

Advocacy, Ethics, and the Impact on Families

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Longmeadow, Massachusetts
February 18, 2012

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What does an advocate do?

- *Accompanies parents to school meetings.*
- *Reviews records and helps the family to develop an action plan.*
- *Helps parents write agendas and letters.*
- *Assists parents with dispute resolution.*

More about advocates

- Not attorneys.
- Knowledgeable about special education law and area resources.
- Skilled in keeping meetings productive.
- Provide parent training and coaching to enable parent to participate as an equal member of the team.
- Assist with clarifying important areas of agreement and disagreement.

What is required to be an advocate?

- No license or certification.
- Sources of training: COPAA, Wrightslaw, disabilities organizations, state bar associations.
- COPAA – Advocate's Voluntary Code of Ethics

Why do families say they hire advocates?

- “I feel overwhelmed.”
- “I don’t understand what is being said at meetings.”
- “My input is disregarded.”
- “I feel like the school team is not focused on the needs of my child.”

Why do families and school teams disagree?

- ◆ Sincere disagreement
- ◆ District has multiple responsibilities, not just to the child
- ◆ Staff don't understand the child's needs
- ◆ Power struggle

IDEA in a Nutshell

Individuals with Disabilities Education Act,
Part B

- Applies to children with qualifying disabilities who are in need of special education (ages 3 through 21)

IDEA in a Nutshell

Section 1400 – Findings and Purposes

. . . the implementation of this title has been impeded by low expectations, and an insufficient focus on applying replicable research on proven methods of teaching and learning for children with disabilities.

IDEA in a Nutshell

Section 1400 – Findings and Purposes

*. . .to ensure that all children with disabilities have available to them a free appropriate public education. . . designed to meet their unique needs and **prepare them for further education, employment, and independent living.** . . .*

IDEA in a Nutshell

Section 1400 – Findings and Purposes

*. . .to ensure that all children with disabilities have available to them a free appropriate public education. . . designed to meet their unique needs and **prepare them for further education, employment, and independent living.** . . .*

IDEA in a Nutshell

The term 'child with a disability' means a child—
(i) with mental retardation, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance (referred to in this title as 'emotional disturbance'), orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; **and**
(ii) who, by reason thereof needs special education and related services.

From IDEA, Section 1401

IDEA in a Nutshell

- §300.111 Child find. (a) General.
- (1) The State must have in effect policies and procedures to ensure that—
- (i) All children with disabilities residing in the State, including children with disabilities who are homeless children or are wards of the State, and children with disabilities attending private schools, **regardless of the severity of their disability**, and who are in need of special education and related services, are identified, located, and evaluated

IDEA in a Nutshell

§300.320 Individualized Education Programs

- Requires IEPs to include a statement of annual measurable goals
- Requires a statement of how progress will be measured
- Includes a statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child

IDEA in a Nutshell

The IEP Team makes decisions about the child's program. The team is a group of individuals composed of: The parents (as equal team members); at least one regular education teacher; at least one special education teacher; an individual who is qualified to provide/supervise the provision of special designed instruction, is knowledgeable about general education, and is knowledgeable about availability of resources in the LEA; an individual who can interpret the instructional implications of the evaluation results (could be one of the above); at the discretion of the parent or agency, other individuals who have knowledge or special expertise about the child; and whenever appropriate, the child.

(see IDEA, Section 1414)

IDEA in a Nutshell

FBA's and BIP's are part of IDEA!

If a child with a disability violates a code of student conduct, school officials may suspend the child for up to 10 days. . . The child will receive “as appropriate, functional behavioral assessment, behavioral intervention services and modifications” to prevent the behavior from reoccurring.

If the IEP team determines that the child’s behavior was a manifestation of the disability, the IEP Team “shall conduct a functional behavioral assessment and implement a behavioral intervention plan.”

