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First they ignore you, then they laugh at you, then they fight you, then you win.
--Mahatma Gandhi

I. The point. These days, the special education process is challenging for everyone.

A few years ago, I heard from a family whom you might think would have an easier time than most in navigating the special education process. The father was an affable neurosurgeon, and the mother was a well-educated, articulate, at-home parent who also volunteered at her child’s school.

They shared that, for the past three years, their now 8-year-old son cried almost every day before school, and he typically refused to leave the house on weekdays, sometimes having to be carried by his father to the bus stop. Now in third grade, the son had been struggling with reading skills for three years and, during independent reading time, is required to “read” a Level 3 book, while his friends were choosing Level 20 and chapter books. The family reported that their son had recently become so anxious about school that he sometimes projectile vomited in the morning, then announcing happily, “Now, I don’t have to go to school.”

For years, the family had shared their concerns with teachers about their child’s anxiety and problems with reading, but the school staff repeatedly said that this was normal and that all children developed differently. In a good faith effort to help school staff take their concerns more seriously, the family paid for two expensive evaluations, which described the child’s dyslexia and made recommendations for remediation. At the eligibility meeting, the school team simply concluded that the child did not “qualify for” special education.

When they called me, the parents were understandably frustrated and upset. They wanted to know, “Are there some sort of magic words that we need to use in IEP meetings?”

Although there are no magic words per se, I realized that we do seem to have the same four or five conversations in all of my meetings. Different child. Different school district. Even different disability. But the same “scripts.” To help this parent see this for herself (as I knew she had heard some of the same things from her school), I shared an example of a “typical” IEP meeting. The script is included in the last three pages of my materials.

That meeting related to a student with autism, but we could have been talking about a child with a reading disability, bipolar disorder, ADHD, or anything else. The key issues related to the meeting process, not the content.

II. Road map for the IEP meeting. In. This. Order.

1. Define the child’s present levels of performance (i.e., strengths and weaknesses, educational needs).

If the child needs additional assessments or should be found eligible for special education, make these requests here.

2. Request measurable goals (driven by present levels)
3. Request services, accommodations, and modifications (driven by goals)
4. Request placement.

Tip: Do not underestimate the importance of accurately defining the child's present levels of performance in the IEP. The entire IEP is supposed to flow from the child's needs. And if the IEP team agrees on the child's needs, the rest of the IEP might just take care of itself.

- III. **Reading aloud at IEP meetings can be a useful short-cut.** Learn to use the law and other "official" documents to communicate for you in meetings and to correct common misunderstandings.

My clients are not special education attorneys and do not try to portray themselves this way to school staff. However, we have found it helpful at times to quote from the law, using a matter-of-fact approach, to support the family's request for what the child needs. A few scenarios are described below.

1. For example, **if a school team says that their program is designed to enable the child to function only in the classroom, not at home or in the community**, the parents might say something like:

"I don't think that approach would work for my child educationally. My interpretation of what we need to do is somewhat different. For example. . . ." (Reading aloud.)

Section 1400 of IDEA 2004 says that:

The purposes of this title are—

1.

- (A) to ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living;

"'Preparing them for further education, employment and independent living.' To me, that sounds like we need to help my child succeed not only in school but outside of school and beyond. Does that seem right to you?"

2. When parents request independent evaluations, even when school teams agree, they sometimes follow up with incorrect statements, such as: **"Here is a list of the three independent evaluators we use. Of course, the evaluator must be mutually agreeable, and so the parents need to select one of these three."**

The family's reply: "We are happy to speak with your proposed evaluators to see whether we think they are a good match for our child. At the same time, we are also considering others who seem likely to meet district criteria."

Sometimes school staff protest, as they legitimately are not aware that the independent evaluator is the family's choice, and so my families sometimes provide school teams with a copy of OSEP's 2004 *Letter to Parker* (issued by the U.S. Office of Special Education Programs), which includes the following:

"In order to ensure the parent's right to an independent evaluation, it is the parent, not the district, who has the right to choose which evaluator. . . will conduct the IEE. We recognize that it is difficult, particularly in a big district, to establish a list that includes every qualified evaluator who meets the agency's criteria. Therefore, when enforcing IEE criteria, the district must allow parents the opportunity to select an evaluator not on the list but who meets the criteria set by the public agency."

3. Another common source of conflict is when school staff mistakenly assert something like, **"If your child is not taking medication for his ADHD, we cannot be expected to educate him."**

In this situation, one family politely asserted that they were working with the child's physician to make the right decision for their child, who had previously experienced serious side effects with several medications. And understandably, they felt that medication is not a decision for the IEP team but for the family and physician alone. The family referred to the following:

From Section 1412 of IDEA 2004

(25) Prohibition on Mandatory Medication.

