

Ask the Advocate... by Desiree Vandelac Special Education Advocate/Legal Assistant

Question: I have been told that I must sign the IEP for my child to receive services. I do not agree with the IEP. What should I do?

Answer: IDEA does not require parents to sign the IEP. However, parents must provide consent for their child to receive special education services. I do not recommend that parents refuse to sign the IEP, as it is possible that the lack of your signature could be interpreted to mean that you agreed with the IEP and simply did not sign it. Instead I recommend that parents include the statement "While we agree to allow (child's name) to receive special education and related services we do not agree with the content of this IEP. Furthermore, we do not believe this IEP is appropriate in meeting (child's name)'s needs and will not allow (him/her) to meaningfully benefit from (his/her) education."

Even if you currently agree with the content of your child's IEP, I recommend the following:

1. When you sign the sign-in sheet for an IEP meeting, under your name write, "Parent's signature is for the sole purpose of acknowledging attendance at the IEP meeting. It does not constitute agreement with any issues/topics discussed or decisions made during the IEP meeting." Occasionally in due process hearings schools have attempted to use parents' signatures on the sign in sheet as documentation that the parents fully participated in the IEP meeting and that they agreed with the decisions made during the meeting because there is no documentation to dispute this allegation.

2. On the consent page of the IEP (typically the last page of the IEP), it will often say at the top, "Parental Agreement for Initial Placement" and then it will say something such as, "I have been informed of and understand my special education rights and procedural safeguards" and "I give consent for my student to receive special education and related services." Those two statements are followed by boxes to check for either "yes" or "no."

First, I recommend that you draw a line through the phrase "and understand" in the prewritten statement regarding educational rights and procedural safeguards so that the statement reads only, "I have been informed of my special education rights and procedural safeguards." Be sure to initial the area that you lined out. This will eliminate any potential future argument that by your signature on this page you acknowledged that you understood all of your rights under IDEA and that you knew what actions to take in the event of a dispute with the IEP team and as such you willingly and knowingly failed to follow appropriate procedures when a dispute arose.

Second, if there is even the slightest part of the IEP you disagree with (for example the amount of time your child receives OT services) I recommend that under your signature you write, "Parent's signature provides consent for implementation of the IEP and related services. It does not constitute agreement with every aspect of the IEP nor does it constitute agreement with the appropriateness of the IEP or adequacy of services provided within the IEP."

Why do I make these recommendations? Because you cannot predict what will happen in the course of the school year. Imagine

that you start the school year with what you believe will be a very friendly and involved IEP team. Then after a few months something happens that causes a disagreement with the IEP team members. Unfortunately there is no documentation of several concerns that you voiced at the IEP meeting in beginning of the year because you didn't put those concerns in writing. You wanted to keep a friendly relationship with the IEP team members and your child's teacher and you were concerned that if you put your concerns in writing you would be creating a hostile relationship between yourself and the other IEP team members. Besides, the school assured you if any services needed to be added or tweaked that could and would be

done quickly and without any problems. Now it's several months later and it's clear your child's placement isn't working and you are proceeding with a due process hearing. The testimony that the hearing officer will hear is that you took place in the IEP meeting and you were involved in the development of the IEP. Where the testimony will strongly differ between the school district staff and yourself is when it comes to your objections to the IEP. You will testify that you told the school that you had some serious concerns about the IEP. The school district staff will testify that you

never raised any concerns about the IEP and that you agreed with it's content. Now you are in the middle of a "he said, she said" situation and the hearing officer must determine which testimony is more credible—remember Wrightslaw Rules of Adverse Assumptions? If you had written on the IEP that you disagree with it's content or if you had written a letter to the IEP team immediately after the IEP meeting documenting your concerns then you would have created contemporaneous evidence (the ever important "paper trail") clearly documenting that you told the school you had concerns about the IEP.

Send questions via email to advocate@autismboulder.org While I cannot respond directly to you, I will try to answer all of your questions in this column.

Desiree Vandelac is a Special Education Advocate and Legal Assistant for the Law Offices of Louise Bouzari, and mother of a child with Asperger Syndrome.

THIS COLUMN IS GRACIOUSLY SPONSORED BY
Law Offices of Louise Bouzari, LLC
7887 E. Belleview Ave, Suite 1100
Englewood, CO 80111
(303) 228-1616

A law firm specializing in the representation of families in both special education and discipline matters. The firm also has an attorney who specializes in juvenile criminal defense and a special education advocate for families needing advocacy services in lieu of, or in addition to, legal representation.

"Ask the Advocate" is not intended to, nor does it provide, legal advice. Rather its purpose is to provide general information to help parents improve their own advocacy skills in the IEP process. It is recommended you consult with an attorney who specializes in special education law for legal advice, specific advice and guidance that is tailored to your particular circumstances, or if you want professional assurance that our information (and your interpretation of it) is appropriate for your particular situation.

