



Special Education Law Update

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PARENT ADVOCATES AND ATTORNEYS AT IEP MEETINGS

Many of our client school districts have had the dilemma of a parent of a special education child bringing an advocate or attorney to the child's IEP meeting without notice to the district. This letter is to advise districts of our recommendation on how to handle this situation.

As special education becomes more and more litigious, parents are more often bringing advocates and/or attorneys to their child's IEP meetings. Many times, the child's parent does not notify the school district that they are bringing an advocate and/or attorney to the IEP meeting. The first notice the district usually receives is when such advocate or attorney is introduced at the IEP meeting.

Usually, when a parent brings an advocate or attorney to an IEP meeting, the parent is considering litigation against a school district in regard to their child's educational program. An IEP meeting is a critical juncture in a special education child's education, since a special education child's education is determined by that plan. If the district fails to go over or document all of the legal requirements at an IEP meeting or fails to make an offer of an educational placement, the district will be in a weak position to confront any litigation that such child's parent may bring.

Our recommendation to best protect the district in these situations is the following:

As soon as the district administrator at the IEP meeting recognizes that the parent has an advocate or attorney with them at the IEP meeting, the administrator must immediately inform the parent and the parent's advocate/attorney that the district is entitled to have its attorney present at the IEP meeting and, therefore, the IEP meeting must be rescheduled since the district was not notified in writing that the parent was bringing an advocate or attorney. Additionally, directly after putting the parent on notice that the district is not ready to proceed with the IEP meeting, the district administrator can telephone Schools Legal Service to discuss the possibility of rescheduling the IEP meeting.

If the matter has already been assigned to an SLS attorney, that attorney's secretary can assist you in finding available dates to reschedule the IEP. If it has not been assigned to an SLS attorney, Law Office Manager, Connie Newton, can direct you to the appropriate staff person to assist you in rescheduling.

Hopefully, this process will alleviate situations where a district seeks an attorney just prior to the commencement of an IEP when there may not be an available attorney to attend due to existing commitments. Therefore, we are recommending that the district utilize this procedure in order to ensure that the district is represented at an IEP meeting where the child's parent brings an advocate and/or attorney.

Additionally, any time that a district becomes aware that an advocacy agency or an attorney is working with a child's parent, SLS recommends that you provide such information to SLS so that we can determine what, if any, legal assistance your district may need.

We recommend that clients contact us with any questions.

— Stacy L. Inman

Special Education Law Updates are intended to alert clients to developments in legislation, opinions of courts and administrative bodies and related matters. They are not intended as legal advice in any specific situation. Please consult legal counsel as to how the issue presented may affect your particular circumstances.