUCATION ADVOCACY HANDOUT

“Disability is a natural part of the human experience and in no way diminishes the right of individuals to . . . equality of opportunity, full participation, independent living, and economic self-sufficiency for individuals with disabilities.” IDEIA 2004, Section 601(c)(1); 20 U.S.C. § 1401(c)(1).

Here are some tips that may help you maintain your bearings as you navigate the special education maze to assist your children.

1. Use the law to frame your issues. Congress recognized that every child with special needs is “unique” and is entitled to have available to them a “free and appropriate public education” (“FAPE”) designed to “prepare them for further education, employment, and independent living.” 20 U.S.C. § 1400(d)(1)(A). Congress further recognized that the success of our children’s education depends on their having “highly qualified teachers” who have “high expectations” for our children, who are supported by “high-quality, intensive professional development”, who use research-based instructional methods and who monitor progress based on objective, measurable criteria. *Id.*, §§ 1400(c) & (d); 1401(10). Our children’s success also depends on “strengthening the role of parents and ensuring that families of such children have meaningful opportunities to participate in the education of their children at school and at home.” *Id.*, § 1400(c)(5)(B). In the context of specifying the obligation of schools to prepare children with disabilities for life after high school, Congress required schools to base an educational program on “the individual child’s needs, taking into account the child’s strengths, preferences, and interests,” and provide “appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills . . . and the transition services (including courses of study) needed to assist the child in reaching these goals.” 20 USC § 1414(d)(1)(A)(i)(VIII). In Pennsylvania, a FAPE “requires the development and implementation of ‘a satisfactory IEP to provide significant learning’ . . . and confer ‘meaningful benefit,’ which “must be gauged in relation to the child's potential.” *Ridgewood Bd. of Educ. v. N.E.*, 172 F.3d 238, 247-48 (3d Cir. 1999)(citations omitted) (raising the Supreme Court’s minimal standard set forth in *Bd. Educ. v. Rowley*, 458 U.S. 176, 204, 205 (1982)).

2. Develop a realistic, objective vision for your child that can be tracked and modified over time. Parents should identify the person that their unique child is or is capable of becoming by observing their children in action to determine their motivations, interests, preferences, and responses to others and life’s circumstances, i.e., success, set backs, surprises, and the impact of their disability. Document these observations for your continuing reference. This will help you to identify how your child learns best. Are they word smart (linguistic intelligence), people smart (interpersonal intelligence), self smart (intrapersonal intelligence), logic smart (mathematical intelligence), picture smart (spatial intelligence), body smart (kinesthetic intelligence), music smart (musical intelligence or nature smart (naturalistic intelligence). “Inclusive Practices and LRE: The Why, What and How” (presented by Dr. R Villa, PATTAN-Harrisburg, 10/1/07). Press schools to use whatever combination of learning styles your child naturally demonstrates to teach your child.

Continually ask yourself five simple questions with not so simple answers. Who is your child? What does your child want? How does your child function (use what he or she uses)? What are

your child's weaknesses? What resources are available to enable your child to achieve what you realistically want for him or her and that your child realistically wants?

3. Evaluations are the primary tool used by school districts to determine whether a child is eligible for special education under IDEA and the specially designed instruction, supports and services that child will need. See www.pattan.net (Annotated Evaluation Report). The results are memorialized in an Evaluation Report ("ER"), which becomes the foundation of an appropriate Individualized Educational Plan ("IEP"). The evaluation must be comprehensive ("assess all areas of suspected disability"), use "technically sound", "nondiscriminatory" assessments designed "to yield accurate information on what the child knows and can do academically, developmentally, and functionally," and be administered by qualified individuals. **A school district must give you 10 days to review the ER. Never waive this right.** Use the time to find someone who understands what all the tests and numbers mean. You have the right to have school personnel explain the report to you. If you believe the report is not accurate, is incomplete or is otherwise deficient, request that the school pay for an expert of your choosing to evaluate your child. A school cannot force you to use an expert from a pre-approved school list.

Ask yourself whether the ER accurately describes your child. Keep in mind traits commonly associated with your child's disability that your child exhibits presently or will probably exhibit in the future. These traits may include: (1) deficits in intellectual, motor, self-regulation, social and behavioral skills; (2) inattention and/or perseveration; (3) naiveté; (4) diminished imagination and creativity; (5) reduced information processing speed; (6) reduced short-term working memory skills or long-term memory; (7) difficulty understanding non-literal, and nonverbal language; (8) difficulty with grasping novel, complex or abstract material; (9) difficulty with problem solving; (10) problems with social situations; and (11) diminished sense of humor. **Also ask yourself whether your child is exhibiting traits that may be cute today that would not be considered cute when the child is older.** Make sure that the IEP addresses these traits early through positive behavioral methods used to substitute socially appropriate behaviors for behaviors that will not be considered appropriate in the future. Otherwise, the school system may be reinforcing antisocial behaviors that could result in future school disciplinary sanctions and referrals to the juvenile justice system.

