

Advocating for Our Children in IEP Meetings

a resource provided by 22 Advocacy

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1) Advocating for Our Children isn't about Being 'Nice'

Disabled children were first extended a federal right to public education in 1975 when the Education for All Handicapped Children Act (EAHCA) was passed by congress. Its passage was, in part, a response to a congressional investigation that found that less than half of country's 8 million disabled children were receiving an appropriate education, and that nearly 25% weren't receiving any public education at all. The EAHCA was updated in 1990 and became the Individuals with Disabilities Education Act (IDEA). Despite being nearly 50 years old, IDEA is often not followed. According to the most recent report by the US Department of Education, only 21 of the 50 states' educational services actually satisfy the requirements of IDEA. Over 5,000 written state complaints against schools or districts are filed under IDEA each year, and more than three times as many due process complaints.

Advocacy is about getting the public school system (most often the local school or district, but sometimes the integrated school district like KISD) to do what it has structural reasons and history *not* to do. It's not about being nice. It's about getting our children included in their schools. As Kat Holmes says in her excellent recent book *Mismatch: How Inclusion Shapes Design*, "Inclusion isn't nice. It's challenging the status quo and fights for hard-won victories." Our fight is with the system and in most cases not with the people involved—not with our children's teachers, aids, principals, etc... But nice people don't guarantee a good system. Nice is often overrated. 'West-Michigan nice' makes me angry and is used to discount parents' input. It doesn't serve our children well in getting the services they're due. That said, if you get too angry as a disabled child's parent—especially if you're a disabled child's *mother*—it will be easier for the school to discount your input. By all means, be angry. But have that anger move you to preparation.

2) Know What an IEP Is and How It Protects Your Child

Your child's IEP (Individual Education Plan) is a legal document that obligates the school to provide certain services, accommodations, and supports for your child. IEPs are backed by both state (in Michigan, MARSE) and federal law (IDEA).

Unfortunately, you often can't assume that the school will do what is best for your child, or even that they'll follow the law. There are at least four reasons why schools and districts don't always do what is best for children in IEPs:

1. ignorance
2. ease
3. habit (e.g., "the district has always done it this way.")
4. funding

The school in all likelihood won't officially indicate that it's an instance of funding, since that would threaten their federal education dollars. But IDEA is an unfunded mandate on states and schools, and so financial issues are often behind the struggles we face.

If you don't know what the law requires and how to insist on it, your child may not receive the best education they are entitled to.

Example:

According to IDEA, "each public agency must ensure that:

1. to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled; and
2. Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily" (34 CFR 300.550).

This means that the district has to justify every minute that a student isn't with their non-disabled neighborhood peers. Simply having a disability or not being 'on grade level' isn't a reason for your child to be in a different room or a different school.

3) Be Involved

Insisting on a good IEP often requires a significant investment of time. Plan on spending time learning. Plan on spending time at meetings. (My personal record is an 8 hour IEP meeting held over two days mediated by two people from the state.) Plan on having to push back against the school in writing. Plan on having to do this each year when your child's IEP is renewed (and especially every three years for re-evaluation).

Here are a list of specific things to do prior to going into an IEP meeting:

- Ask for the draft IEP ahead of time.
- Give the rest of the team written out draft goals that the whole team will talk about at the meeting.
- Insist on goals that will challenge your child. According to *Andrew v. Douglas County School District*, goals must be 'appropriately ambitious'. There is no penalty for your child failing to achieve a goal.
- Ask questions to make sure that you understand what the school staff are saying. **E.g.**, "So do I understand correctly that you consider the time our son spends in specials, lunch, and recess as part of his time in the general education environment?"
- If the IEP team tells you something that sounds suspicious, ask them to defend it. **E.g.**, "Can you show me in MARSE where it says that my child can only be in the general education environment if they are presently on grade level?"

The power dynamics of IEP meetings are not in your favor. I've been in IEP meetings where it's over a dozen school staff and a parent. To combat this, it's often best to take somebody else with you: a spouse, a friend, someone who knows your child well, etc... An advocate is ideal, though sometimes hard to come by. I've seen IEP meetings go very different from the very beginning as soon as someone introduces themselves as an 'advocate'. I've also, again unfortunately, seen IEP teams treat mothers very differently than I've seen them treat fathers. It shouldn't be like this, but in many cases, simply having a male parent or advocate present makes the school much more willing to 'listen'. Sometimes the school staff are referred to as 'the IEP team.' As a parent or legal guardian, you are an *equal* member of the IEP team, with just as much input and say as anyone else. And the parent/guardian is often the person who best knows the student. You are not at IEP meetings just to listen. You're there to contribute.

You do not have to accept the IEP that the school suggests to you. So don't be afraid to speak up and insist on what you think is best for your child. If you disagree with what the rest of the team decides, there is a formal process for

dispute resolution. If you disagree with what the IEP team comes up with, tell them so. Have your disagreement put in the record. And make sure there is a record of the fact that you do not consider the IEP they are suggesting to be acceptable. But in Michigan, they can finalize the IEP without your agreement and without your signature. In that case, the best response might be a state complaint.

4) Pay Particular Attention to the Service Minutes Page

In many ways, the page of an IEP that says where your child will be during the school day, for how long, and doing what is the single most important page of an IEP. It's the page that dictates your child's schedule and must be followed by the school because of federal reporting requirements. It's sometimes referred to as the 'service minutes page', but it's official name may be slightly different—e.g., 'Programs & Services'. In my experience, this is where many schools and districts default to a 'pull out' model, rather than striving for inclusion.

As mentioned earlier, a student can *only* be pulled when they *cannot* be working on an IEP goal or accessing their education in the general education classroom with the appropriate supports. So pay very close attention to this page, and, for every block of time that the school wants to pull your child from the general education classroom, be prepared to ask the following questions:

- What specific goals will the child be working on during this time?
- Why can't those goals be worked on in the general education classroom?
- What kinds of accommodations or supports have you already tried for that goal in the general education classroom?
- Will you share with me, in writing, the documentation of how you've tried to approach that goal in the general education classroom?

Simply asking these questions indicates to the school that you are informed and know your child's basic rights.

Parents often (understandably) want to begin focusing on placement or supports (e.g., aids or paraprofessionals). But those depend on the goals. The goals depend on the 'present level of functioning' (PLAF). Despite what a school tells you, there is *not* a maximum number of goals. So write your draft goals with an eye toward the breadth of your child's needs and what supports and accommodations would be required to work toward those goals.

5) Paper-trails are your friend

Whenever you ask anything of your child's IEP team, put your questions in writing. And ask for their answers in writing. Best case scenario, you have a written record of important conversations regarding your child's IEP. (Start a binder. Keep everything.) Worst case scenario, such paper trails can serve you well if you ever have to lodge a formal complaint with the state department of education. And sometimes, simply asking for things in writing can make the school change how they respond.

If they tell you something in person or over the phone, send an email asking for confirmation that you've understood properly:

Dear Ms. Smith,

As I mentioned to you in passing this afternoon, I have a question about how many times our daughter's speech therapy has been cancelled. Can you please provide me, in writing, a list of all the dates that her regularly scheduled hour of speech therapy on Friday afternoons has been cancelled since the beginning of the year? Thanks.

6) Discussion

I realize that's a lot of information. Questions?

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