(A) In General. The State educational agency shall prohibit State and local educational agency personnel from requiring a child to obtain a prescription for a substance covered by the Controlled Substances Act (21 U. S. C. 801 et seq.) as a condition of attending school, receiving an evaluation under subsection (a) or (c) of Section 1414 of this title, or receiving services under this title.

IV. Additional sources of read-aloud material for meetings. . .

- Your state regulations. These may provide additional protections than what is included in federal law. E.g., some states have shorter time lines related to evaluations and provide more specific information about when a child must be referred to special education than is included in federal law. When you can, also review the general education regulations (not just those applying to special education), as these typically often information related to discipline, bullying, and other topics that impact special education students.
- Written guidelines and other publications from the state. Even when the state's guidelines are not binding, districts often take the state's written recommendations seriously. In Connecticut, we have different booklets describing guidelines for the identification and education of students with autism, for students with specific learning disabilities, and for nearly every other disability category. The state may also have written standards for paraprofessionals, expectations for transition programs, descriptions of private special education programs, and other topics of interest. These may also be available on-line. Check with your state's department of education and/or your state's Parent Training and Information center (PTI).
- State curriculum goals for each grade.
- District curriculum goals for each grade.
- The written policies for your District.

- The school's mission statement.
- A searchable database of OSEP letters
<http://www.pattan.k12.pa.us/regsforms/OSEP.aspx>

General tips for navigating IEP meetings

- Do not treat school staff as your friends or your enemies. Cultivate a business relationship. Be professional, factual, and ask questions to make sure you understand the child's program and how progress is assessed.
- Learn to be comfortable and not apologetic when asking for what your child needs. Remember that, regardless of what you may have experienced, IDEA emphasizes that parents are an important resource to the IEP team. You are an expert on your child.
- *When you disagree with the school team, politely and clearly state disagreement, keeping in mind that:*
 - i. Reasonable, intelligent people sometimes disagree, even when their intentions are "pure."
 - ii. Sometimes disagreements are driven by agendas that have nothing to do with the child—e.g., sometimes school team decisions are based on their knowledge of existing resources or on their trying to please a superintendent who doesn't "believe in" providing special instruction to anyone.
 - iii. Regardless of whether the disagreement is sincerely about the child or whether it relates to another agenda, the way to address the disagreement is exactly the same. Ask questions, make good faith efforts to understand, and most important. . .
- *Always document important requests and important areas of agreement and disagreement in polite, factual letters to the school.*
 - i. "If it isn't in writing, it never happened."
 - ii. That being said, do not document every detail of every issue, as this can backfire. You do not want to be perceived as "nitpicking," and you do not want to distract the staff from your most important concerns. Ideally, most letters will be no more than a page, focusing on one or two of the most important issues for the child.
 - iii. In your letters and meetings, propose a solution to the problem. Do not just leave this up to the school team to figure out. They might not..
 - iv. For more information about the importance of letter writing and paper trails, www.wrightslaw.com is an excellent resource.
- *Don't fight battles you are likely to lose. You will be taken more seriously if you wait until you are ready.*

- i. Parents can and should ask for anything their child truly needs. But if the school says no and if the family has no “leverage,” it is often better to simply document their request and the school’s refusal--letting the issue go until the family does have the leverage they need.
- ii. What is “leverage?” Ideally, this includes a credible expert evaluation with written recommendations that support the family’s requests. This could also be a letter from a pediatrician or therapist stating their opinion about what the child requires. Even written guidelines from the state providing clear support for the parents’ request can be helpful.

Sample script from a moderately contentious IEP meeting

Parent: I am concerned that my child has no friends and is isolated at school. I am requesting that we provide instruction in social skills, as recommended by Dr. Expert-in-Autism, who recently evaluated my child.

DW commentary: Excellent request. The parent clearly expressed her concerns and used those very powerful special-ed-ese words: “I am requesting.” There is no room for anyone selectively misunderstanding that the family has not made a request.

School staff: We really don’t see the problem. (Insert charming anecdote about the child speaking with another child at school.) Further, Dr. Expert-in-Autism doesn’t work with your child every day, as we do. His report gives us only a snapshot of the child. I know you are a mom and you worry; but you need to give your child time to develop.

The parent’s observation: The school team is disregarding my concerns and also the expert evaluator’s recommendations.

The advocate’s observation: The school team has not actually said no to the parent’s request.