4. The IEP is the document that sets forth the education in academic and functional skills that a school agrees to provide your child. It is a contract for services, not a guarantee of success. Treat the IEP as a business or game plan. It must have objective and measurable goals for each need, a starting point or baseline for each goal, and a defined method for tracking progress. It must identify **research-based specially designed instruction** to facilitate your child's successful attainment of each goal.

a. In creating goals for academic achievement and functional performance, keep this acronym in mind: CNBC. Goals should state the Conditions (C) under which progress will be judged, your child's Name (N), the specific Behavior (B) or skill that is being tracked, and the Criteria (C) against which progress will be measured. The present levels of academic achievement and functional performance section of the IEP sets forth the baselines or starting points from which progress towards attaining the goal will be measured. Goals must be realistic, time specific, relate to an assessment measure or specific skill, be sequential to prior goals and be data driven. See www.pattan.net (annotated IEP).

b. Progress monitoring can be done using standardized, curriculum-based or individually tailored assessments conducted on a regular basis over time and covering all aspects of a child's education, including academic, communication, organizational, self-help, community living, self-regulation and behavioral/social/emotional skill acquisition. The interrelationship of baselines, goals and specially designed instruction is essential to meaningful progress monitoring. Effective progress monitoring requires: (1) tracking observable progress from start to measurable outcome; (2) sensitivity to incremental student growth; (3) effective classroom usefulness; (4) being data driven; (5) being connected to the general education curriculum and required skill sets; and (6) specifying what actions will occur when a student meets, exceeds or falls below expectations and who will be responsible for those actions. See www.pattan.net (progress monitoring)

c. Specially Designed Instruction ("SDI") is the area of the IEP that identifies the instructional methods, supports and services that the school will use to provide your child with the opportunity of obtaining a meaningful education gauged on your child's potential. SDI's apply to all school environments, including classrooms, unstructured environments such as recess and lunch, teacher style, curriculum and extra-curricular activities. School districts use computer printouts to generate IEP's. This results in canned lists of SDI that are not tailored to a specific child. Do not accept SDI's that do not specify what is to be done or used in sufficient detail so that someone unfamiliar with your child could understand when and how to use the SDI's. Although school districts generally refuse to identify in an IEP the teaching programs used to teach your child, ask for the district to list it in the SDI. More importantly, make sure that you know the teaching programs used and understand why that specific program is appropriate for the reason it is being used. See <http://ies.ed.gov/ncee/wwc/> for information about what constitutes a research-based instructional program or method.

Reading is essential to a child's self-esteem in our culture. Make sure that the school uses a reading program that teaches the **mechanics of reading and techniques for understanding text** so that your child does not fall into the trap of looking at pictures, looking at the words, and, if a word is not familiar, guessing what that word might be. This is not reading. Similarly, many students with special needs can memorize math facts but have difficulty grasping math concepts. Make sure the school uses a math program that teaches mastery of concepts in addition to memory of math facts.

d. Transitions are fraught with peril for students with special needs. Always consider what your child will need to make an effective transition to a new setting or new grade. Your concern about transitions should not be limited by IDEA only requiring specific transition programming for students moving from infant/toddler early intervention to preschool early intervention and from high school to life afterwards. The questions are essentially the same in nature, but different in scope. See www.pattan.net (transitions & annotated IEP's for examples)

e. Extended School Year (ESY). There is no one factor that determines a student's eligibility. Although school districts talk in terms of retention and recoupment only, there are **five (4) other factors**. They are: (1) The extent to which the student has mastered a particular skill or behavior when education is interrupted; (2) the critical nature of a particular skill or behavior to enable the student to become independent and self-sufficient; (3) The extent to which repeated interruptions will result in the student's withdrawal from learning; and (4) the severity of the student's disability. See www.pattan.net.

5. The IEP team is supposed to be a multidisciplinary team where people with different skill sets or areas of expertise play different roles of equal status and make decisions by consensus. The team may become polarized by what the position a school district may require its employees and consultants to take due to budgetary and resource issues and the parent perspective of what would constitute an appropriate education. Understand this reality, prepare the materials you will need to support your position and prepare yourself to listen carefully to the concerns of district personnel. They may be right. Alternatively, you will learn their concerns and how to phrase your position in a way that addresses those concerns.

6. Prepare thoroughly for IEP meetings and all other communications with school personnel or consultants. Review your documentation, which should include all school-generated documents, your written observations of your child, e-mails, letters and other writings you use to memorialize events and discussions with school personnel. E-mail is an effective tool for memorializing conversations and meetings to avoid confusion over who said what and what actions must be completed by what date. Organize documents the best way you can. Observe your child in classroom and non-classroom settings so that you have a first-hand account of whether the IEP is being implemented and is effective. This is essential to meaningful participation in your child's education, which is more than just attending IEP meetings. Don't let IEP meetings get bogged down on particular issues. Cover as much ground as possible by agreeing to disagree on a certain points, to collecting more information on that point if needed and to reconvening in the near future to complete the discussion. Preparing an agenda in advance with the school district can be an effective method for identifying agreement and crystallizing issues that need to be discussed thoroughly. Do not hesitate to bring to an IEP meeting an advocate and anyone else from your support network needed to bolster your position. Some school districts try to preclude advocates from speaking, which violates Pennsylvania law. Confirm in writing what happened at the meeting.

7. Never sign a Notice of Recommended Educational Placement at an IEP meeting. Take your ten days to evaluate the proposed IEP and recommended placement thoroughly.

8. Anticipate social, emotional and behavioral issues to decrease the chances of your child being subjected to school disciplinary sanctions, referrals to the juvenile justice system and bullying. See discussion of this issue under the evaluation section above.

Resources

www.pattan.net
www.elc-pa.org
www.copaa.net
<http://idea.ed.gov>
www.wrightslaw.com
www.nichcy.org
www.cec.sped.org
www.nea.org

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