

# Lyons & Rogers, LLC

## School Law Insider - Spring 2018

### Do I have to engage with a parent's advocate?

Coordinating IEP meetings and reaching consensus when parents are working with an educational advocate, consultant, or attorney may be challenging at times. Below are key reminders and tips for ensuring compliance, demonstrating your efforts to include parents in decision making, and avoiding running afoul of the IDEA.

**Communicating with Advocates:** Anyone can identify themselves as an “advocate.” There are no educational or training requirements, oversight, or remedies for wrongdoing. While some advocates may help parents navigate the special education process, unfortunately, others may serve as an impediment to communication and consensus. Nevertheless, parents may utilize advocates at their sole discretion.

**Best practices:**

- a.) District personnel should use their best efforts to be courteous and professional with anyone representing a parent's interests.
- b.) Always confirm directly with the “advocate” that s/he is not actually attorney.
- c.) If a parent invites an advocate or other 3rd party to a meeting, the parent is consenting to that individual's presence and the disclosure of information at the meeting. However, otherwise communicating written or verbal information about a student/parent with a 3rd party generally requires written parental consent prior to communicating or providing that person with any information. 34 CFR 99.30; 603 CMR 23.07(4).
- d.) District personnel should exercise caution and establish clear and consistent boundaries regarding communication, particularly outside the team process. Allowing a 3rd party to be the conduit of communication is often a recipe for misinformation and “splitting” the staff's relationship with the parent.

**Advocates at IEP Team Meetings:** The IDEA requires school districts to ensure parental participation in the team process. Parents and districts have broad discretion to be accompanied to the team meeting by anyone with “knowledge or special expertise” of the student.” 34 CFR 300.321(a). While districts always want to demonstrate their efforts to work collaboratively with parents, there is no legal obligation to coordinate scheduling, or otherwise invite, a parent's advocate, consultant, evaluator, or attorney to attend meetings. The parent's/student's right to timely receive an IEP is paramount; the district is obligated to ensure that the team process is not obstructed, and the IEP is timely developed and proposed.

**Best practices:**

- a.) Offer the parent a meeting date in writing prior to the expiration of the student's IEP. If the parent wishes to reschedule to accommodate her advocate or attorney, the district should confirm the parent's request in writing.
- b.) Avoid allowing extensive delays due to the unavailability of an advocate or others.
- c.) Typically, attorneys will document their efforts to schedule the meeting at a mutually agreed upon date/time, noting delays due to scheduling difficulties.
- d.) Establish the agenda and expectations for participants at the outset of the meeting, including conduct, if necessary. Consider posting 3 or 4 simple meeting expectations; refer to it during the meeting if necessary.
- e.) If the district anticipates a contentious meeting, consider offering a facilitated team meeting with a neutral meeting facilitator.
- f.) Provide direct training to team chairs and other school staff on specific strategies for running meetings and managing the participants and the process.

*Lyons & Rogers, LLC represents school districts, educational collaboratives, and charter schools exclusively in general education and special education matters.*

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*This information is not intended to be legal advice. If you need legal advice, contact your school district's attorney.*