Although not all teams do this, some avoid saying the word “no” to requests in order to try to leave themselves some “we misunderstood” wiggle room. After all, Prior Written Notice is triggered by the school’s refusing the parent’s request at an IEP meeting. Many schools do not like having to provide Prior Written Notice and will sometimes go to great lengths to avoid a direct refusal.¹

Of course, if the school team in this situation were speaking plain English, their saying “we don’t agree this is necessary” might reasonably be interpreted as a refusal of the parents’ request. But if we remember we may be speaking special-ed-ese, that same statement is only an opinion, not a refusal. In short, in special-ed-ese, if the school team hasn’t said the word “no,” they haven’t necessarily refused a request.

Parent: I don’t agree. My child has autism, and we know this means that he is not going to simply “pick up” these skills without intervention. Dr. Expert-in-Autism says that this is one reason that my child has no friends. John receives no phone calls, he is never invited to birthday parties or other events. We have been asking for this support for years and have gotten nowhere.

School staff: Well, have you tried to engage him in activities apart from school? What have you

¹ If participants are not yet fluent in Prior Written Notice, you must review the relevant IDEA regulations (300.503). Note that, when the school team refuses a request, the content requirements for the written notice include “a description of each evaluation procedure, assessment, record, or report the agency used as a basis for the . . . refused action.” This is a critical procedural safeguard. If you need more information, ask me after the session.

done at home?

DW: Here we go off topic. “Blame the parent” is a common and, unfortunately, often effective tactic. If the parent spends much time trying to defend herself, she will end up wasting her energy, not to mention wasting valuable meeting time that she could be using to make requests. She is doing great, so let’s see what she does.

Parent: We have tried everything, encouraging John to invite friends over, taking him to school football games, starting him in karate class. Nothing has worked.

School staff: Maybe you were hovering too much. You know how adolescents withdraw when adults are around. Is it possible you are inhibiting John’s ability to make friends?

Parent: But I wasn’t! I left him off at karate on his own. . .

DW: Whether they did this deliberately or not, the school team has successfully distracted the parent from the reason she is at the IEP meeting—to make requests and to get yes/no responses from the school. The parent learned that, even when we know that “blame the parent” is a tactic, many of us still succumb because it’s so effective. We just needed to get back on track ASAP.

Advocate: I want to make sure I understand. Is the school team proposing that the IEP include a home program to help the family facilitate social connections?

School staff: No, no. Of course, not.

Advocate: Oh, OK. My sense is that the family is focusing on the school program as well. They had requested that the IEP include goals and instruction to support John’s social skills. Is the school willing to include this in the IEP?

School staff: I really don’t think it’s necessary at this point. After all, he is a 7th grade boy. None of them have great social skills at this stage. Even my own son. He’s impossible.

DW: Oy. This kind of statement from school staff causes instant loss of credibility with parents. Many parents hear this as, “We don’t think your child really has a disability.” Big mistake.

Advocate: Of course, the team agreed that the child has an autism diagnosis, which he would not have if he were keeping up with his peers socially. My understanding of Page 12 of Dr. Expert-on-Autism’s report is that, because of the way John’s brain is wired, he will need explicit instruction in order to have a meaningful opportunity to develop these skills. Do you agree?

School staff: I have to say that I am very concerned that the parents are being so negative about John’s development. Really, it’s no wonder that the child lacks the self-confidence he needs to develop friendships.

DW: Here we go with the “blame the parent” thing again. Time to jump in before there is bloodshed.

Advocate: So it sounds like you are saying no to the family’s request for goals and instruction for social skills?

And so on.

At the end of the meeting, the school team finally acknowledged that they were refusing the family's request. Of course, by then, the school's attempts to side-step making a clear refusal were so blatant that the family felt a kind of triumph just about getting the no. The parents knew this wasn't the final no, and they were happy that something had *finally* been decided at an IEP meeting. They were relieved to know their options, to understand that they did not need to attend any more meetings to have the exact same conversation. They knew that they now could reasonably move to the next step if they wanted—to resolve the disagreement through the hearing process and/or through mediation. But this time, it wasn't necessary.

After the meeting, the family sent a polite letter to the school team, documenting their request for social skills instruction, referencing the expert recommendations that supported their request, stating the school team's refusal, and also noting that the family had still not received Prior Written Notice, resulting in their still lacking an understanding of the basis for the school team's refusal.

The family also wrote that, since this was such an important part of their child's program, they had no choice but to proceed with private, weekly social skills instruction that would begin next week and would cost \$75 per session. The letter also stated that, because the school had refused to provide the necessary social skills instruction, the family was requesting that the school pay for the outside program.

Within a couple days, the family received a letter from the school, stating that, "in an attempt to work collaboratively with you," the school team was requesting a meeting to revise the IEP to include social skills goals and instruction, which would then be implemented at school. Success! This time.

The author, Diane Willcutts, is a member of the board of the Learning Disabilities of Connecticut LDA). A former Parent Advisor for LDA, Diane is a professional advocate and the parent of two amazing children who are also on the autism spectrum.

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