See Section 1415 of IDEA

IDEA in a Nutshell

Free Appropriate Public Education. The term ‘free appropriate public education’ means special education and related services that—

- (A) have been provided at public expense, under public supervision and direction, and without charge;
- (B) meet the standards of the State educational agency;
- (C) include an appropriate preschool, elementary school, or secondary school education in the State involved; and
- (D) are provided in conformity with the individualized education program required under Section 1414(d) of this title.

BACB Guidelines and Keeping the Faith

1.04 Integrity.

(a) Behavior analysts are truthful and honest. The behavior analyst follows through on obligations and professional commitments with high quality work and refrains from making professional commitments that he/she cannot keep.

BACB Guidelines and Keeping the Faith

1.05 Professional and Scientific Relationships.

(b) When behavior analysts provide . . . services . . . they use language that is fully understandable to the recipient of those services. They provide appropriate information prior to service delivery about the nature of such services and appropriate information later about results and conclusions.

BACB Guidelines and Keeping the Faith

2.10 Treatment efficacy.

(a) The behavior analyst always has the responsibility to recommend scientifically supported most effective treatment procedures. . .

BACB Guidelines and Keeping the Faith

3.03 Explaining Assessment Results.

. . . behavior analysts ensure that an explanation of the results is provided using language that is reasonably understandable to the person assessed or to another legally authorized person on behalf of the client. . . behavior analysts take reasonable steps to ensure that appropriate explanations of results are given.

BACB Guidelines and Keeping the Faith

4.0 The Behavior Analyst and Individual Behavior Change Program.

The behavioral analyst (a) designs programs that are based on behavior analytic principles. . . (b) involves the client or the client-surrogate in the planning of such programs, (c) obtains the consent of the client, and (d) respects the right of the client to terminate services at any time.

The Real World

Lisa doesn't want to disagree with school team. . .

Joe wants everyone to get along. . .

Pitfalls

“The IEP team may want to consider. . . .”

Better: “I recommend. . . .”

Pitfalls

“To maximize the child’s potential. . .”

“The best approach. . .”

Better: “An appropriate program requires. . .”

Pitfalls

“I am recommending 3-5 hours of services.”

Tip: Unless the child needs only the minimum number of hours, don't give a range.

Myths

“We need to provide services only to help the student be successful at school.”

“Only children with ‘severe’, disruptive behaviors require FBAs.”

“We can’t do that.”

Prior Written Notice:

Needed whenever the District *proposes a change or refuses your request to change the IEP.*

Note that “Our District Never Does this” is not a valid basis for refusal.

From IDEA (federal statute, bold added), Section 1415.

Content of Prior Written Notice. The notice required by subsection (b) (3) shall include:

- (A) a **description of the action proposed or** refused by the agency;
- (B) an explanation of **why the agency proposes or refuses to take the action and a description of each *evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action;***
- (C) a statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained;
- (D) sources for parents to contact to obtain assistance in understanding the provisions of this part;
- (E) **a description of other options considered** by the IEP Team and the reason why those options were rejected; and
- (F) a description of the factors that are relevant to the agency’s proposal or refusal.

Independent Educational Evaluation: Just Say No is not an option for schools

From Section 300.502 (bold added) of the federal regulations for IDEA 2004

(b) Parent right to evaluation at public expense.

A parent has the right to an independent educational evaluation at public expense if the parent *disagrees with an evaluation* obtained by the public agency, subject to the conditions in paragraphs (b)(2) through (4) of this section.

(2) If a parent requests an independent educational evaluation at public expense, the public agency must, without unnecessary delay, either:

(i) *File a due process complaint* to request a hearing to show that its evaluation is appropriate; or

(ii) *Ensure that an independent educational evaluation is provided at public expense*, unless the agency demonstrates in a hearing pursuant to Sections 300.507 through 300.513 that the evaluation obtained by the parent did not meet agency criteria.

...

(4) If a parent requests an independent educational evaluation, the public agency may ask for the parent's reason why he or she objects to the public evaluation. However, the public agency may not require the parent to provide an explanation and may not unreasonably delay either providing the independent educational evaluation at public expense or filing a due process complaint to request a due process hearing to defend the public evaluation.

For more information about IDEA and the parent experience. . .

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