

# Knowledge is Power

Understanding your special  
education parental rights

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# IEP Meeting

- Question:
- Who is the most important participant on the IEP team?
- Why?

# FAPE and LRE

- Free and Appropriate Public Education
- In the Least Restrictive Environment

# Timeline for Assessment

- Initial request can be made by the parent or school district, but parent must consent in writing
- A request from the parent for assessment must be made in writing
- Once the parent request has been received, the district has 15 days to provide assessment plan
- Once signed, district has 60 days in which to perform assessments and meet to review the results
- The district must consider any outside evaluations provided by the parent

# Screening vs. Assessment

- If an assessment is requested by the parent, and a screening is offered, the parent has the right to insist that an assessment be performed, and that timelines be observed.

# Procedural Safeguards

- The district must provide the parent with a copy of Procedural Safeguards, and offer to explain these safeguard to the parent, at least once annually
- Parent has the right to request a draft of the IEP document be provided five days in advance of the meeting
- Parent has the right to request copies of all assessments be provided five days before the meeting

# FERPA: Family Educational Rights and Privacy Act

- Special education records are confidential; they may only be accessed by those authorized to do so. Teachers and other school personnel are not allowed to discuss a child's IEP with others not concerned with that child's program
- Records cannot be sent anywhere without the permission of the parent, e.g., when sending packets to schools for consideration of placement

# IEP Team Participants

- Special education administrator (CSE chair)
- School administrator
- Special education teacher
- General education teacher
- School psychologist
- Others having performed assessments:  
occupational therapist, speech therapist, physical therapist, adaptive PE teacher, etc.
- Parent may bring anyone to the IEP; if bringing an attorney, one must inform the district

# Did you know....

- That you have the right to audio record the meeting if you give at least 24 hours written notice?

- Did you know that the IEP meeting must be held at a time convenient for the parent?
- Did you know that the meeting may not be held without you (unless you consent)?
- Did you know that no one may leave the IEP meeting without the consent of the parent?
- Did you know that you have the right to stop the meeting at any time?
- Did you know that, if the meeting is stopped before everything is addressed to the parent's satisfaction, that the meeting can be recessed and reconvened?
- And that everyone originally in attendance must be present when the meeting reconvenes, unless excused by the parent?

# Frequency of Meetings

- Annual review, triennial review
- Parent has the right to request an IEP meeting at any time, but NY State Regs do not define a timeline during which a meeting must be held
- If assessment is requested, the district has 15 days to provide an assessment plan, and, once signed by the parent, 60 days to assess and hold a meeting to discuss the results

# Consent

- Parent has the right to agree or disagree with any or all of the IEP:
- Eligibility
- Placement
- Services
- Goals
- Accommodations and modifications
- The IEP cannot be implemented without parental consent
- Services cannot be withheld on the parts of the IEP with which the parent does agree

# Consent (2)

- The NY State IEP document does not provide any place for parents' signature or comments.
- Put any disagreement in writing, and attach it to the IEP document. Make reference to the attachment on the last page of the IEP so that it is clear that it is part of the IEP document

# Diagnosis vs. Eligibility

A medical diagnosis is not the same as an educational eligibility.

Autism is one of 14 special education eligibilities.

What is your child's special education classification? Is it truly the most appropriate one? Why is this important?

# Educational Eligibility

- Federal law defines autism as a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally before age three, that adversely affects educational performance. It also includes these additional characteristics that are often associated with autism: engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. [34 C.F.R. Sec. 300.8(c)(1).]
- In order to qualify for special education under this category, your child does not need to meet the medical definition of autism, just the educational definition. Likewise, meeting the medical definition of autism and obtaining a medical diagnosis does not ensure that your child will be eligible for special education services as autistic if she or she does not meet the federal or state eligibility criteria.
- NY State adheres to the federal definition

# IEP vs. 504

IEP: IDEA – Individuals with Disabilities Education Act

504: ADEA – Americans with Disabilities Education Act

# The importance of Goals

- Goals constitute the most important part of the IEP
- They are the basis for the contract between the school district and the parent
- They must cover all areas of need
- They must be measurable
- They are generally written for one year, but can be broken down into parts or objectives
- The IEP must indicate who is responsible for the goal (not on NY State IEP's), and how achievement will be measured

# Accomodations vs. Modifications

- An accomodation is anything that can be provided in the classroom setting that helps the student to access the curriculum without altering the academic level of the material
- A modification is anything that changes the level of the material in order to help the student access the curriculum

# “It’s our policy.”

- Ask for a written copy of the policy
- If they then say it’s not exactly a written policy, ask them to write it in the narrative of the IEP document
- If they refuse to write it into the document, and have not yet backed down, at least you have it on tape!

# Behavior

- Behavior goals
- Classroom accommodations
- Behavior intervention plan
- FBA – Functional Behavior Analysis
  - who performs the assessment
  - how the data is collected
  - who will implement the plan
  - how those individuals will be trained
- Be mindful that sensory issues can affect behavior, and also need to be considered

# More about behavior...

- The school district cannot compel you to medicate your child for any reason
- The district cannot refuse to allow your child to attend unless s/he is medicated
- The district cannot compel you to pick up your child before the end of the regular school day due to behavior

# ESY: Extended School Year

- NY State Law states that a student must be in danger of “severe regression” in order to qualify for extended school year (4 weeks for elementary, 6 weeks for secondary). It does not matter how delayed a student already is.
- The problem is the defining “severe”

# Independent Educational Evaluation

- Parent has the right to disagree with the district's assessment, and request an independent educational evaluation at district expense.

# Stay Put

- If there is a recommended change to the IEP with which the parent disagrees, s/he has the right to exercise “stay put,” pending the resolution of the disagreement through due process

# Change of District

- Must implement current IEP for 30 days
- Receiving district may then offer alternative placement
- Receiving district has the right to reassess the student to determine if changes need to be made to the IEP

Please contact me with any questions:

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